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 not well-developed. A similar survey of the literature demonstrates that examining sexual offences perpetrated against adults (Coateshead & Corlett, 1992; Simon, 1996) regarding the victim-offender relationship and crime highlights a bias towards relationships has focused upon crimes perpetrated against adults. Perusal of the research into community and judicial response to the victim-offender relationship has revealed significant differences between the victim-offender relationship and crimes against children.

Sexual Assaults Against Children: Community And Judicial Response

Within a specific network of individuals, contribution to known offenders who simply behave in a manner of character and more dangerous, unpredictable and indistinguishable in their selection of victims in because the criminal justice system and community perceive stranger offenders as sentences that more lenient community sentences of non-stranger offenders are less severe and imposed a more lenient criminal justice system consistently charged a perpetrator known to the victim with the more conviction.

Although the criminal justice system considered a perpetrator known to the victim and the offender

influenced by the relationship that exists 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). Evidence of the victim-offender relationship played a significant role in the

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

Community Violence: 8
authorities.

Profiles and the anticipated versus desired reaction from both welfare and judicial community perceptions of the seriousness of the offence, the victim and offender relevance to child sexual abuse policy, particularly given the attention paid to 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 issue of child protection, Community Services Victoria (1992) investigated the issue.

As a precursor to developing a program to increase awareness of the public on the

years.

Then 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 Australian Criminal Code, 1913), in and of themselves, these inconsistencies members (Community Services Victoria, 1992) and the child sexual abuse legislation Hooley, 1988), attitudes of professionals within the area (Cottrell, 1997; Community Community presence of some incoherences between actual judicial practice (Cassmore &

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

likely been a small component within a larger study aimed at examining other issues victim-offender relationship in detail. Instead, the victim-offender relationship has relationship and child sexual abuse exists. What research there is, fails to examine the severely lacking. In this, minimal research into the role of the victim-offender

Community Attitudes
sexual assault discussed earlier (Pollard, 1992; Simon, 1996). That is, respondents
sexual abusers, the results showed a reaction consistent with the studies related 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

eight percent of the respondents believed that in all cases the offender is entirely
friend of the family, a niece and a neighbor (from most likely to least likely), Study
perceived victim-offender relationship as being: spectators, siblings, a male
offender could be inside or outside of the home. Furthermore, results showed the
smiling the offender would be 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

suffered physical harm (Community Services Victoria, 1992).

91 percent believed they suffered emotional harm, and 35 percent believed they

examinations into the perceived harm caused to children sexually abused showed that

with 27 percent believing that it is sometimes a criminal offense. Results of

respondents considered the sexual abuse of children to always be a criminal offense,

that child sexual abuse was a very serious problem, only 65 percent of those

percent stating that it was very 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 were as follows:

- 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 study had abused two or more victims.
- The age of the victims was known in a New South Wales court in 1992 when the victims were under the age of 18 years. Finally, some background information will be provided in discussing the findings of this study, some background information will be provided in influencing decision-making at various stages of the criminal justice system. Before including the examination of the manner in which the victim-offender relationship contributed to the examination of the New South Wales criminal justice system, response to sexual assault is particularly interesting. Some research indicates response to child sexual assault cases. This research was particularly

(Cashmore and Horsey (1988) have carried out the most recent examination into the

stranglers (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 how it influenced the perceived seriousness of the offence. As such, it is not possible to examine the manner in which the victim-offender relationship influenced community responses, a conclusion within strongly supported. However, even though this research considers the preferred option for stranger offenders to be

- 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.)
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 be reflected by Casamore and Horsky's
responses, 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 they 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 „no guilt“ 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 community were influenced by the
court documentation regarding these cases of child sexual abuse, domestic and
this constituuting 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 sexual assault to the victim (1.4%).
the
accommodation of the victim (4.9%); someone who held a professional position of
and family friends; a close friend of the family (8.9%); a friend, neighbour or
members of the victim's family or household (2.3%); of which 77.1% were fathers
Community Attitudes 12
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 suggested the April review of the attitudes of professionals within the area of child sexual abuse, professional community attitudes. As such, the Task Force's recommendations and responses to this issue, only a minority of responses obtained reflected non-

...Task Force, 1987). Therefore, although the General Public was involved in their views abuse, Government Departments and community based services. (Child Sexual Abuse were received from individual professional workplace within the area of child sexual abuse which were received from non-professional community members. The reminder of the West Australian, although they received approximately seventy responses, only 1.8% were received by the Task Force). To examine the issue of child sexual abuse and the legislation

Child Sexual Abuse Legislation

...system would propose the opposite. Perpetrators as less serious than those committed by a stranger. The Criminal Justice words, the General community may consider child sex offences committed by known Community Attitudes 15
In other words, recommendations made by the Child Sexual Abuse
explicit elements in the Criminal Code given the penalty structures prescribed
principle was already inherent in the sentencing process, the legislation now made it in an
serious and harmful. Justice Malcolm commented that although the breach of trust
commonplace that these offence constituted a serious breach of trust and were therefore
deemed teaches, employers, guardians or carers as being "persons in authority",

Full name of the victim: Western Australia, January 1992, p. 804). The Task Force
of 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 crux of his recommendation, and
and a person in authority in an identical position to those performed by family members.

A primary change to the legislation was to real the commission of a sexual offence by

<table>
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<tr>
<th>Offence</th>
<th>Age of Victim</th>
<th>Relationship/Authority</th>
<th>1-16 Years</th>
<th>10 Years</th>
<th>7 Years</th>
<th>10 Years</th>
<th>10 Years</th>
<th>Deception</th>
</tr>
</thead>
<tbody>
<tr>
<td>Violence</td>
<td>8-12 Years</td>
<td>Person in authority</td>
<td>13-16 Years</td>
<td>13-16 Years</td>
<td>13-16 Years</td>
<td>13-16 Years</td>
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</tr>
<tr>
<td>Sexual violence</td>
<td>13-16 Years</td>
<td>Relationship/Authority</td>
<td>13-16 Years</td>
<td>13-16 Years</td>
<td>13-16 Years</td>
<td>13-16 Years</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Reckless</td>
<td>13-16 Years</td>
<td>Deception</td>
<td>13-16 Years</td>
<td>13-16 Years</td>
<td>13-16 Years</td>
<td>13-16 Years</td>
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</tr>
</tbody>
</table>

Western Australia, Criminal Code, 1913: Chapter XXXI - Sexual Offences (S321 A)

Table 1

A process

The table outlines the various penalty structures used to guide the sentencing
Known to the victim (particularly those in a position of trust or authority) than

Community Attitudes 14
whether the degree of trust (and subsequent breach of trust when a sexual offence

Casamore and Horsey (1988). However, the researcher raises the questions as to

than sexual offences. This is consistent with judicial practice as demonstrated by

relatives and by those in authority as equally serious as one another, yet more serious

(1997), it would therefore seem that legislators 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 which they also receive a greater penalty than those offences

mean that both relatives and persons in authority would receive an identical penalty to

opinion subsequently imposed upon the sentencing penalties prescribed. This then

harsher penalty than an offence where trust does not exist (Malcolm, 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 (1995) the sentence imposed is determined by offence seriousness

Australian Hansard, 1997, P. 180.4), 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 section 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.

Levels of trust. This type of trust is best described as a communal or professional

Duck (1999) proposes that a third type of relationship exists which results in varying

(he child) places his or her trust in the adult (the father or deliaco father). However,

Nonetheless, these relationships both constitute "individual trust" in that an individual

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

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

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

trust (Eisenstadt & Konopka). However, in others where closeness is not interpersonal

Diver (1993). If it is assumed that family environments foster closeness within

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

their own home (Kemény, 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 fulfillment of obligations, both explicit and implicit (Trusied).

basic component of any social system or social interaction (Eisenstadt & Konopka).

Trust is considered to be a universally accepted moral value (Trusied, 1987).

Is Trust Equal Between Relationships?

Rather than simply commencing that they both possess a high degree of trust,

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

recommendations that promote the legislative changes outlined above do not

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

Community Attitudes 16
Various relationships, although important in all relationships, the degree of trust which exists between a father and child is greater than that which exists between a teacher and student.

Therefore, although trust is inherent in all relationships, the degree of trust which means for his abuse (Shapiro, 1987, p. 627).

the act of communicating a child to a teacher may innocently provide the opportunity and student-teacher relationship possesses 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’s obligations, for example, parents trust that teachers will fulfill their obligations of caring to their children. In that role the community thus certain individuals is fulfill their moral responsibilities is determined not only by the facts that a person caused the Community Attitudes 17
society - the rearing of children and the moulding of our future generation" (p. 3).
individual, yet fails 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
crime, extending over a period of years, because the abuser had ready access to the
more likely to be a one-time occurrence, 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. Daughtry (1979) argued
approach to child sexual abuse by family members and community then the family unit is
more serious than abuse perpetrated by any other individual. Others take a similar
Raper (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,
ofences are treated as very serious and therefore arrested harsh consequences by the
members of friends, to that which is inherent within employment 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 likens the breach of trust and
claim that abuse perpetrated by a trusted adult is far more damaging to the child and
On reviewing the literature examining the effects of child sexual abuse, Corchili (1997)

support for claims that child sexual abuse is not as equally serious between all

Community Affairs 18
Western Australian Criminal Code, 1913; 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 motives intervene
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 familiar networks (Forward, 1995). As such, they propose that

ence of another, such as a school, they are more vulnerable given that they are

(Thimes, Kelley & Hartman, 1988). Lastly, others commentators have aligned a child 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 (Coddard, 1993). Some perpetrators of child sexual abuse use

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

evident given that the teacher is acting in loco parents. 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 (Marvin, 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 Severe Nature of this

Furtnermore, 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 incongruences between legislation, judicial practice and community

more lenient sentences (Pollard, 1992; Simon, 1996). In contrast, this paper has
victim as being less serious as those perpetrated by strangers and subsequently prefer
fashion. That is, they perceive those assaults committed by an offender known to he

indicated that the criminal justice system and the community respond in a similar
considering sexual assaults perpetrated against adult women, a small sample of studies
the victim-offender relationship influences the perceived seriousness of crime. When
Simon, 1997). This paper has reviewed the literature examining the manner in which
particularly given that they reflect the perceived seriousness of the offence (Kubrin &
system’s 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 (if the very least) be considered when policy is
community attitudes may not represent a rational or educated response to crime. Although it is recognised that

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

Summary and Conclusion

Community Services Victoria, 1992.

Discussion: Did not examine the construct of trust (Cashmore & Horsky, 1988).

Community Attitudes 20
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
community attitudes. Legislation and the criminal justice system with regard to the
response. From these studies, it can be suggested that combinations may exist between
position or trust of authority and more serious and more harmful, warranting a harsher
papers, appears to reflect an attitude that those offences where the perpetrator is in a
Criminal Code, 1913), The Legislative and Judicial Response highlighted in a number of
(Casburn & Horsky, 1988, Child Sexual Abuse Taskforce, 1987, Western Australian
Judicial practice and legislation has been shown to present an entirely different level
sexual punishment for offenders who have had a prior relationship with the victim.
(Community Services Victoria, 1992). Further, they are more likely to prefer a non-
serious social problem, some members fail to perceive this offence as a crime
Although these studies suggest that the public considers child sexual abuse to be a
issue.
the only research available and as such, reflects the best starting point to examine the
out 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 carried
presented was Western Australia’s. Given there available research has been
Victorian public, judicial practice was that of New South Wales and the legislation
regard to this paper, the community’s perceptions discussed were those of the
attitudes, judicial practice and legislation with regard to child sexual abuse. With
examined the manner in which the victim-offender relationship influences community
offence. In fact, perusal of existing literature illustrated that no one state or territory has
Community Attitudes 21
minor influences and whilst enquiring into them, the perpetrator indecently dealt with the relationship by sex, the scenarios depicted a campfire situation where the child sustained suffered as a result of indecency dealing with the 14 year old female victim. For all 4 offenders relationships on the perceived sensitiveness and emotional and physical harm against this background, the present study examined the effects of various victim-object.