

**Sibling Sexual Abuse:  
Offending Patterns and Dynamics in Youth Justice Conferences**

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## **Sibling Sexual Abuse: Offending Patterns and Dynamics in Youth Justice Conferences**

Debate on the appropriateness of conferences in cases of gendered violence<sup>1</sup> has been occurring since the mid-1990s (Braithwaite and Daly 1994). Critics are concerned with power imbalances of victims and offenders in face-to-face meetings and the potential for revictimizing victims. Others see benefits, including a victim's ability to voice the story of victimization and its impact, and to be validated and believed by others.

We see two problems with the debate. First, it ignores huge variability in victimization contexts and relationships. All types of gendered violence (physical, sexual or both) and all types of relationships (between adults, youths or children) are discussed as if they were the same. Second, there is little empirical evidence on actual practices and outcomes *or* on victims' experiences, which could inform the debate. With relatively few jurisdictions in the world using conferences in youth or adult cases of gendered violence, researchers have few sites to conduct research.

We advance the discussion by analysing a particular type of gendered violence, sibling sexual abuse, and by presenting new research on court and conference responses to it. After a review of the literature, we describe the character and range of sibling sexual abuse and what happens when cases go to court or conference. We highlight themes emerging from four conference case studies and present one case in some depth. We find that many of the critics' concerns with conferences are not relevant to sibling abuse cases, but the cases do raise other concerns.

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<sup>1</sup> The term *gendered violence* refers to all forms of partner, family, and sexual violence. The gendered pattern of male offender-female victim is most typical, although other dyads occur.

### **Sibling sexual abuse**

Sibling sexual abuse is defined differently, depending on a therapeutic or legal frame of reference (Stathopoulos 2012: 3). Age differentials (typically a 3- to 5-year gap) were once used, but today the emphasis is placed on power imbalances between siblings (McVeigh 2003: 117).

The prevalence of sibling sexual abuse is not known, but it is believed to be the most common form of intra-familial sexual abuse, occurring three to five times more often than father-to-daughter sexual abuse (Ballantine 2012: 56, Stathopoulos 2012: 8). In research on over 13,000 sibling abuse incidents reported to the police in the United States, 71 per cent of victims were female, and 92 per cent of offenders were male. The most common dyad was brothers abusing sisters, but 25 per cent were brothers abusing brothers (Krienert and Walsh 2011). Researchers believe that sibling sex offences are less likely to be reported to the police; and if reported, they are less likely to move further into the criminal justice process to prosecution, conviction or sentencing (Ballantine 2012: 56-7; Rayment-McHugh and Nisbet 2003).

Sibling sexual abuse is called an 'opportunistic' form of abuse because of the physical promixity of siblings (Stathopoulos 2012: 1); however, it is secretive, on-going and can continue for many years. The shame associated with it leads to denial or minimization by parents or guardians. Some researchers in the 1980s believed it was harmless, a form of childhood experimentation, but researchers now emphasize its negative effects on victims (Doyle 1996, Laviola 1992, Panagakis 2011, Phillips-Green 2002, Rudd and Herzberger 1999). These include distrust of others; anger towards the sibling and parents; intrusive thoughts about the abuse; suicidal thoughts, self-harm or suicide attempts; low self-esteem; difficulties having intimate or physical relationships

in adulthood; mental health problems (e.g., post-traumatic stress disorder, anxiety, conduct disorder, depression and eating disorders); and substance abuse. Complicating matters further, some abusive siblings may themselves have been physically or sexually abused.

Disclosure is a key problem. Abused siblings worry that if they disclose, they will be disbelieved, blamed for the abuse, punished by their parents or create family conflict. Some believe that they are responsible for the abuse and do not want to see their sibling punished (Carlson, Maciol and Schneider 2006, Doyle 1996, Laviola 1992, McVeigh 2003, Panagakis 2011).

Recent Australian commentary has proposed that referral to therapy may be the most optimal response for an offending youth (as well as for victims and relevant family members), compared to a criminal justice response alone (Kambouridis 2012, McNevin 2010, O'Brien 2010, Stathopoulos 2012). Likewise, a victim's ability to disclose offences and be supported by parents has a positive bearing on recovery (Stathopoulos 2012: 14). Both points are relevant when we compare court and conference responses to sibling sexual abuse.

### **Debate on conferences and gendered violence: the negatives and positives**

Debate on the appropriateness of conferences typically centres on partner violence, and analysts have in mind *adult offenders and victims*. Those who focus on sexual violence have in mind *adult offenders and child victims* (for reviews, see Cossins 2008, Daly 2008, 2012, Daly and Stubbs 2006, Koss 2000, Lewis et al. 2001, Ptacek 2005, 2010, Strang and Braithwaite 2002). With some exceptions (Daly 2002), few have pondered the dynamics of *youth offenders and child victims*, the dyad in sibling sexual abuse. The negative concerns are that as an informal process, conferences may:

- Reinforce power imbalances between victims and offenders and re-victimize victims.
- Trivialize the offence or result in outcomes that are not serious enough.
- Allow offenders to diminish guilt or shift blame to the victim.
- Not promote offender accountability or be seen as a “soft option.”

The positives are that conferences may:

- Give victims (or a victim representative) the chance to voice their story and to be heard.
- Allow a victim’s experiences to be validated and acknowledge that s/he is not to blame.
- Create opportunities for family relationships to be repaired, if desired.
- Encourage an offender to take responsibility for their behaviour.
- Provide an appropriate context for family, friends and other relevant community members to censure the offending behaviour.

Conferences are set in motion only after a person has admitted to offending. When we consider sibling sexual abuse and conferences as court diversion, the option of youth justice conferences may break a cycle of abuse by encouraging admissions. More offenders may admit, and victims and family members may be more likely to report offences to the police because they see a practical or positive outcome, not one that excludes an offender from society or the family home.

### **Elements of sibling sexual offending**

The Sexual Assault Archival Study (SAAS) gathered information on all youth sex offences reported to the police over 6.5 years in South Australia (see Daly 2006, Daly et

al. 2007b for background).<sup>2</sup> Of the 385 cases, 59 per cent were disposed in court, 31 per cent by a conference, and 10 per cent by formal caution. All the formal cautions and almost all the conferences were finalized by an admission ('proved'), but just over half (51 per cent) of the court cases were finalized with a proved (convicted) sexual offence.<sup>3</sup> Many assume that the court is a place that treats 'serious offences seriously', but the SAAS data show that it is equally a place where serious cases are dismissed or withdrawn. Of the 385 cases, 16 per cent were 'no-touch' public exposure or indecent behaviour offences; the rest were penetrative sex, oral sex or fondling over clothes ('touch' offences). We analyse only the 'touch' offences in all the following comparisons of sibling and other (non-sibling) cases.

Sibling relationships were 18 per cent of the 'touch' offences. Compared to other sex offences, sibling offenders showed more remorse during the police interview; they were more likely to make admissions to the police and to be referred to a conference. Victims in sibling cases were much younger (7.7 years) compared to those in other cases (12.6 years); and the victim-offender age gap was wider (6.6 years compared to 2.6 years). Sibling offences were more likely to be on-going, with multiple incidents over time: for 64 per cent the abuse was on-going (compared to 23 per cent of non-sibling cases).<sup>4</sup> An offender manipulating a position of trust was more frequent in sibling (83 per cent) than other cases (45 per cent).

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<sup>2</sup> The SAAS dataset is a quantitative dataset of legal processes and outcomes. It does not have any interview material on victims' experiences of crime or views of justice.

<sup>3</sup> An additional 4 per cent were proved of a non-sexual offence, and the rest (45 per cent) were dismissed or withdrawn.

<sup>4</sup> Thus, the overall mean difference in duration of victimization was longer for sibling than non-sibling cases; but of the on-going abuse cases only, the mean difference for the two groups was not significant.

### **Legal and therapeutic responses to sibling cases**

The SAAS data show that of ‘touch’ sex offences reported to the police, sibling cases were more likely to be ‘proved’ (convicted) than others. One reason is that a higher share of sibling cases was finalized by a conference, but even those sibling cases that were referred to court were proved more often (72 per cent) compared to non-sibling cases (45 per cent).<sup>5</sup> Therapeutic responses were also more likely in sibling cases, with a higher share of offenders in sibling cases taking part in a specialist programme for adolescent sex offenders, the Mary Street programme (68 per cent), compared to those in non-sibling cases (23 per cent).<sup>6</sup> The difference was also evident in the court cases. Thus, contrary to others, we find that sibling cases in South Australia were treated more seriously than other ‘touch’ sex offences, in both a legal and therapeutic sense.<sup>7</sup>

### **SAAS conference cases**

Of the 59 sibling cases in the SAAS dataset, 30 were finalized by a conference.<sup>8</sup> Offence elements in the conference cases were similar to all sibling cases: young victims (7.5 years), a large victim-offender age gap (6 years), a high share of offenders abusing a position of trust (77 per cent), on-going abuse (63 per cent). Of 30

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<sup>5</sup> Cases were ‘proved’ almost entirely because youths admitted offending or entered a guilty plea in court. ‘Proved’ means the same as ‘convicted’, but a youth’s criminal history can be protected by recording a proved case ‘without conviction’, as occurs in most Youth Court cases in this jurisdiction.

<sup>6</sup> Youths can and do participate in the Mary Street programme before going to a conference or court.

<sup>7</sup> To be clear, the cases were treated ‘more seriously’ because youths in sibling cases admitted or pleaded guilty to offences more often than youths in non-sibling cases. One reason is that it is more difficult for a youth to deny offending that occurs in close proximity to their parent(s), but there may well be other reasons.

<sup>8</sup> An additional three cases were referred to a conference, but did not go forward.

conferences, the victim attended in ten, always with a supporter.<sup>9</sup> Three conferences (10 per cent) had no victim or representative at all. For outcomes, 83 per cent of youth were part of the Mary Street programme, and an additional 10 per cent, were referred to other types of counselling. In 90 per cent of cases, there were apologies (verbal, written or both), almost always after the conference. In all cases, offenders completed the agreement.

### **In-Depth Study cases**

The In-Depth Study assembled a detailed chronology for 14 sexual and family violence conference cases, drawing from the police report and interviews with victims (or their representatives) and Youth Justice Coordinators (YJCs), who ran the conferences (see Daly et al. 2007a, Daly and Wade 2012).<sup>10</sup> Five case studies of peer sexual violence and adolescent violence toward parents were presented in previous articles (Daly and Curtis-Fawley 2006; Daly and Nancarrow 2010). Here we consider four case studies of sibling sexual abuse, which provide a deeper understanding of family and conference dynamics. Each case study is too detailed (ranging from 2,500 to over 4,500 words; see Daly and Wade 2012) to be given in full, or even as a shorter synopsis, here. Thus, we present one case and then summarize and discuss patterns across the four.

We chose to present Case 1, Ben (the offender) and Sharon (his mother, who represented the victim) because the offending was especially serious and the case had other complex elements. This case and Case 2 had solo-parent households headed by mothers, who themselves had histories of being physically and sexually abused, and

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<sup>9</sup> The victims who attended the conference were 9 years, on average, at the time of offence.

<sup>10</sup> The SAAS time frame was 6.5 years (January 1995 to 30 June 2001); the time frame for the In-Depth Study was 6 months (July to December 2001); thus, the SAAS and In-Depth Study conference cases do not overlap. Only the In-Depth Study contains interview material.

who had a dual role in the conference in representing the victim and supporting the offender. Their sons had also been physically or sexually abused, and they were generally disengaged from the conference process. With the potential exception of the offender in Case 3, whose adoptive father may have abused him, none of the other descriptors applied to Cases 3 and 4.

*Case 1: Ben (14 years), Sharon (his mother) and Marie (8 years)*<sup>11</sup>

Ben is a 'weird and wacky kid', in the words of the Police Youth Officer (PYO). He was physically abusive to both his younger sisters, Marie (8) and Claire (nearly 6). He told the YJC that he liked to get his sisters in his dark closet until they scream. On many occasions since Marie was 5, he has pushed his finger into her vagina when they were in the closet. Marie was very distressed by Ben's behaviour, and Sharon said her daughter had several weeks of restless nights after disclosing it. Soon after Sharon's discovery, Ben was removed from the home and placed into foster care. During a pre-conference visit with Ben a week before the conference, the YJC believed that Ben was not sorry for his offending; indeed, Ben said he would hurt his sisters again. We infer from the file that Ben's father was abusive not only to Ben, but also his sisters. Sharon blamed Ben's father for Ben's abusive behaviour.

After Sharon discovered the offence, she contacted a person at her Church, and then Family and Youth Services, who contacted the police. It was about 6 months between the disclosure of the offence and the conference.

The day before the conference, the PYO learned that a year before, Ben had forced a boy at his school to give him oral sex. Ben was charged with rape, but it was later dropped. Had the officer known of this charge, the case would not have been

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<sup>11</sup> We are distilling 4,700 words from the full case study to 600 here.

referred to a conference. The people attending the conference were Ben, his Mary Street counsellor, his foster carer, and his mother Sharon, in addition to the YJC and PYO. The conference lasted 2.5 hours, including a 10-minute break before the conference agreement was finalized.

The female PYO was very strict towards Ben in the conference. She felt that she had to control her negative thoughts about Ben, believing that if he 'had raped before, he'd rape again'. The YJC observed that Ben could be 'a bubbly kid', but that most of the time he would completely disengage from the conference. He also thought that Ben was 'controlling the information' in the conference. A major turning point was when Ben permitted his mother to read a statement he had prepared with his Mary Street counsellor. Up to that point, Ben made it clear to everyone at the conference that he had a written statement, but he had refused to read it. During a break toward the end of the conference, Ben's counsellor told him that it would be useful to share the statement. When the break was over, participants were discussing who should read the statement, but no one seemed like the right person. Then, Sharon stood up, and Ben allowed her to read the statement to the group. In his statement, Ben acknowledged that what he did was wrong and that he had to comply with visitation rules. From Sharon's perspective, this showed that Ben had 'grown', which was important to her. Although Sharon's role at the conference was to represent Marie and support Ben, she felt torn in this role. As the children's mother, she wanted 'to be there for both of them'. However, trying to do so 'really stretched' her 'to the limit ... But what could I do ... They're both my children, and I love both of them'.

The conference agreement had many requirements for Ben, including continuation of Mary Street counselling, attending school and a Just Consequences

programme, strict visitation rules, writing an 'acknowledgment' letter to Marie and Claire, and being placed on a good behaviour bond.

### *Assessing the conferences*

The four conferences were intense, emotional and long, lasting on average two hours. We assess their dynamics against the 'negatives' and 'positives' listed above.

None of the young victims attended the conference; thus, power imbalances and potential re-victimization that can arise from face-to-face meetings were not relevant in these cases. Difficulties can emerge, however, when mothers have dual roles of representing their victim daughter and supporting their offending son, as happened in Cases 1 and 2. The mother in Case 2 thought her son was trivialising the offence, but in no other case did this occur, nor in any case did offenders diminish guilt or shift blame to the victim. However, a significant finding from the case studies is that there was more to the story of abuse than what was supplied in the police report or what was said by anyone at the conference or during the interviews. The siblings' parents were typically unsure of the extent of the abuse; indeed, the most knowledgeable person seemed to be the youth's Mary Street counsellor. In one case, the youth agreed to lift the confidentiality restrictions on his Mary Street counsellor to share information, an outcome the YJC termed 'a gift' to the victim's mother. Thus, in all cases, the youths' 'accountability' at the conference was restricted to the offence(s) described in the police report. In a legal sense, this is appropriate (and it would be no different had the case gone to court), but it demonstrates the hidden nature of sibling abuse, even after it is 'discovered'.

Ben's agreement was more onerous than others, particularly because he received a good behaviour bond, which is highly atypical in conference cases. In all cases, the

youths were to continue Mary Street counselling; and except for Case 2, all completed their agreement. It is not clear what critics of conferences for sexual abuse cases (e.g., Cossins 2008) would desire for 'more serious' outcomes.<sup>12</sup> From the SAAS data, sibling cases (whether referred to conference or court) were more likely to result in conviction ('proved') and to be referred to the Mary Street programme than other 'touch' sex offences.

In all four cases, the impact of the offence on the victim and victim representative was brought forward. Victims were never blamed for the offences and offence seriousness was emphasized; however, the validation of victims' experiences was partial. This occurred, in part, because the full story of the abuse was never revealed; and in part, because the victims were not physically present in the room to be acknowledged directly. Further, the conference emphasis was more on censuring and stopping the youth's abusive behaviour than it was on validating the victim or the experience of victimization, although helping the victim (with counselling) was addressed. With the availability of the Mary Street programme, these conferences focused as much or more on therapeutic interventions for youths than solely criminal justice responses; and there was both conference and parental support of victims. This type of response would be considered optimal by those in the practice sector (e.g., Kambouridis 2012, Stathopoulos 2012), with the caveat that incorporating relevant family members in therapy is also desirable.

Repairing family relationships did occur and was an important positive outcome in three cases; in the fourth, it was not relevant because the households had split up and

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<sup>12</sup> Throughout her critique, Cossins (2008) has in mind adult, not youth offenders, which may explain her concern that conferences may appear to be a 'too lenient' response.

family members had moved interstate. Although all youths were encouraged to take responsibility for their behaviour, those in Cases 1 and 2 did so partially and were less engaged in the conference compared to youths in Cases 3 and 4. The youth's Mary Street counsellor played an important role; in some cases, they facilitated information and relationship-building, but in others, they could be overly protective of the youth.

During a 3-year period following the conference, two youths stayed out of trouble completely (Cases 1 and 4), but two others amassed a substantial criminal history in South Australia, although no sexual offences were recorded. An analysis of general re-offending (that is, all types of offences) from the SAAS data found that the strongest predictor was previous offending, and that youths charged with sexual assault of siblings and children were less likely to re-offend compared to those charged with peer assaults or 'no touch' offences (Daly et al. 2013).

We conclude with these points. First, sibling sexual abuse is distinctive from other types of gendered violence: most victims are too young to attend and participate, and all parties are focused mainly on addressing the offenders' behaviour and ultimately on becoming reunited in the family home. Second, and relatedly, critics' concerns with 'power imbalances', a 'revictimization' of victims or outcomes not being 'serious enough' are not especially germane to these cases. However, one concern in these cases is that parents (typically mothers) may have a dual role of representing the victim and supporting the offender. It is understandable that mothers, like Sharon, want to 'be there' for both their children, but this comes at a price of having a muted victim presence, voice or autonomy in the conference. Third, the conferences displayed many positives, including bringing forward the impact of the offence on victims, censuring the offending, and facilitating a frank conversation among an offender and family

members. Legal or justice aims were secondary to rehabilitative or therapeutic aims, specifically to prevent the youth from further offending. However, the cases demonstrated that the ‘full story’ of the abuse was often too painful, shameful, and confusing for siblings and family members to face up to completely.

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