

## **Sibling Sexual Abuse: Legal Responses and Mothers' Experiences**

By Kathleen Daly

Professor Kathleen Daly  
School of Criminology and Criminal Justice  
Mt Gravatt Campus  
Griffith University QLD 4111  
AUSTRALIA 4111

of +61 (0)7 3735-5625  
email: [k.daly@griffith.edu.au](mailto:k.daly@griffith.edu.au)  
[www.griffith.edu.au/professional-page/professor-kathleen-daly](http://www.griffith.edu.au/professional-page/professor-kathleen-daly)

Paper presented to conference Adolescent Violence in the Home, Melbourne,  
18-19 February 2013.

Please do not quote or cite without permission of the author.

4 February 2013

## **Sibling Sexual Abuse: Legal Responses and Mothers' Experiences**

In my presentation, I hope to convince you of the importance of including sibling sexual abuse in the concept of Adolescent Violence in the Home. Sibling sexual abuse occurs in the home and it is committed by adolescents against their siblings. So far, so good. But sibling sexual abuse is *sexual* (although the offending may include physical violence). And because it is sexual, it falls outside current definitions of Adolescent Violence in the Home (Howard 2011: 2). Sibling sexual violence—like other offences in the home—crosses legal, social welfare, and child protection boundaries. And it crosses the partner/family and sexual violence sectors. Sibling sexual abuse is typically on-going, not just one incident; and it co-occurs with other types of violence in the home.

Today, I will

*Review* what is known about sibling sexual abuse.

*Present* material from two sources: The Sexual Assault Archival Study of 385 youth sex offence cases (large quantitative dataset) and the In-Depth Study of Sexual Assault and Family Violence (qualitative case studies).

*Discuss* four case studies of sibling abuse that were handled with a youth justice conference, and what can be learned from them.

### **I. Sibling sexual abuse**

Sibling sexual abuse is defined differently, depending on a therapeutic or legal frame of reference. Age differences (typically a 3- to 5-year gap) have been used, but today the emphasis is on power imbalances between siblings.

The prevalence of sibling sexual abuse is not known, but it is 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). Most offenders are male (over

90%), and most victims are female (70 to 75%). The most common dyad is brothers abusing sisters, but one-quarter are brothers abusing brothers.

Analysts believe that sibling sex offences are less likely reported to the police than other sex offences. 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). My data on legal responses will show a different pattern, once cases are reported to the police.

Sibling sexual abuse is called an 'opportunistic' form of abuse because of the physical promixity of siblings (Stathopoulos 2012: 1). However, that term elides other dynamics: it is secretive, on-going, and can continue for many years. The shame associated with it leads to denial or minimisation by parents or guardians. Several decades ago, some believed it was harmless, but now greater emphasis is given to its negative effects on victims. Among them: distrust of others; anger towards the sibling and parents; suicidal thoughts and self-harm; low self-esteem; problems having intimate or physical relationships in adulthood; other mental health problems (e.g., post-traumatic stress disorder, anxiety, conduct disorder, depression, and eating disorders); and substance abuse. Complicating matters, 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.

Recent Australian commentary proposes that an optimal response has two elements: (1) once disclosed, a victim should be supported by their parents; and (2) an offender, victim(s), and affected family members should be involved in therapy sessions (alone and together). Separation of the offender and a criminal justice response alone are not optimal (Kambouridis 2012; McNevin 2010; O'Brien 2010; Stathopoulos 2012).

## **II. Sexual Assault Archival Study**

My project, the Sexual Assault Archival Study (SAAS), gathered data on all youth sex offences reported to the police over 6 ½ years in South Australia. Of the 385 cases, most (about 60%) were disposed in court, with about 30% by a conference, and 10% by formal caution.

### Outcomes for all sex offences

All the formal cautions and almost all the conferences were finalized by an admission ('proved'), but just over half (51%) of the court cases were proved (convicted) of a sexual offence.<sup>1</sup> Many assume that the court is a place that treats 'serious offences seriously', but the SAAS data show that the court is equally a place where serious cases are dismissed or withdrawn, although this is less likely in sibling cases (as we shall see).

### Elements of sibling abuse cases

Of the 385 cases, 16% were 'no-touch' public exposure or indecent behaviour offences; the rest were penetrative sex, oral sex, or fondling over clothes ('touch' offences). I analyse only the 'touch' offences in all the following comparisons of sibling and other (non-sibling) cases.

Sibling relationships were nearly 20% of the 'touch' offences. Compared to other youth, sibling offenders were more remorseful in 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 (on average 8 years, compared to 13 years for other offences); and the victim-offender age gap was wider (about 7 years compared to 3 years). Sibling offences

---

<sup>1</sup> An additional 4% were proved of a non-sexual offence, and the rest (45%) were dismissed or withdrawn.

were more likely to be multiple incidents over time: for two-thirds, the abuse was on-going (compared to 23% of non-sibling cases), and the average duration of abuse was longer.<sup>2</sup>

### Legal and therapeutic responses to sibling cases

Of the ‘touch’ sex offences reported to the police, sibling cases were more likely to be ‘proved’ than others. One reason is that a higher share of sibling cases was finalized by a conference. But sibling cases referred to court were proved more often (72%) than non-sibling cases (45%).<sup>3</sup> Therapeutic responses were also more likely in sibling cases, with a higher share of offenders in sibling cases taking part in a specialist program for adolescent sex offenders, the Mary Street programme (68%), compared to non-sibling cases (23%); this difference was also evident in the court cases.

Contrary to what others have said, I find that once sibling sexual abuse is reported to the police in South Australia, it is treated more seriously than other ‘touch’ sex offences, in both a legal and therapeutic sense. I should be careful here. The sibling cases were treated ‘more seriously’ because youths admitted or pleaded guilty to sibling offences more often than to other offences. Why this occurs, I am not sure. One reason may be 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.

We also analysed what judges said to youth in court at sentencing. We found that one category of cases—which included all the sibling cases and those with victims under 12—were responded to with the strongest judicial admonishment. It is good news, but also mixed.

---

<sup>2</sup> Excluding missing data for all ‘touch’ offences: in sibling cases, the primary victim’s household was more likely to be blended or foster (36%) or mother only (33%) compared to non-sibling cases (7% blended or foster and 13% mother only). Households with a mother and father were 31% of sibling cases, but 58% of non-sibling cases. These data need to be treated with caution, however, because a large share was missing in non-sibling cases (71%), although less so in sibling cases (29%).

<sup>3</sup> Cases were ‘proved’ almost entirely because youths admitted offending or entered a guilty plea in court; five non-sibling cases went to trial (two were ‘proved’), but no sibling case went to trial. ‘Proved’ means the same as ‘conviction’; however, in convicted cases, a youth’s criminal history is protected by recording the outcome ‘without conviction’, as occurs in most court cases in this jurisdiction.

Sibling cases and those with young victims are viewed as ‘real rape’ compared to violence between those closer in age.

### **III. In-Depth Study of Sexual and Family Violence Cases**

In the In-Depth Study, we assembled a detailed chronology for 14 sexual and family violence cases that went to a conference. We did this by drawing from the police report and from interviews we conducted with victims (or their representatives) and Youth Justice Coordinators (YJCs), who ran the conferences. Some of you have read the cases we have analysed previously: two of peer sexual violence and three of adolescent violence toward parents. Today, my focus is on the four cases of sibling sexual abuse in the In-Depth Study.

Now, I am in a jam. Although the detailed case studies provide a deep understanding of family and conference dynamics, each is too long (ranging from 2,500 to over 4,500 words) to be given in full, or even briefly, here. Thus, I’ll briefly describe one case and then discuss patterns across the four.

I will be presenting Case 1, with Ben (14) the youthful offender. His offending was especially serious, and the case had other complex elements. Cases 1 and 2 had households headed by mothers, who themselves had histories of being physically and sexually abused, and who had a dual role in the conference in representing the victim and supporting the offender. Their sons had previous experiences of physical or sexual abuse, and they were disengaged from the conference process. Although the youth in Case 3 may have been abused by his adoptive father (an uncle), none of the other descriptors applied to Cases 3 and 4.

Case 1: Ben (14 years), Sharon (his mother) and Marie (8 years)

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. When it was 'discovered', Marie was very distressed, and Sharon said Marie had several weeks of restless nights after disclosing it. Soon after Sharon's discovery, Ben was removed from the home and put in foster care. Based on a pre-conference visit with Ben a week before the conference, the YJC believed that Ben was not sorry for his offences; in fact, Ben said he would hurt his sisters again. Ben's father definitely abused Sharon; and inferring from the file, he was physically abusive not only to Ben, but also his sisters.

After Sharon discovered the offence, she contacted a person at her Church, and then Family and Youth Services, who reported it to 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 female officer known of this charge, she would not have referred the case 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. [Here I should note that in all four cases, the Mary Street therapeutic process was set in motion many months before the conference.] The conference lasted 2.5 hours, including a short break before the conference agreement was finalized.

The officer was strict towards Ben in the conference. She felt she had to control her negative thoughts about him, 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. He said Ben 'was controlling the information' in the conference. As evidence of this, a major turning point was when Ben permitted Sharon to read a statement he had prepared with his Mary Street counsellor. Up to that point, Ben made it known to everyone at the conference that he had a statement, but he refused to read it.

During the conference break, Ben's counsellor told him that it would be good to share it. When the conference re-convened, there was discussion about 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. In it, he 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. Sharon's role at the conference was to represent Marie, but as Marie's and Ben'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?', she asked, 'They're both my children, and I love both of them'.

Ben's conference agreement had many elements, including continuing Mary Street counselling, attending school and a Just Consequences program, having strict visitation rules, writing a letter to Marie and Claire, and being placed on a good behaviour bond. He complied with all the elements; and over a 3-year period after the conference, he had no further arrests.

#### **IV. Themes**

All four cases had complex elements, and all the conferences were intense and highly emotional. I consider two areas: offending and victimisation, and the experiences and roles of victims' mothers.

### Offending and victimisation

1. ***More to the story.*** In all four cases, there was far more to the story of abuse than what was given in the police report or said by anyone at the conference or during the interviews.

Youths were not forthcoming to parents or the police; and victims often ‘clammed up’.

Parents were typically unsure of the extent of the abuse. The most knowledgeable person was the youth’s Mary Street counsellor, and it is through the therapeutic process that more of the ‘full story’ comes out. In Case 3, the youth agreed to lift the confidentiality restrictions on his Mary Street counsellor to share information with the victim’s mother, an outcome the YJC termed ‘a gift’ to the mother. And in Case 4, there was an agreement among the members of the blended family, that after the conference, they would ‘discuss the things [about offending] that weren’t discussed at the conference’. In all four 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’.

2. ***Home context of violence.*** The male youths’ abuse of their sisters and in one instance, a brother and sister, occurred in a home context of violence. In two cases, the youth was physically abusing his sisters; and an adult male in the household had abused the youth’s mother. In these two cases, and perhaps a third, an adult male in the household physically abused the youth (Cases 1, 2, and 3).

### Experiences and roles of victims' mothers

None of the young victims attended the conference. In three, the victim's mother represented her daughter; and in the fourth, the YJC represented the victim's perspective after a long conversation with the mother of the male victim.<sup>4</sup> In two cases, the mothers were solo heads of household, and in two, they were in blended families.

1. ***Responsibility for victimisation.*** In all four cases, the mothers felt responsible for not protecting their children from victimisation.

Sharon (Case 1) thought she had 'gone down in the trust department' with her daughter Marie because she 'wasn't there to stop it when it first started and didn't know ... and [Marie] didn't feel she could tell me for whatever reason'. [female victim, 8]

Joan (Case 2), herself a survivor of sexual abuse (by an uncle) that 'was never seen to', she said, 'we got treated as liars, me and my sister'. She continued, 'I didn't want it happening to my girls ... Even though I educated them and I thought they were protected, it was happening right under my nose. That's what hurt the most'. [female victim, 6]

Liz (Case 3) was concerned about her son's change in behaviour, now 'quite withdrawn' after his victimisation was disclosed, and she felt 'guilty about that'. According to the YJC, Liz blamed herself for what happened to her son, saying 'I should have known ... What if he looks back and thinks I didn't protect him?'<sup>5</sup> [male victim, 6]

---

<sup>4</sup> This case (3) had a male and female victim, but the female victim and her mother moved interstate; and the father (boyfriend of the mother of the male victim, father of the female victim, and adoptive father [uncle] of the offender) was dismissive of his nephew's offending toward his daughter. The YJC could not locate this second victim or her mother.

<sup>5</sup> The YJC assured Liz that her son 'will look back and know you took action'. This comment 'seemed to change something' in Liz, that 'maybe she wasn't to blame'.

Louise (Case 4) felt responsible, but did not blame herself. According to the YJC, she said that '[as a mother] I should have been able to protect her. ... I know that I can't be there 24 hours a day, and I know it wasn't my fault, but I wish I'd be able to'. [female victim, 5]

**2. Vulnerable mothers 'being there' for both children.** The mothers in Cases 1 and 2 were in especially difficult circumstances, as mothers of the victims and offenders, and as sole heads of households. In Cases 3 and 4, Liz and Louise were the stepmothers of the offenders, when the offending occurred. Liz has since broken off the relationship, but Louise is still with her partner, who is the father of the victim and offender. I'll focus on Sharon and Joan (Cases 1 and 2) because they had to 'be there' for both children and were under greater control by state authorities.

### *Sharon*

'He's my son, and that's been the worst part of this whole thing. ... [He] is right in that family circle ... When it's somebody who actually lives in your house, it is so much more difficult. It changes everything. And if you've got to be there for both of them, it makes it really difficult.'

'The worst part of this for anybody ... is having to tell your story so many times' [to Family and Youth Services]. 'I've been getting really fried with the repetition of me being asked time and time and time again [for a psych assessment]. I'm going, "look guys, you know you've got reports, read them" '.

*Joan*

[At the police interview] ‘it was just so hurtful for me ... having to hear what he’d done and hearing him actually confess for it ... then having to come home and face my girls. It was just it was just really hurtful’.

‘I don’t want to put blame on him because I think he’s had enough blame put on him. I want him to know that his mum still loves him no matter what he does’.

‘Some people say, “oh God, how do you do it?” Well, I have to, to be here for Lucy, and I have to be there for Jack’.

A week after the conference, Joan ‘was caught between a rock and hard place’, when her son breached his agreement. She didn’t want him to get into further trouble, but equally, she didn’t ‘want to see him get away with what he’d done’. It was out of her hands, however, because the agency case worker decided not to refer the matter to the police.<sup>6</sup>

## **V. Closing**

To close briefly. Where there is physical violence in the home among and between adults and youth/children, there may also be sexual abuse. For that reason, it is important to work across the domestic/family and sexual violence sectors in understanding and responding to Adolescent Violence in the Home.

Sibling sexual abuse remains hidden even after it is ‘discovered’. The ‘full story’ does not come out because there is considerable shame and confusion surrounding the offending and victimisation.

---

<sup>6</sup> Jack was eventually breached for failing to complete the agreement and appeared in the Youth Court (approximately 16 months later).

The recommendation by psychologists is to take a 'holistic approach':

(1) to ensure parental support of victims, once offending is disclosed; and (2) to refer offending youth (and victims and affected family members) to therapy, not simply to remove the youth from the family and pursue a criminal justice response alone.

In addition to what is occurring in South Australia, Queensland uses conferences in youth justice cases, with specialist treatment. And in New South Wales and Victoria, there are the Therapeutic Treatment Orders for youth; and in Victoria, the Gatehouse Centre uses family therapy.

These developments seem to be headed in the right direction. I say 'seem to be' because the approach is strong on *therapy for offenders and victims*, but weaker on *justice to victims*. For some people, the trade-offs between therapy and justice may raise concerns.

### **Cited and Relevant References**

- Ballantine, M. 2012. Sibling incest dynamics: therapeutic themes and clinical challenges. *Clinical Social Work Journal*, 40, 56-65.
- Braithwaite, J. and Daly, K. 1994. Masculinities, violence, and communitarian control, in *Just Boys Doing Business? Men, Masculinities, and Crime*, edited by T. Newburn and E. A. Stanko. London: Routledge, 189-213.
- Carlson, M., Maciol, K. and Schneider, J. 2006. Sibling incest: reports from forty-one survivors. *Journal of Child Sexual Abuse*, 15(4), 19-34.
- Cossins, A. 2008. Restorative Justice and Child Sex Offences: The Theory and Practice. *British Journal of Criminology*, 48, 359-78.
- Daly, K. 2002. Sexual assault and restorative justice, in *Restorative Justice and Family Violence*, edited by H. Strang and J. Braithwaite. Cambridge: Cambridge University Press, 62-88.
- Daly, K. 2006. Restorative justice and sexual assault: an archival study of court and conference cases. *British Journal of Criminology*, 46, 334-56.
- Daly, K. 2008. Setting the record straight and a call for radical change: a reply to Annie Cossins on 'Restorative justice and child sex offences'. *British Journal of Criminology*, 48(4), 557-66.

- Daly, K. 2012. Conferences and gendered violence: practices, politics, evidence, in *Conferencing and Restorative Justice: International Practices and Perspectives*, edited by E. and I. Vanfraechem. Oxford: Oxford University Press, 117-35.
- Daly, K., Bouhours, B., Curtis-Fawley, S., Weber, L. and School, R. 2007a. *South Australia Juvenile Justice and Criminal Justice (SJJ-CJ) Technical Report No. 4: In-Depth Study of Sexual Assault and Family Violence Cases*. Brisbane: School of Criminology and Criminal Justice, Griffith University.
- Daly, K., Bouhours, B., Curtis-Fawley, S., Weber, L. and School, R. 2007b. *South Australia Juvenile Justice and Criminal Justice (SAJJ-CJ) Technical Report No. 3 (3<sup>rd</sup> edition): Sexual Assault Archival Study (SASS), an Archival Study of Sexual Offence Cases Disposed of in Youth Court and by Conference and Formal Caution*. Brisbane: School of Criminology and Criminal Justice, Griffith University.
- Daly, K., Bouhours, B., Broadhurst, R. and Loh, N. 2013. Youth sex offending: recidivism, and restorative justice: comparing court and conference cases. *Australian and New Zealand Journal of Criminology*, 46(2) (forthcoming).
- Daly, K. and Curtis-Fawley, S. 2006. Restorative justice for victims of sexual assault, in *Gender and Crime: Patterns of Victimization and Offending*, edited by K. Heimer and C. Kruttschnitt. New York: Routledge, 230-65.
- Daly, K. and Nancarrow, H. 2010. Restorative justice and adolescent violence toward parents, in *Feminism, Restorative Justice, and Violence Against Women*, edited by J. Ptacek. New York: Oxford University Press, 150-74.
- Daly, K. and Stubbs, J. 2006. Feminist engagement with restorative justice. *Theoretical Criminology*, 10(1), 9-28.
- Daly, K. and Wade, D. 2012. *South Australia Juvenile Justice and Criminal Justice Research on Conferencing and Sentencing Technical Report No. 5, In-Depth Study of Sexual Assault and Family Violence Cases, Part II: Sibling and Sexual Assault, Other Sexual Assault, and Youth-Parent Assault*: Brisbane: School of Criminology and Criminal Justice, Griffith University.
- Doyle, C. 1996. Sexual abuse by siblings: the victims' perspective. *Journal of Sexual Aggression*, 2(1), 17-32.
- Howard, J. 2011. Adolescent violence in the home: the missing link in family violence prevention and response. Australian Domestic Family Violence Clearinghouse, Stakeholder Paper 11.

- Kambouridis, H. 2012. Working with sibling sexual abuse (Gatehouse Centre). ACSSA Working With series, January. Melbourne: Australian Centre for the Study of Sexual Assault, Australian Institute of Family Studies.
- Koss, M. 2000. Blame, shame, and community: justice responses to violence against women. *American Psychologist*, 55, 1332-43.
- Krienert, J. and Walsh, J. 2011. Sibling sexual abuse: an empirical analysis of offender, victim, and event characteristics in National Incident-Based Reporting System (NIBRS) Data, 2000-2007. *Journal of Child Abuse*, 20(4), 353-72.
- Laviola, M. 1992. Effects of older brother-younger sister incest: a study of the dynamics of 17 cases. *Child Abuse and Neglect*, 16, 409-21.
- Lewis, R., Emerson, R., Dobash, R., Dobash, P. and Cavanagh, K. 2001. Law's Progressive Potential: The Value of Engagement for the Law of Domestic Violence. *Social and Legal Studies*, 10, 105-30.
- McNevin, E. 2010. Applied restorative justice as a complement to systemic family therapy: theory and practice implications for families experiencing intra-familial adolescent sibling incest. *The Australian and New Zealand Journal of Family Therapy* 31(1), 60-72.
- McVeigh, M. 2003. 'But she didn't say no': an exploration of sibling sexual abuse. *Australian Social Work*, 56(2), 116-26.
- O'Brien, W. 2010. Australia's Response to Sexualised or Sexually Abusive Behaviours in Children and Young People. Canberra: Australian Crime Commission.
- Panagakis, M. 2011. Sibling Incest: An Exploration of Trauma, Impact, and Treatment. PhD in Psychology, Azusa Pacific University, Azusa, California. Available from ProQuest Dissertations and Theses.
- Phillips-Green, M. 2002. Sibling incest. *The Family Journal: Counseling and Therapy for Couples and Families*, 10(2), 195-202.
- Ptacek, J (ed). 2005. Special Issue, Feminism, restorative justice, and violence against women. *Violence Against Women*, 11(5).
- Ptacek, J. 2010. *Restorative Justice and Violence Against Women*. New York: Oxford University Press.
- Rayment-McHugh, S. and Nisbet, I. 2003. *Sibling incest offenders as a subset of adolescent sexual offenders*. Paper to the Child Sexual Abuse: Justice Response or Alternative Resolution Conference, Australian Institute of Criminology, Adelaide, May.

- Rudd, J. and Herzberger, S. 1999. Brother-sister incest—father-daughter incest: a comparison of characteristics and consequences. *Child Abuse and Neglect*, 23(9), 915-28.
- Stathopoulos, M. 2012. Sibling sexual abuse. ACSSA Research Summary. Melbourne: Australian Centre for the Study of Sexual Assault, Australian Institute of Family Studies.
- Strang, H. and Braithwaite, J (eds.). 2002. *Restorative Justice and Family Violence*. Cambridge: Cambridge University Press.