

CCOSO Addresses Questions About Incest re SB33

Background:

In January, Jerome McGuire, staff assistant to the CA Senate Public Safety Committee requested input from the California Coalition on Sexual Offending (CCOSO) regarding SB 33, which would make certain changes in state laws governing incest offenders. CCOSO formed a four-person task group to respond to this request. The group asked Mr. McGuire to pose specific questions he would like addressed. Mr. McGuire responded with 5 questions. This paper represents CCOSO's response to those questions.

QUESTION 1:

What proportion of intra-family offenses (charges as lewd conduct with or continuous sexual abuse of a minor*) involve multiple victims, pornography, or substantial sexual conduct?'

This question can be interpreted in two ways. The first is strictly legalistic – how many cases involve charges that include multiple victims, pornography, or substantial sexual conduct. Considered in that way, the answer is that the California Department of Justice doesn't keep data in a form that would allow us answer the question meaningfully. The second way of interpreting the question is considering what proportion of intra-familial offenses actually involve these kinds of behaviors, whether they are charged or not. Interpreted thusly, we can shed at least limited light on the question. Here is what we found

1. **Multiple Victims:** There is a paucity of studies that control for the number of incest victims. However, one study of 50 incest offenders found that 58% offended against more than one intra-familial victim. (Karl R. Hanson *et al.*, 1994)².

Another study found that there was more than one victim in 19% of sexual assaults against juveniles (note: not incest exclusively) and that offenders convicted of sexually assaulting boys were more likely to have multiple victims than those convicted of molesting girls. These findings hold up across the board for forcible rape, forcible sodomy, sexual assault with an object, and forcible fondling (Snyder, 2000).

Conclusion: Conviction records do not reflect the number of victims per intra-familial offense. The limited available statistics are drawn from treatment, which indicate more than half of incest offenders violate more than one victim.

¹ Lewd conduct with or continuous sexual abuse of a minor is herein categorized as: forcible rape, forcible sodomy, sexual assault with an object, and forcible fondling.

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2. **Pornography:** Pornography can be used in at least two ways; to lure victims and/or during commission of a sexual offense. While there are few studies specifically addressing this facet of incest, two do seem significant².
 - a. Lang and Frenzel (1988) interviewed 52 incest and 80 other pedophilic offenders about how they lured children into their sexual crimes; a relatively rare type of study in the literature. They reported that among other methods, 15% of incest and 10% of pedophilic offenders showed pornographic magazines or videos to the victims as part of the grooming process. The offenders showed heterosexual adult, as opposed to child pornography to their victims
 - b. A study by Langevin and Curnoe (2004) reported that only 96 (17%) of the 561 sex offenders studied used pornography in the commission of their offenses. While this study did not control for pornography use by incest offenders exclusively, it found that 13% of the 561 sex perpetrators studied used pornography to self-stimulate prior to sex crime; 55% showed pornography to victim; and 37% took pictures of the victim.

Conclusion: There are very few studies addressing the role of pornography in incest cases. The prevalence of Internet pornography leads us to believe that pornography may be used more extensively than these studies reflect, but there is little to indicate that this is more characteristic of incest perpetrators than of other sex offender categories. In fact, it may well be that the prevalence of pornography for self-stimulation is no different among sex offenders than in the general population. Although pornography does play a role in parental seduction of some children, the proportion of cases in which this occurs is presently unknown. However, based on information from the few existing studies, it appears to be less than 1/3.

3. **Substantial Sexual Conduct:** There have been no studies that directly control for categories of incest offense behaviors. However, A Bureau of Justice Report (Snyder, 2000) found that of all reported sexual offenses against juveniles occurring in the home (not exclusively incest), 42% were forcible rape, 8% forcible sodomy, 4% sexual abuse with an object, and 46% forcible fondling. This study also found that of all reported sexual

² The authors consulted with Scott Matson of the Federal Center for Sex Offender Management (CSOM) to find information relevant to this question. Mr. Matson had no information fo ofer us beyond the two studies cited above (Matson, 2005)

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offenses against juveniles, 14% of the victims were 6 or younger, 53% age 6-11, and 33% age 12-17. Lacking information to the contrary, it is fair to tentatively assume that many of the cases in the Snyder Report represent incestuous offenses and studies do generally suggest that true incestuous offenses (those committed against biological offspring or significantly younger siblings) are (not) qualitatively different from intra-familial sexual offenses committed against biologically unrelated children.³

Conclusion: It appears likely that a significant number of incest offenses against children involve substantial sexual conduct.

QUESTION 2:

What proportion of intra-familial sex offenders successfully complete probation?

Very little empirical research has looked at successful probation or treatment completion by conviction category. However, it has been established that sex offenders who begin but do not complete treatment recidivate at significantly higher rates than men who complete treatment (Alexander, 1999; R. K. Hanson *et al.*, 2000). Miner compared 79 adjudicated men who completed sex offender treatment to treatment 94 dropouts. (Miner & Dwyer, 1995) He found that the incest offenders included in this group were 1.7 times more likely to complete treatment than were the extra-familial child molesters.

Lacking peer-reviewed data regarding successful Probation completion by incest offenders, we requested anecdotal information via two professional email discussion lists; one for members of the California Coalition on Sexual Offending (CCOSO) and another for members of the international Association for the Treatment of Sexual Abusers (ATSA). Four California treatment providers responded, as did one from the State of Washington. Their experience parallels the authors' own, indicating that incestuous offenders tend to complete probation at high rates, rarely manifesting even significant technical violations of their terms of Probation, much less reoffending during their probationary terms. The treatment providers who responded also agreed that intrafamilial offenders are usually compliant probationers who are more easily managed than their extra-familial counterparts

One large California treatment program reported difficulty coordination of collaborative work with local Probation and Parole offices. That same program also reported low treatment completion rates for its criminally adjudicated incest offenders. This likely demonstrates a (well established) need for treatment

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providers and supervising officers to collaborate actively in order to achieve maximal results (CCOSO, 2001; CSOM, 2000).

Conclusions:

1. Empirical research suggests that treatment completion correlates with lower recidivism for sex offenders generally. We have no reason to suspect that this pattern is different for incest offenders than for other sex offender classifications.
2. Limited empirical data and anecdotal reports from treatment programs suggest that incest offenders make good probationers and good treatment candidates when agencies (Parole, Probation, Child Welfare and Treatment providers) work cooperatively, but they tend to exit treatment prematurely when supervisory agencies fail to actively collaborate with and support treatment programs.

QUESTION 3:

What proportion of intra-familial sexual offenders re-offend?

Contrary to popular belief, sex offenders manifest relatively low recidivism rates. The best analysis to date examined more than 31,000 convicted individuals across 95 international studies involving more than 2000 recidivism predictions with mean follow-up time being 73 months (K. R. Hanson & Morton-Bourgon, 2004). Sexual recidivism across all studies was 13.7%. In fact, sex offenders are far more likely to recidivate non-sexually than sexually. General recidivism was almost three times as frequent at 36.9%.

These findings are not unusual. A recent United States Justice Department study of 9961 men released from prisons 1994 included 4295 child molesters (Langan *et al.*, 2003). Three years after being released only 3.3% of the child molesters had been rearrested for (much less convicted of) another sexual crime against a child. The sex offenders in this DOJ study also manifested a non-sexual recidivism rate (43%) than the general prison population released that year (68%).

Recidivism studies comparing incest offenders to other sex offenders have generally found that incest offenders reoffend at significantly lower rates than comparison groups. For example, a Federal Center for Sex Offender Management (CSOM) document (Bynum, 2001) states that mentally disordered incestuous offenders recidivated at a five-year rate of 6% compared to 43% for opposite-gender extra-familial offenders and 54% for same-gender extra-familial offenders (Sturgeon & Taylor, 1980). Another study published two decades

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later, reported sexual recidivism among incest offenders at 6.4% after approximately 6 and one half years in the community (Firestone *et al.*, 1999).

Studies also indicate that incestuous offenders seem to respond well to treatment. For example, Marshall reported 2.9% sexual recidivism for treated incest offenders four years after discharge, compared to 7% for incest offenders in the same community who asked for but could not receive treatment (W. L. Marshall & Barbaree, 1988). A large meta-analysis found 4% sexual recidivism for treated incestuous offenders compared to 12.5% for untreated comparison groups (Alexander, 1999).

All of this leads to considerable optimism that:

- Child molesters manifest generally low recidivism rates compared to other violent offenders
- Incestuous offenders have the lowest recidivism rates of all sex offenders types
- Incest offenders' already low recidivism rates can be lowered even further by treatment

If so, this would make incest offenders excellent candidates for Probation and community-based treatment.

However, some critics assert that child molesting is a life-long preoccupation and that most studies don't follow child molesters for very long. This is a valid concern, but several studies do address this issue.

- One study followed 115 child molesters after their discharge from a Treatment Center for Sexually Dangerous Persons (Prentky *et al.*, 1997). Twenty-five years later 68% of these men, who were initially considered dangerous enough to confine in a hospital, had not come to the attention of authorities for any further form of sexual misconduct. Unfortunately this study did not distinguish incestuous offenders from other child molesters.
- Another long term study found sexual recidivism of 35% for 191 sex offenders, using a "new conviction" criterion. It also, did not distinguish incestuous offenders from other child molesters (R. Karl Hanson & et al., 1995).
- A third study did look at incest offenders as a separate group. Using "court appearance" (not necessarily conviction) as the criterion for

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recidivism, these authors found 25-year sexual recidivism at 60% for incestuous offenders, compared to 79.3 % for men who had offended against female children outside their families and 73.6% for offenders against male children outside their families (Langevin et al., 2004).

Another criticism of studies that rely on official records involves the fact that many sex crimes are never reported. For example, in one of the best designed studies to date 17% of women who had stepfathers and 2% of women raised by biological fathers reported being sexually touched by these men (Russell, 1984).

Another concern that official records may under-estimate incestuous (and other sexual) reoffenses is based on sexual histories supplied by sex offenders in treatment programs. Taken together, these studies indicate that many (but not all) men convicted of incest offenses have also committed sex crimes outside the family and, that many men convicted of sexually abusing unrelated children have also molested their own offspring. (G. Abel et al., 1987; Ahlmeyer et al., 2000; English *et al.*, 2000; Hindman & Peters, 2001; Kokish, 2000, 2004; Studer et al., 2000)

While these kinds of studies do raise community safety concerns, do not really address recidivism. That is, these studies tell us nothing about the degree to which these men, versatile or not, desist from further offending once they are identified and in many cases, treated. To address recidivism, official records, incomplete as they are, remain our most valid source of information.

Conclusions:

1. Sex offenders manifest lower short and intermediate term (1-10 years) recidivism rates than the public seems to believe; the lowest rates in fact, of any group of violent felons except murderers. But these rates are not uniform. Certain sub-groups (like male-preferential pedophiles with anti-social personalities) manifest much higher recidivism rates than others.
2. Long term sexual recidivism rates (up to 25 years) vary widely across the few studies we found and no conclusions should be drawn at this time.
3. "True" incest offenders (i.e. those who have not committed sexual offenses outside their families.) likely have lower recidivism rates than other sex offenders and could make excellent candidates for community placement and treatment.
4. Some (but not all) men convicted of incest offenses are versatile sex offenders who happened to be caught for incestuous offenses.

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5. Since most studies are based on crimes of conviction, the presence of considerable numbers of versatile sex offenders in the (presumed) incest group confounds our ability to accurately ascertain recidivism rates for true incest offenders. Nonetheless, the bulk of available empirical information does suggest that true incest offenders have lower recidivism rates than other types of sex offenders.

QUESTION 4:

Do the courts too quickly allow re-unification of families in which incest has occurred?

It is difficult to meaningfully address this question as it is posed. The term “too quickly” suggests a simplistic bias towards the yea side of the issue. But decisions about reunifying incestuous families are rarely simple because they often involve balancing competing needs, concerns and desires. What is too quick in terms of detriment to one family member is often too slow to serve another. The length of time needed to successfully treat victims, families and/or incest perpetrators should not be measured in chronological time, but rather should be viewed in terms of issues to be addressed and resolved. Just a few of these issues are the victim’s feelings about what happened, the meaning s/he assigns to the abusive behavior on the part of a trusted adult, the reactions, desires and needs of other children in the family, the perpetrator’s motivations and dynamics, the non-offending spouse’s feelings toward both the victim and the perpetrator, and the nature and quality of available intervention. Addressing these complex issues in treatment becomes even more difficult when the non-offending spouse is herself a survivor of sexual abuse (Sgroi & Dana, 1982), a situation not uncommonly found in incest cases (Tamraz, 1996).

The treatment program described in SB 33 represents a somewhat idealized attempt to address and deal with the issues of all family members and to clearly delineate requirements that must be met for re-unification to be considered⁴. But in reality, few such comprehensive programs exist in California, and treatment resources available to incestuous families vary greatly from county to county. Should families in counties where these programs do not exist remain forever unable to ever reunify? Should offenders in such counties be imprisoned simply because the programs do not exist? ⁵

⁴ See (Blick, 1989) and (Giarretto, 1982) for descriptions of such programs.

⁵ Whether a sex offender is referred to treatment or prison seems to be related not only to the nature of his crime but also to where sex offender treatment providers have decided to live and set up shop. This has resulted in obvious sentencing inequities.

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Since the mid 1980's, when the prevalence of child sexual abuse first began to emerge as a social issue (Russell, 1986), at least 3 patterns of incest have been identified (Gelinias, 1988), and some experts claim 4 (Larson, 1996), with different motivations and dynamics and consequently requiring different treatment approaches. Early observations suggested that most incest offenses are "situational" and that incest offenders rarely commit other sexual crimes (Groth, 1982), but more recent studies reveal that many do in fact, offend against children outside the family, some against multiple generations within their family, and some against adults as well as children (Gene Abel et al., 1988; Ahlmeyer et al., 2000; English et al., 2000; Hindman & Peters, 2001; Humbert, 1990; Kokish, 2000; Studer et al., 2000). We now have a more complete battery of tools that allow specially trained sex offender therapists to more fully assess the candor, dangerousness, and to classify recidivism risk with ever increasing levels of accuracy. Nonetheless, decisions about incestuous families remain a matter of balancing competing needs, concerns, desires and values, rather than applying a truly objective standard.

There are of course, those who would argue that any reunification is too quick, that no child victim of incest should ever live with the offender again. Some victim advocates misuse studies documenting the suffering of incest victims to promote this argument. (Briere, 1992; Coutois, 1988; Gelinias, 1983; Roesler & Wind, 1994). While numerous studies do seem to indicate that re-unification is not a desirable goal for many victims, this is a separate issue from whether the family, including the offender, should be involved in therapy together. Hindman (1989) conducted research for 15 years on 543 victims of child sexual abuse. She concluded that "even when the perpetrator was incapacitated, incarcerated, or absent, the victim often remained connected (to him) in a trauma bond." Whatever else the victim feels, this pathological bond almost always includes a fierce sense of loyalty to the perpetrator that is often difficult for therapists and child protective workers (and perhaps legislators) to understand. Disclosure or discovery changes none of the family's relational patterns. If anything, they may be reinforced, making some family members unsupportive of the victim (Gelinias, 1988). In such cases, not even separating the child and family succeeds in ending the trauma bond and improving the child-victim's relationships with non-supportive family members (Gelinias, 1988). "Even well into adulthood, a victim's relationships with her parents and siblings often fail to improve unless these relationships are directly addressed, usually in family therapy" (Gelinias, 1988).

In short, the feelings of incest victims toward their perpetrators are often confused, complex, and contradictory. Post-abuse effects often include feelings of betrayal, stigmatization, powerlessness and sexual traumatization. (Finkelhor reference) Victims may feel guilt for special treatment or rewards they received as a result of the incest. They may value the love they experienced while hating

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the perpetrator for imposing the sexual aspect of the relationship. They may feel guilt or disgust and self blame over sexual pleasure they experienced. They may blame him for feelings of jealousy and rejection directed at them by their mothers and siblings. No matter how much time elapses, these victims remain emotionally linked to their perpetrators and, sans appropriate therapy involving the whole family, they are left psychologically alone with the almost impossible task of coming to terms with their feelings.

Professional literature consistently stresses the importance of victims receiving therapy and, particularly therapy that includes the entire family. Studies on victim reactions to disclosure suggest that incest victims far too infrequently receive something that feels like help (W. Marshall, 1998). Victims are more likely to report when there is flexibility in the system that provides them with protection without potentially burdening them with (unwarranted) guilt and responsibility for their perpetrator's incarceration. Synthesis of available studies suggests that stressing re-unification as the primary reason for family treatment is misguided. However, focusing solely on removing all perpetrators from all victims' lives may be equally misguided. Many victims (including non-offending spouses and siblings who may not have been directly sexually victimized) are served best when they have access to treatment that includes perpetrators.

Conclusions:

1. Incest cases are always complex and those who are truly concerned with victim well-being will be against imposing simple, one-size-fits-all formulas in these situations.
2. Resolving the complex issues involved in virtually all incest cases may, but need not necessarily, lead to family reunification. However, those families that want to explore the possibility of reunification are best served when they have the opportunity to do so. Foreclosing that option is often harmful to victims because it deprives them of that possibility and because it may engender resentment against them on the part of siblings and even some non-offending parents.
3. CCOSO has published a document to guide the steps and pace of family resolution work (CCOSO, 2002). The authors of this paper suggest that readers interested in this subject familiarize themselves with this document.⁶

⁶ CCOSO's position paper on family resolution work is available free of charge at <http://ccoso.org/papers/familyresolution.pdf>.

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QUESTION 5:

What are the opinions of experts as to the proportion of intra-family sexual offenders who are situational offenders as opposed to pedophiles? Is this even a major issue in the treatment or forensic/diagnostic community?

This question is difficult to answer meaningfully because the terms "situational offender" and "pedophile" overlap.

- "*Pedophile*" is a clinical term precisely defined as an individual over the age of 16 who experiences recurrent, intensely arousing sexual fantasies or urges involving sexual activities with a prepubescent child and has either acted on these or experiences marked distress or interpersonal difficulty as a result of said urges or fantasies. (American Psychiatric Association, 2000)
- "*Situational offender*" has no precise definition in clinical literature. It most often describes an individual whose inherent sexual preference is for adult partners but who, in a specific situation, finds him (or her) self sexually interested in a particular pre-pubescent child or children.

In some cases individuals with little or no history of strong sexual attraction to prepubescent children develop a strong, persistent, and distressing attraction to a specific child or children in a specific situation. This, even though their attraction is situational, they also meet criteria for pedophilia at that point. The term "pedophile" is psychological and correct application does not require that they act on the attraction. However, if they do act on their situational pedophilic attraction, they also meet criteria for "*sex offender*," which is a legal rather than a clinical term.

Diagnostically, people meeting criteria for pedophilia are categorized in two ways (American Psychiatric Association, 2000):

1. Exclusivity – is the individual attracted primarily to children, or does she/he experience sexual attraction to adults as well?
2. Gender – is the individual attracted to male children, female children or both?

These are important because:

1. Non-exclusive pedophiles are easier to treat (i.e. dissuade from repeat offenses) because, if they forgo sexual acts with children, they are still left with alternative (adult) sources of sexual gratification. Exclusive

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pedophiles have no such alternatives available to them. Thus, if they desist from sex acts with children their only alternative is to live completely without interpersonal sexual gratification.

2. Men who offend against male children seem less able to control this attraction than men attracted female children, resulting in more victims and higher recidivism rates. (K. R. Hanson & Morton, 2004; K. R. Hanson, Thornton, David, 1999)

That said, it should be noted that in real life, exclusivity does not represent a rigid category so much as they represents gradations of sexual attraction along a continuum. There are of course, individuals (mostly men) who are attracted to children and only children, but these are quite rare. Even men who experience clear and persistent sexual attraction to children usually experience *some* sexual attraction to adults. (Barsetti *et al.*, 1998; Frenzel & Lang, 1989; Langevin & Watson, 1991; Studer *et al.*, 2002) If the authors of this paper were to hazard a professional guess based on more than a combined century of studying, evaluating and treating child molesters, we would say that 4 - 7% of these men (and almost none of the women) are truly exclusive pedophiles (e.g. no significant sexual attraction to adults), with the rate being less than half that high among men convicted of parent-child incest.⁷ A better system for classifying child molesters along exclusivity and gender axes would utilize Likert-type ratings rather than the simple categorization suggested by the American Psychiatric Association's Diagnostic and Statistical Manual.

Conclusion: The term "situational offender" is imprecise, is not usually used diagnostically and is rarely if ever used forensically. Diagnosis into exclusivity and gender preference categories also has shortcomings, but is more precise and represents important forensic and clinical issues because it is strongly correlated to recidivism potential.

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⁷ We informally surveyed colleagues in two professional internet forms devoted to sex offender work. They agreed that exclusive pedophilia is rare among men referred for treatment as incest offenders.

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