

Removing Good Character References in Sentencing Trials for Child Sexual Abuse: A Survivor's Perspective

PUBLIC COMMENT

Introduction

Good character references should be removed from use within sentencing trials for child sexual abuse cases.

My name is AS, and I am a survivor of child sexual abuse. I offer a public comment on how good character references impact those directly affected by child sexual abuse, and society more broadly. My submission supports that good character references should be removed from use within sentencing trials for child sexual abuse cases.

My submission is written in context of a real-world case study, addressing the considerations of the Sentencing Council, and demonstrating how;

- good character references, even in non-legal environments, perpetuates the silent and hidden grooming process and societal tolerance of child sexual assault.
- the offender's good character or lack of previous convictions, is always of assistance to the offender in the commission of the offence.
- authors of good character references are not immune to the effect of grooming, which is why we cannot rely on their input in child sex abuse cases, good intentions or not.
- survivors are severely impacted by the concept of good character references, forming another barrier to disclosing, reporting and ultimately seeking justice, and;
- the use of good character references is a far bigger determinant of society's overall health than one first might believe.

My statements are not backed up with references nor academic rigour. I'll leave that to others in the field. Child sexual abuse has permeated my world and I believe my comments are relevant.

Please note, I have used a non-legal example. The fallout and impact felt at this grassroots level is experienced more so at a legal level, as there is so much at stake. So with that in mind, please take my example and magnify it x100.

CASE STUDY: MrH and the Impact of Good Character References

You don't know what you don't know.

A real-life example involving a teacher, MrH, illustrates the impact of good character references on not just his victims, but also those connected. During a social media exchange, RD, a former student, wrote an unsolicited good character reference for MrH, unaware of his history of child sexual abuse.

What RD didn't realise, 25 years earlier, when he was at school, straight after his class, MrH would drive one of RD's classmates to his home nearby and have sex with her. If RD knew this, he would be appalled and devastated to say the least.

And what RD also didn't know at the time of writing his reference was that MrH was being drawn through two legal proceedings at the time that this good character reference was written.

RD didn't know what he didn't know.

RD's reference leant public credibility to MrH's character, confusing the truth and shielding his abusive actions. It did not impact the legal process, as this was separate from that. But through a deeply affected community, there was a ripple effect. To some, more a tsunami.

In response to RD, HJ, another former student, wrote a reply of dismay, anger and disgust about this good character reference on her own Facebook page, which elicited hundreds of replies of support to her anger and frustration. The comments were extraordinary, applauding the lifting of silences and subtle recognition of MrH's predatory behaviour. It allowed others to speak, to share, to be seen and heard. It gave context to experience and provided healing to others. It showed how far his actions had spread. This response took guts.

Innocent Endorsement and Its Consequences

RD's innocent endorsement extended MrH's manipulation and grooming by presenting him as a respectable and inspiring teacher. This characterization conflicted with the reality of MrH's calculated and abusive behaviour, which was hidden from the school community. RD's reference therefore became an unintended addition to the grooming process, perpetuating the notion that MrH was a good person.

What made this endorsement even more weighty, is that RD is a standing member of a State Parliament in Australia. His word matters. I am sure would never have offered his support, good word and reputation to a man who was corrupted in such a profound way.

RD didn't know what he didn't know.

Survivor Reaction and Societal Response

HJ and the survivors were left heartbroken and inconsolable, struggling with the confusing notion that society viewed MrH as a person worthy of praise.

Further, after 33 years of silence, HJ's courageous objection to MrH's character reference gave me the strength to confront my own child sexual abuse. This social media exchange and mostly HJ's visceral response triggered a PTSD episode, sending me from calm to white hot fear and rage in a flash. It also catalysed my journey toward disclosure, healing and seeking justice for the abuse I experienced.

This Case Study example elicited such a dramatic and life-changing response in me and others. Good character references dramatically affect victim survivors, all survivors, and those within the community, as well as society at large.

My fear that my own abuser might receive similar protection through good character references underscores the profound impact this can have on survivors.

The Impact of Good Character References

Good character references shield abusers from full accountability by their very nature.

Harmful minimisation of child sexual abuse is also a direct byproduct of good character references, which is psychologically damaging to the survivors of child sexual abuse.

The legal process around Sentencing unfairly provides opportunity to guilty perpetrators to demonstrate their good character through external, unvetted references, without rebuke. Who are the reference writers? What are their motivations? Are they protecting someone who ordinarily provides an income to them? Provide housing? Provides work? Provides shelter? Provides perceived support? Or are they being coerced into writing the reference?

If we don't understand the intentions, perspectives or drivers for writing a good character reference nor appreciate how the author of a reference may be either manipulated by a perpetrator, turning a blind eye, or innocently providing references without complete knowledge of the perpetrators complete lifestyle, we cannot honestly accept their reference.

Ignorance and Manipulation

Societies attitudes toward child abuse and child protection are not good and have not improved over the past 18 years, putting sway in the favour of abusers, even before court action takes place.

A natural negative bias, a lack of education and an intolerance to the discomfort around the subject of child sexual abuse keeps society with a generalised disassociation toward child sexual abuse. The general population hold views about child sexual abuse that leave them feeling uncomfortable, poorly positioned to identify abuse and quite a large percentage of guardians say they wouldn't even believe a child if they disclosed sexual abuse. Predators rely on this discomfort to penetrate the child's protectors, including the law, and they use this ignorance to manipulate all around them.

When you allow Good Character References into the sentencing process, it invites these limited attitudes into the courtroom. It's not good enough to expose a victim

survivor to this ignorance and fear. A survivor has, by this stage, has navigated many hurdles to disclosure and pressing charges, so adding these attitudes to sentencing have victim survivors questioning; Is the pain of seeking justice worth it? The perception of the legal system by survivors is that it is a place where truth can be told and they are free from societal biases, because the law ought to protect them from that. You allow a character reference, and these biases step straight back into that courtroom.

Good Character References as an Extension of Grooming

References lend undeserved credibility to perpetrators, confusing the truth and shielding their heinous actions.

In the majority of incidents, victims know their perpetrator. For them to conduct the abuse, they have calculated and manipulated systems, guardians, communities and time and have planned a series of moves to get sexual gratification from the victim, either once or many times. This takes effort. This takes time. This is not an “unusual departure” from their true nature. The heinous acts of inflicting sexual abuse on a child is more a reflection of their true nature than the facade of being an upstanding citizen. That facade is purely a means to an end.

An abuser's calculated deception allows them to maintain a facade that confuses and misleads the community. Their accountable job, position or title, carer, devoted husband, does not mean they have behaved morally and with accountability in their private life (or worse, a part of their life they have chosen to hide). This goes to the heart of the pillars of grooming for sexual assault. There are many references for grooming but I highlight these for simplicity;

- the perpetrator will work hard to build a relationship with the adults around the child or young person that **makes it seem** that they are committed to a child or young person's wellbeing.
- Perpetrators place themselves in positions of authority within a community or organisation to **appear as someone** who is respectful and would never harm a child or young person.
- They can **appear to be helpful** and supportive in order to create opportunities to spend time alone with a child or young person, for example driving them to events, babysitting, putting them to bed, offering one-on-one lessons.

Perpetrators groom other adults to entrust and gain favour of their target. Those that write character references are not immune to this. Taking any of the above qualities, without abuse as the intent, “**appear to be**” wonderful community members. Place the intent back into the frame, and each act is malicious and filled with manipulation of an entire system of the community, including the authors of good character references.

Societal Health: Negative Impact on Reporting Child Sexual Abuse

It is widely accepted that it takes on average 20 plus years for many victims to disclose child sexual abuse, let alone report it within the legal system. Yet when they do, they face the prospect that their abusers may receive protection through a good character reference. This painful prospect discourages reporting and

perpetuates a cycle of silence and impunity. It psychologically twists the story of abuse yet again, entangling the victim in stories of minimisation or denial. It takes decades to disentangle this traumatic grooming, so when faced with minimisation and written “favourable” references of an abuser, it is untenable, which in turn delays reporting, some not choosing to disclose at all.

If the time taken to report is reduced through a simplified, confidence building and just process, the result is a more productive society with fewer public health care costs. I am unsure of the quantitative measurement of health and productivity to society in relation to the direct and indirect impacts of child sexual assault, but at a glance it looks like \$AUD million/s over the lifetime of each victim survivor, of which there are many.

Further, the number of cases that are reported is known to be lower than 10% of disclosed cases, and only a small percentage (<10%) of those proceed to court. To provide deterrents or obstacles to reporting, such as the pain of hearing that child sexual abusers may have a reduced sentence due to a good character reference, is a major reason that stops victims disclosing, reporting or finding the strength and willingness to go through the legal process.

Please note, whilst there are statistics out there about this, the worst part is they all back each other up – worldwide. Any new laws need to be reflective of these well documented statistics to make efforts to remove roadblocks to reporting and to hold perpetrators accountable, making society all over, a healthier and safer society.

Reducing Sentences = Leniency in Societies Perception

Leniency towards abusers can lead to a broader tolerance of child sexual abuse.

Good character references shape societal views. Softening sentences via Good Character References approximates to leniency and suggests that child sexual abuse is acceptable and not a priority. This creates a broader tolerance toward child sexual abuse. You minimise the severity of a crime and the rest of society follows with their attitudes. We cannot afford to show any leniency toward child sexual abuse.

Personal Accountability and Societal Impact

The use of good character references calls into question the justice system's ability to hold abusers fully accountable. It suggests that the judgement of the court is insufficient, undermining the legal process designed to protect vulnerable individuals. This leniency can embolden other potential perpetrators, believing they too might receive a lesser sentence.

Good Character References create the means for perpetrators to manipulate the legal system. By default this reduces the courts effectiveness. One thing you can be certain of, perps of these crimes will manipulate whatever they can to get what they want.

The current law around Good Character References doesn't pass the pub test

*An adult, just because they are an adult, **ARE** in a position of power*

Section 21A(5A) is headed 'Special rules for child sexual offences'

Why would we leave the door open for manipulators to draw out legal proceedings to prove they did not use their good character? The fundamental principle behind child sexual abuse is the very fact that the child is a child, abused by an adult. When did we as a society forget that our laws are here to protect our vulnerable?

Recommendations

Good character references should be eliminated from sentencing trials for child sexual abuse cases. This change would help prevent further grooming and manipulation, ensuring that perpetrators are held fully accountable. Removing good character references could lead to fewer child sexual abuse crimes and greater confidence among survivors to report and pursue justice, especially if perpetrators knew no opportunities for softened sentences would be accommodated.

Future Implications

By eliminating good character references, we could foster a society that truly holds child sexual abusers accountable for their actions. This would create a safer environment for children and empower more survivors to come forward. Society must no longer hide behind rhetoric, tolerate excuses, or accept justifications for child sexual abuse.

Conclusion

if you have to get someone to vouch or verify you're a good person, you probably aren't. Let's not extend this opportunity to child sexual abusers who have already been found guilty of heinous crimes. Typically in society, once a person takes responsibility (for their crime) and serves their time, then they are offered the opportunity to prove themselves, with changed behaviour and an understanding that what they did was wrong. This is human nature. Not the other way around.

The use of Good Character References in sentencing trials for child sexual abuse cases must end. These references perpetuate the grooming process, protect abusers, and discourage survivors from seeking justice. It suggests to society that in some way child sexual abuse is tolerable, which clearly it is not.

By removing Good Character References, we can help create a more just and supportive society for survivors of child sexual abuse. Perpetrators of child sexual abuse must be fully accountable for their actions, ensuring that our children do not carry the legacy of past inaction and ignorance.