

From:
To: [sentencingcouncil](#)
Subject: Review Section 21A(5A) of the Crimes (Sentencing Procedure) Act 1999 (NSW)
Date: Friday, 5 July 2024 11:40:44 AM

To Whom it May Concern,

My name is [REDACTED], & I am a Registered Psychologist who works at [REDACTED], NSW.

I have a history working in family violence & my 2020 thesis examined while why child sexual assault (CSA) has doubled over the last decade, conviction rates have been declining. [REDACTED]

Perpetrators of child sexual assault (CSA) should not be mitigated on the basis of good character references. CSA by nature is predatory, it involves targeting vulnerable individuals & abusing positions of power to groom individuals.

The grooming process involves playing an important role in the child's life. The perpetrator frequently isolates the child from other social supports, saying that they are the only one that understands the child. Perpetrators make the child completely dependent on them for basic needs. This is intentional & malicious behaviour. This power imbalance manipulates children & often makes them feel complicit in wrongdoing.

1. Lack of relevance or utility in 'Good Character' evidence

Part of the problem with repeat perpetrators is that they actively cultivate a positive public perception in the community of being of 'good character' as a means to obtain ongoing access to children. It is an active & deliberate attempt at social manipulation that allows for repeat offending.

Good character does not demonstrates lowered risk of recidivism in the case of perpetrators who are already active community members. CSA is most prevalent in people with positions of power & authority, e.g., Catholic Church. It is illogical to consider these factors as mitigating the severity of a sentence when these factors did not prevent the commission in the first place.

1. Probity in 'Good Character' reference

In the case of [REDACTED], character references were supplied to the court that were not written with the intention of being used in a criminal matter (e.g., reference from former charity boss [REDACTED]). This raises fundamental probity questions. It is unfair that victims need to sign a statutory declaration to submit their victim impact statement, but offenders appear to be able to provide character references with little checks & safeguards in place to make sure they are fit for purpose.

1. Paradoxical Application 'Good Character' in conviction & sentencing

An absence of previous convictions is particularly concerning criteria used to assess character, a standing principle of sentencing is that a perpetrator can only be punished for crimes they have committed. When considering character, having no prior convictions is translated into that the perpetrator has not committed any offences at all. This leads to two assumptions, 1. That the offenders good character is a fact, 2. Their lack of previous convictions is because they have not committed any previous offences. An absence of proof either way is reflected in a positive assumption for the perpetrator.

Historically, CSA is underreported & prosecuted. It is common for convicted offenders to have a history of grooming & sexually inappropriate behaviour even when there are no prior convictions.

1. Impact on Sentencing

The extent to which good character as a mitigating factor in sentencing is not well understood. Its practical effect on sentencing appears to be to reduce severity of sentencing such as; shorter term imprisonment, non custodial sentencing, or suspended sentencing.

If the perpetrator is able to behave 'out of character' on one occasion it is naive to believe that they have never done so before or will never do so again. The best predictor of future behaviour is past behaviour.

All good character reference demonstrates is that a perpetrator is able to abide by societal rules & norms generally & simultaneously be able to prey on & abuse children.

An individuals 'good character' cannot be separated from their evil behaviour. When this occurs, it allows the perpetrator to continue predatory behaviour & increases the risk of victimisation of more children.

I appreciate your time & consideration in reading my response & the survivors who have worked tirelessly to advocate for this necessary & important change.

Many thanks,

[REDACTED]

Registered Psychologist [REDACTED])