

**Submission  
No 9**

## **SENTENCING OF CHILD SEXUAL ASSAULT OFFENDERS**

**Organisation:** Fighters Against Child Abuse Australia  
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**Submission to the  
Committee on sentencing of child sexual assault by the NSW  
government  
Submitted by  
Fighters against child abuse Australia [FACAA]**



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## **About the author:**

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Adam Washbourne is the founder and President of the charity group Fighters against child abuse Australia. He founded the charity July 2010 to fill a big gap that he saw within the community and to bring about an end to an issue that has plagued our nation for far too long now.

Adam has a Diploma of Community services (Welfare) specializing in child trauma counselling and has worked in the field for the past 10 years since completing his degree. Adam is also a martial arts instructor and has been teaching children how to defend themselves for the past 17 years.

Adam has worked for various community centres, mental health facilities and martial arts schools but currently counsels for FACAA and teaches for KMA martial arts in Liverpool Sydney, one of Australia's premier martial arts schools.

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## **About Fighters against child abuse Australia**

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Our mission is to end child abuse once and for all within Australia.

Our vision is to make Australia the only nation on the planet that does not suffer from the scourge of child abuse.

Our guiding principals are to remain completely non denominational and non political to achieve our mission of ending child abuse once and for all by whatever means are required (within the laws of the land). If a program does not exist to meet the needs of our clients then we will make one to meet their needs.

FACAA has been working actively for the past 3 and half years to end child abuse within Australia. We are currently running a survivor's healing programs, educational and legal reform programs, domestic violence programs, anti bullying programs and a social media awareness campaign which regularly receives over 1.5 million unique views making it the single most successful social media campaign of its kind in Australia.

FACAA is a national organisation that has full deductible gift recipient status as a public benevolent society. We have survivors in our survivor's healing programs from every part of Australia and we have members of our social media awareness campaign from all over the world.



## **Introduction**

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Child sexual abuse is the worst problem to ever befall Australia and is sadly all too often “swept under the rug”

Approximately one in five children (one in six boys and one in four girls) will experience some form of sexual exploitation before the age of 18 .Experts estimate that less than 10% of these children will go onto tell of their trauma, that’s only one in ten children who go through child sexual assault will tell anyone about it let alone how many will go to authorities and seek justice.

Research tells us that in 70-90% of the time offenders are known and trusted by the child and/or their families. This could mean trusted by the parents due to the parents being deliberately groomed by the child abuser.

In 2009, the Council of Australian Governments (COAG) endorsed the National Framework for the Protection of Australia’s Children 2009-2020, which not only outlined that all organisations and governments had a responsibility to protect children against harm, but also emphasised the need to address child sexual separately and distinctly from other forms of child harm. Traditionally, according to the legal community all forms of child abuse are placed in the one basket and treated as such as the one crime. So therefore child sexual assault is treated the same as physical child abuse and neglect. However, while all forms of abuse and assault are harmful to children it is important to take child sexual assault out of the same basket as the others as the lasting effects are vastly different and as such the sentencing for these crimes needs to be much harsher to

discourage further offences.

The research for these recommendations came from conducting anonymous interviews with one hundred FAAAA members from around Australia who had all faced the legal system in an attempt to seek justice for the crime of child sexual assault that was perpetrated against them.

Realising the differences between child sexual assault and other types of abuse such as neglect is integral to treating them, to empowering the survivor and to ending the problem once and for all.

Some of the important differences include:

In the case of common assault on children or neglect for example, these crimes are usually unplanned as in they just happen. There is rarely premeditation or grooming involved in these crimes and there is often a contributing socio-economic factor involved.

However, in the cases of child sexual assault there is nearly always a great deal of pre-determination which shows planning, for thought, and total lack of empathy with the victim as the perpetrator knows the great pain they are about to inflict upon the child and permanent damage they are about to put the child through and elect to do so anyway. Also with child sexual assault there are no definable socio-economic factors involved and can strike across the board in terms of socio-economic status. Child sexual assault can affect anyone anywhere.

While physical child abuse and neglect often involve the infliction of pain or the withholding of required sustenance (be it emotional or physical sustenance) they are all too often done quickly and then not often repeated, where as with child sexual assault the offence is usually pre meditated, well thought out and achieved and is repeated almost every single time on mass

often until the perpetrator is either caught or the victim outgrows the perpetrator's ideal "type" of victim be it they grow too old or not ascetically pleasing anymore to the perpetrator so they will then move onto grooming their next victim (if they haven't done so already).





## **Recommendations**

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FACAA believes that a much harsher deterrent is required when it comes to sentencing of child sexual assault perpetrators who are found guilty of their crimes. This is because child sexual assaults are on the rise in Australia steadily; this can be attributed to a number of factors not least of which could be stated that Australia's legal system is far too lenient on these perpetrators.

1. We believe that child sexual assault cases should not be able to be granted a significantly reduced sentence (25% of time in incarceration) for pleading guilty to their crimes.
2. We believe that in cases of child sexual assault the defendant should not be given the option to accept a guilty plea in exchange for a lesser crime being charged to them.
3. We believe that all people found guilty of child sexual assault should be placed on a locally searchable database where by if you as a citizen are concerned by your neighbour or want to know if your child's piano coach (for example) is above board you can check their details onto this register and you can be told if that person is on the register and what for. This way the public can make informed decisions as to who their children are allowed near or not near.



## **Explanation of each recommendations**

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- 1. We believe that child sexual assault cases should not be able to be granted a significantly reduced sentence (25% of time in incarceration) for pleading guilty to their crimes.*

As previously stated the research for these recommendations came from conducting anonymous interviews with one hundred FCAA members from around Australia who had all faced the legal system in an attempt to seek justice for the crime of child sexual assault that was perpetrated against them.

One of the main issues was the sense of betrayal that the survivors of child sexual assault felt at the hands of the legal system of Australia. To get a charge brought before a perpetrator of child sexual assault the authorities involved must have a very tight case otherwise they are simply too reluctant to take the case on due to the low conviction rates and (seemingly) often questionable reliability of witnesses. So once a charge is brought the authorities often have the “upper hand” in the case and all too often the perpetrator’s lawyer will suggest a plea deal which involves a massive 25% reduction in the convicted person’s gaol time. We believe this gives those who do get charged (not many do) with child sexual assault a far too easy option to dodge justice and makes the sentences which are already quite laughable (according to the victims) even less. By removing the option of the 25% reduction we will be strengthening the sentence and make it seem less like a good option. This should hopefully act as a deterrent to the crime as a whole.

2. *We believe that in cases of child sexual assault the defendant should not be given the option to accept a guilty plea in exchange for a lesser crime being charged to them.*

As stated in the above recommendation explanation, the survivor's of the crime of child sexual assault who have actually had the courage to see the legal system through to its end and secured a conviction against their rapist have all too often been left feeling incredibly disillusioned by the system as the sentence was handed down. All too often the public defendants have made a deal with the perpetrator's lawyer (who know they are facing a losing case) to have the charge made significantly lower in the eyes of the law in order to secure a guilty plea. One extreme example we heard of was a woman who we interviewed who's rapist had his charges down graded from rape of a minor aged under 12 years old all the way down to a common assault charge. This combined with the 25% reduction in custodial sentencing saw the convicted man walk free with time served before bail was granted. As I am sure you could imagine this left the woman with a bit more than a sour taste in her mouth, she can be quoted as saying "hearing the fact he was plead down to common assault and got time served made me feel like I was being abused all over again, except this time by the system that was meant to help me and protect me and get justice for me and the others he hurt, the others he raped".

How can we expect people to see these crimes as serious when we allow those who will be convicted of them to plead down to charges that do not even see custodial sentences? Is it really any wonder these crimes are on the rise when it's widely known that even if they do manage to secure a conviction all you need to do is have a good lawyer who will get a good plea deal and odds are you will walk away with time served anyway?

We must remove the option to plead the charges down to lesser charges in exchange for a guilty plea otherwise we will also have no way of knowing who is a child rapist and who is guilty of common assault. We at FACAA believe this will act as a very large deterrent to the crime of child sexual assault because if the two ways that make the sentences so light are removed and they know they are looking at a very harsh custodial sentence should they be caught for their crimes, we believe they will think twice before stalking and grooming and hurting their prey.

*3. We believe that all people found guilty of child sexual assault should be placed on a locally searchable database where by if you as a citizen are concerned by your neighbour or want to know if your child's piano coach (for example) is above board you can check their details onto this register and you can be told if that person is on the register and what for. This way the public can make informed decisions as to who their children are allowed near or not near.*

The topic of a publicly accessible and searchable child sexual assault register (a Megan's law style) has been an issue of contention amongst the child abuse advocates of this country for many years. Some see it as a must to ending child abuse while others see it as a step in the wrong direction due to vigilantism and other acts of revenge based violence.

FACAA believe we have come up with an answer, in conjunction with Bravehearts Australia (Australia's leading child sexual assault charity) we believe that bringing in a locally searchable database nationwide is the answer.

For example your child's piano teacher is showing questionable behaviours, you can simply ask to see their identification and check the details including your post code into the database. If there is a problem you will be notified of what the issue is and you can then take your child out of those piano lessons before the predator has a chance to strike.

Now unlike other Megan's law style campaigns this one is not accessible by just anyone with a computer. So I can not be in Sydney and compile a list of every child sex offender in Ipswich QLD for example because to do that would serve no real purpose of protection where as if I were an Ipswich local I could find where my children should not go near.

Plus the FACA idea has a few stipulations on it; all too often the criticism of these registers is “well what if my nineteen year old son is caught with his fifteen year old girlfriend.” Or “I was done for urinating in view of children now I’m on the register”

These two are real examples of people who were unfairly placed upon the child sexual assault register in the USA. FACA have come up with a few rules that negate these instances. First and foremost the register is for child sexual assaults only so you can not be put on there for flashing for example. There must be physical contact between the perpetrator and the victim. Secondly there are age limits, to be put on the register the victim must be younger than 14 years old at the time of the crime and the perpetrator must be no less than 5 years older than the victim at the time of the crime being committed. This will eliminate the “young boy with his younger girlfriend” issue entirely. With these amendments made to the rules for who makes it onto the register plus the recommendations that there can be no plea deals negating the sexual component of a charge (a tactic all too often used to dodge child sexual assault registers) we at FACA believe that the register will act as a huge deterrent to any would be child rapist out there considering taking the next step and grooming a victim. It is well known that child rapists do not fear violence in fact they use the violence brought upon them to gain favour within the gaol system and even with the housing system upon release. But the one thing they do fear is the world knowing what kind of human they really are, they fear society being aware of their sick crimes and they fear being exposed for the sick perverts that they really are.



## **The impact of child sexual assault on society**

The full impact of child sexual assault on today's society can never be accurately measured. When asked a doctor in a methadone clinic in Summer Hill Sydney a Dr Capelhorn, said that he believed that over 90% of his patients alone had been sexually assaulted. So if he was seeing 90% less patients couldn't we then safely assumed that 90% less drug related crimes would have occurred in the neighbouring area. What costs could be saved if 90% of all drug related crimes had not occurred in that area, what savings could have been found in the local budget if there were a 90% reduction in assaults and robberies, break and enters, drug dealing, drug possessions, armed robberies the list goes on and on.

This is just one example of how child sexual assault being wiped out entirely could massively reduce the impact of crime on Australian society. All too often survivor's of this crime self medicate as a way to cope with their trauma, this leads them down a dark path of drug and alcohol and other criminal acts associated with this. Imagine the benefits on the state's health care, legal system and mental health care systems just for a start. While it is well known that there is an immense emotional toll paid by the survivors we at FCAA thought we would try to put it into perspective in terms of dollars and cents. But sadly the problem was so large that any actual estimate would at best be an educated guess and at worst be a gross underestimation due to the reach of child sexual assault never being able to be truly measured.

We do however believe that with the recommendations we have made in place the crime itself will be incredibly less desirable to the perpetrators. We believe that these deterrents will directly contribute to the eradication of child abuse in Australia once and for all.



## **References**

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Direct anonymous interviews with 100 FACA members who have survived child rape and who have faced their abusers in the legal system and interviews conducted anonymously with criminal lawyers who have defended child rapists successfully as well as interviews with various community workers including Dr Capelhorne of the United Gardens methadone clinic.

James, 2000; Center for Disease Control and Prevention, 2006.

National Child Protection Clearinghouse, 2005.

Council of Australian Governments (COAG) National Framework for the Protection of Australia's Children 2009-2020,

Bravehearts Australia in particular Hetty Johnstone

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