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Leroy G. Schultz

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INTERVIEWING THE SEX OFFENDER'S VICTIM

LEROY G. SCHULTZ

The author has been Probation and Parole Officer for the Circuit Court for Criminal Causes, City of St. Louis, Missouri, since 1957 and has been responsible for pre-sentence evaluations and recommendations, as well as post-sentence supervision of felony offenders.

The role of the victim is too often overlooked or diluted in society's concern with conviction of the sex offender. The writer takes interesting notice of that fact in this article.—EDITOR.

A review of some current literature dealing with the pre-sentence investigation gives little recognition of the need to interview the offender's victim, and none of this literature stresses a particular need to interview the sex offender's victim.¹ This article is concerned with the victims of rape, sodomy, incest or child molestation, or as these offenses are identified in the various states.

One purpose of the pre-sentence report is to furnish the court with an objective, well balanced account of the dynamics of the offense, describing in sufficient detail the various roles played by the offender, his accomplices and the victims. Full details of the offense are basic to both diagnostic and treatment formulations and are essential in order that each offender be individualized before the court. The offender's behavior should be studied in the overall context in which it actually transpired and not isolated from it.

The sex offender's victim may have much in common with the victims of certain confidence games and abortion, in that their cooperation is usually needed to at least initiate the sex act, if not complete it. This would exclude those victims who were unconscious or drugged at the time of offense, or where violent threats and aggression were obvious. In some cases cooperation is unintentional, resulting from ignorance or carelessness, but it still may tend to help make the offense successful.

In general, the type of information the investigator needs for an adequate pre-sentence report cannot be secured solely from police offense or complaint reports, or from various court or attorney records to any great extent, due to the specialized purpose of these reports. In some instances these reports do not adequately explain the portion of guilt that may be attributable to the victim.

¹ ASSEMBLY, STATE OF CALIFORNIA, *Preliminary Report of the Sub-Committee on Sex Crimes*, 1949, p. 34-35.

WHY INTERVIEW VICTIM?

The American Law Institute's Model Penal Code (47-52) gives good reason to include a thorough coverage of the victim-offender relationship and offense dynamics in the pre-sentence report. The aforementioned document relates:²

"Criteria for withholding sentence of imprisonment and for placing defendant on probation: (1) The court may deal with a person who has been convicted of a crime without imposing sentence of imprisonment if, having regard to the nature and circumstances of the crime and to the history and character of the defendant, it deems that his imprisonment is unnecessary for the protection of the public, on one or more of the following grounds: . . . (f) The victims of the defendant's criminal conduct consented to its commission or was largely instrumental in its perpetration."

This places the duty of explanation and clarification of the victim's role among the duties of the pre-sentence investigator.

One extensive analysis of sex crimes has indicated that of all the types of crimes committed, the sex offense will require the closest investigation and evaluation of the actual offender-victim relationship if the true dynamics of the offense are to be comprehended.³ Many studies have pointed out that victims may offer little or no resistance, that some are cooperative to an unusual degree and that in certain instances the so-called victim

² CHUTE, CHARLES L. AND BELL, MARJORIE, *CRIME COURTS AND PROBATION*. New York, 1956, pp. 144-147; DRESSER, DAVID, *PROBATION AND PAROLE*. New York, 1956, pp. 42-44; FITZGERALD, EDMOND, *The Pre-sentence Investigation*. NPPA JOUR., 2, 1956, pp. 331-332; UNITED NATIONS, *PROBATION AND RELATED MEASURES*. DEPARTMENT OF SOCIAL AFFAIRS, 1951, pp. 231-234 and pp. 314-316; YOUNG, PAULINE V., *SOCIAL TREATMENT IN PROBATION AND DELINQUENCY*, New York, 1952, pp. 100 and 163-172.

³ A.L.I. MODEL PENAL CODE (47-52) (Tentative Draft No. 4, 1955) Sec. 7.01.

may be the seducer or aggressor.⁴ This raises a question, which should be answered, regarding the possibility of victim precipitated sex offenses.

CASE 1

This case involved a 36 year old mental defective who frequented a small theater where he would molest boys after they entered the rest room. He would usually offer money or cigarettes to the youths. The offender had been engaging in this activity for two years before it became known. It was learned that many neighborhood boys would get their spending money by attending the movie and letting the offender molest them for a small fee and that the boys would solicit money from the offender in this way, on a regular basis over a period of two years. The situation did not become known until one youth attempted to force the offender to give him \$5.00 after allowing the offender to perform fellatio on him. No violence or threats were employed.

Fifty per cent of sex offenders are acquainted with their victims prior to the offense, and many of the victim's acts, be they conscious or unconscious, may serve as a decided stimulus to the sexual response of the offender.⁵

A teenage boy had pleaded guilty to having raped a 14 year old girl. The offender had approached the girl on the street and asked her if she "wanted to be his girl friend". The girl replied that she "may" already have a boy friend. The offender then asked if it were possible that she could be taken away from her boy friend, to which the girl gave no answer. The girl then asked for a package of cigarettes and the offender purchased a package and gave them to her. The offender then asked her if she would like to go to his home and the victim again did not answer, and she did not resist the offender when he took her by the hand, gently, and the two strolled, hand in hand, to the offender's home. Upon entering the offender's home he offered her some female clothing which he displayed, if she would be his "girl friend". The couple then lay on the offender's bed and

engaged in sexual foreplay. At this point the girl apparently became panicky and asked for a drink of water. As the offender went out of the room for water the girl quickly bolted out the door, with the offender in pursuit. He caught up with her about one block from his home and removed the girl's clothing and completed intercourse with her, encountering little resistance.

It is obvious from the foregoing information that the girl played a rather cooperative role. She gave no answers to the suggestive inquiries of the offender. The lack of answers was interpreted by the offender as indications of her attitude towards his proposal, and she could have "cut him short" if she so desired, with rebuffs. The cigarettes and clothing offer were attempts to buy the girl's service, which the girl did not refuse. Her apparent willingness to go to his room and engage in foreplay also give indication of her cooperation. Nor could she argue that she knew nothing of sexual matters or the offender's intent, for she admitted of previous sexual intercourse.

In cases of incest one can almost always assume a close relationship between victim and offender.⁶

So great can the role of the victim be in sex offenses that many should be considered offenders themselves, and it has been recommended that the victims be mentally examined along with the offender.⁷

The pre-sentence report should include a reliable and valid description of the type, length and degree of relationship between victim and offender, which in most cases can only be secured by an interview with both.

Another purpose interviewing the victim serves is to evaluate at first hand the victim's account of the offense. This provides an opportunity to closely scrutinize, ask appropriate questions and gain clarification of matters that are confusing, misleading, doubtful or perhaps outright untruths. The fantasy life of children and certain types of adults is well known, and for various reasons they may not be adequate judges as to when fantasy ends and reality begins. In some instances involving youthful victims, parental reaction has been out of proportion to the sexual incident, inducing the immature victim to exaggerate his account of the offense. Many states have laws designed to protect innocent persons from im-

⁴ RADZINOWICZ, L. (Ed.) *SEXUAL OFFENSES*, New York, 1957, pp. XV-XVI and pp. 83-109.

⁵ ASSEMBLY, STATE OF CALIFORNIA, *Preliminary Report of the Sub-Committee on Sex Crimes*, 1949, pp. 34-36; GUTTMACHER, MANFRED S., *SEX OFFENSES*, New York, 1951, pp. 117-119; KARMAN, BENJAMIN, *THE SEXUAL OFFENDER AND HIS OFFENSES*, New York, 1954, pp. 66-73; RADZINOWICZ, L. (Ed.), *SEXUAL OFFENSES*, New York, 1957, pp. XV-XVI and pp. 83-109; REPORT OF GOVERNORS STUDY, *DEVIATED CRIMINAL SEX OFFENDER*, State of Michigan, 1951, pp. 75-83.

⁶ STATE DEPARTMENT OF MENTAL HEALTH; *CRUCIAL ISSUES IN TREATMENT AND CONTROL OF SEXUAL DEVIATION*, Lansing, Michigan, 1951, pp. 37-39.

⁷ WEINBERG, S. KIRSON, *INCEST BEHAVIOR*, New York, 1955, pp. 121-215.

aginary or revengeful accusations of a sexual nature.

The interview of the victim may also result in valuable information regarding the victim's appearance, maturity and chastity, and their role in the offense should be explained. Some victims may have been a victim previously and indicate a penchant for this. The victim may have unwittingly contributed to her own victimization by reason of mental illness or feeble-mindedness. Many victims appear older and more physically developed than their actual age suggests. Facial makeup and dress, as well as sophisticated behavior can disguise age.

CASE 2

This case involved a 19 year old offender who attempted to rape a 15½ year old girl.

The offender was walking home from work when two of his friends approached him in an automobile and asked him if he wanted a ride home, to which he assented. Upon entering the car he noticed the girl in the back seat. He asked his friend who she was and he replied, "We picked her up" and "She is probably a whore". The girl offered no objection to this statement. The three youths and the girl drove to a secluded spot, where intercourse was attempted by all. As the offender attempted intercourse he was told by the girl that he would be "sorry", as she had a "disease". He immediately stopped and drove the girl home.

An interview with the victim revealed a six foot, approximately 140 pound, well developed girl, who could have passed for 20 or 21 years of age. Hair style and use of makeup gave this impression, as well as size. The ease of the "pick-up", the immoral nature of the area in which she was picked up, plus her lack of resistance and threat of a disease all were interpreted by the offender as indications of her being a prostitute. The girl appeared mentally retarded in my interview and it was determined that she had just arrived from a farm, where she was held in isolation, having not attended school for some years. Further evidence of mental limitations became known when she admitted to the interviewer that she had been raped before under similar circumstances, and apparently had not profited by this experience to the extent of avoiding its recurrence.

In some cases the offender, as well as the victim, may not have sensed committing an illegal sexual

act if the act is accepted by the culture, class or sex behavior code of the individuals concerned.

Another reason to interview the victim is for the investigator to observe at first hand what social, physical and emotional damage the victim may have sustained. Medical reports can give important information on sex organ damage, venereal disease, pregnancy and body disfigurement. The medical record usually does not state how these effects have influenced the personal and social life of the victim. In some cases the victim leaves a neighborhood or school, or loses her friends as a result of her victimization, once known to the community. The most difficult, if not impossible, aspect of the offense to determine is what emotional damage the victim actually sustained. Difficult to answer is whether the emotional damage is a result of the sex act itself, or the way the situation was handled after detection, or whether one of these aspects precipitated out a latent emotional state. Many studies have indicated that little is known about what emotional damage occurs to the victims following these acts. Much will depend on the emotional stability of the victim prior to the sex act. That emotional damage potential has been overrated, has been reported.⁸ For example, one study of 54 female child victims of male offenders indicated that 46 of them were none the worse for the experience twenty years after its occurrence, three were psychotic, two neurotic and three were prostitutes.⁹ If the victim has already been referred to a psychiatric, social or correctional agency, the investigator may obtain valuable information of this sort from these agencies.

On the basis of an interview with the victim the investigator may see, as part of his function, the rehabilitation of the victim.¹⁰ In some instances the victim's welfare has been overlooked in society's concern with conviction of the offender.¹¹ Most probation officers have an excellent working knowledge of most community resources to which the victim may be referred.

One other situation which makes an interview with the victim of importance is one in which the

⁸ OVENSTEIN, L., *The Sex Offender*, NPPA YEAR-BOOK, 1950, p. 201.

⁹ GUTTMACHER, MANFRED S., *SEX OFFENSES*, New York, 1951, pp. 117-119; KARPMAN, BENJAMIN, *THE SEXUAL OFFENDER AND HIS OFFENSES*, New York, 1954, pp. 66-73.

¹⁰ GUTTMACHER, MANFRED S., *SEX OFFENSES*, New York, 1951, pp. 117-119.

¹¹ FITZGERALD, EDMOND, *The Presentence Investigation*, NPPA JOUR., 2, 1956, pp. 331-333.

offender denies guilt or involvement. My own experience has been that some sex offenders deny guilt to the probation officer despite a previous plea of guilty. Under these conditions little valuable information can be secured from the offender, for the probation officer has no "truth serum", but must rely on interviewing skills to get the offender to "come clean all the way". The mechanism of denial is not difficult to understand in view of the social stigma and isolation which accompany the sex offense, and admission to oneself of guilt may be too ego shattering.

CASE 3

This case involved a father who admitted to interrogating police that he had been having relations with his daughter over a one year period and that he was responsible for her current pregnancy. Shortly after this admission he pleaded guilty before the Court and subsequently a pre-sentence report was ordered by the Judge. It was a five week period before the pre-sentence report could be completed, in which time the offender was confined in a cell with approximately ten other offenders. Three separate interviews were held with the offender by the probation officer and in each the offender consistently denied his guilt, attributing the pregnancy to his daughter's alleged boy friend.

Later, in talking to the offender's guards at the Jail it was learned why he denied guilt to the probation officer although previously having admitted it in Court. On being placed in a cell with approximately ten other predominantly property offenders, who soon learned of the father's offense, the offender received considerable abuse, ostracism and verbal threats, and his cell mates refused to have anything to do with him, forcing him into one corner of the cell by himself, where they forced him to stay. Consequent feelings of group alienation plus rejection by relatives and family members resulted in the offender perceiving himself as isolated from other humans. In reaction to this intense feeling he apparently denied to himself that he was guilty, so strong was this defense mechanism.

The sex offender is twice as likely to insist on his innocence as the general offender,¹² and 22.4 percent of convicted sex offenders still maintain their innocence while serving their sentence in prison.¹³

¹² MILLIKAN, R. J., *The Sex Offender's Victim*, FED. PROB., Sept. 1950, p. 22.

¹³ KARPMAN, BENJAMIN, *THE SEXUAL OFFENDER AND HIS OFFENSES*, New York, 1954, pp. 66-73.

Should a psychiatric examination of the offender be required, information bearing on many of the already mentioned aspects of the victim should be of great assistance to the examiner in his total evaluation.

The probation officer brings into his job attitudes and values that are the result of his past experiential background which includes cultural and social class factors, as well as religious beliefs. Naturally this will affect the viewpoint the officer takes in understanding a person from another culture or class level, where a different or conflicting sex code is accepted and normal. In addition, the sex of the probation officer may shape his viewpoints towards what male and female role playing should be.

Understanding of social aspects, as well as individual differences, will assist the probation officer in objectively understanding the sex offender and victim. The officer should also understand something of himself and how his frame of reference and maturity affect objectively the information of the pre-sentence report.

HOW TO INTERVIEW THE VICTIM

We are concerned here only with those victims who can communicate information by reason of age, education and emotional condition. Interviewing the immature victim can involve a dilemma in which the gathering of information itself may induce or contribute to emotional damage of the victim. Emotional damage hinges on the manner in which the interview is conducted. Under these conditions the interviewer needs skill in interviewing adults and children, as well as a knowledge of psychodynamics, and the interviewer must know when to stop interviewing because of possible damage to the victim. As already stated, the emotional damage to victims has been exaggerated and can be circumvented by avoiding the interrogation techniques of police and attorneys.

One country, Israel, has reacted to this problem by restricting the questioning of sex offender victims under age of 14 years to court appointed persons experienced in psychodynamics and mental hygiene, taking this function away from police and attorneys. That country has suggested that probation officers be recommended as suitable candidates for the interviewing jobs. in view of their understanding of behavior dynamics.¹⁴

¹⁴ UNITED NATIONS. PROBATION AND RELATED MEASURES, 1951, pp. 231-234 and 314-316.

Much of what follows is based on this officer's experience with interviewing sex offender victims and is not suggested as a rigid format. Naturally, modifications in interviewing will result from the situation, the victim's personality and the interviewing skill of the probation officer. As previously mentioned, the officer should be conscious of the effects of his own social class and sex code, as they might take away from objectivity. The defenselessness of some children can induce the officer to automatically take sides with the victim.

An appointment should be prearranged with the victim or his parents at a convenient time in the victim's home. Many victims have lost time from school or employment for police and court appearances and the probation officer should not add to this. Having the interview in the home has the advantage of a familiar relaxed atmosphere for the victim and places no burden of travel to a strange office on them.

The purpose of interview should be stressed in compatible language to the victim, or the parents if a child is involved, at the outset. My own experience has been that if the child has been informed by his parents that he has nothing to fear and to cooperate with the officer, that the child does not become upset by the interview. If the parent endorses the interview most children will be cooperative.

The victim or his parents must be assured, frequently, that what is communicated to the officer is held in the strictest of confidence. The victim must always be interviewed alone, out of hearing distance of others, particularly the parents. The presence of another person may induce bias, distortions or omissions in the victim's account of the offense and its consequence. The officer's approach should be natural and informal, with efforts to put the victim at ease. One's manner and choice of language should be appropriate with the victim's age, intelligence and social class, and slang terms may be appropriate.

The investigator should avoid grilling, coercing, showing authority or giving advice. It is these aspects of interviewing which induce possible trauma in the child victim,¹⁵ and are characteristic of techniques employed by police and attorneys. Neutrality is basic and there should be avoidance of taking sides, such as that of the offender, the victim, or the victim's parents. Some of the

victims feel outraged, or outcasts, demoralized and defensive. Mutual trust and confidence may be established by sympathetic questions, encouragement and assurance, giving a feeling to the victims that you are interested in their current predicament and welfare. Ample recognition should be given to the victim's being opposed to the interview and that this is acceptable to the investigator. Some victims will welcome an opportunity to express their views once the purpose of the interview is felt, without the atmosphere, control and limitations of the police station or court.¹⁶

The interview should begin with consideration of the more objective, tangible and physical elements of the offense, and after establishing a desirable degree of rapport, the probation officer may proceed to emotional considerations of the offense, within the limits of the victim's capacity to tolerate the discussion. The interviewer must be alert to the possibility of disturbing the relationship if questions are too abrupt, rapid or demanding.

The interview may also have the therapeutic intent of bringing the previous police and court experiences into their proper focus, giving assurance and reducing anxiety by clarification. The victim's fears regarding further attack or revenge by the offender can be allayed, when this can be reasonably assured.

The investigator must use his own judgment on where and how to interview the victim and where indicated, a court clinic psychiatrist may be called upon to do the interviewing with victims where trauma is in question. In other cases, the investigator might profit by psychiatric consultation in learning of ways to handle difficult questions and situations.

In conclusion, parents or the older victims should be advised of community agencies that can provide treatment services if the victim exhibits side or after effects of the offense, or subsequent events.

¹⁵ REIFEN, DAVIS, *Protection of Children Involved in Sexual Offenses*, J. CRIM. LAW, CRIMINOL. AND POLICE SCIENCE, 49, 1959, pp. 222-229.

¹⁶ YOUNG, PAULINE V., *SOCIAL TREATMENT IN PROBATION AND DELINQUENCY*, New York, 1952, p. 100 and 163-172; KARPMAN, BENJAMIN, *THE SEXUAL OFFENDER AND HIS OFFENSES*, New York, 1954, pp. 66-73; MILLIKEN, R. J., *The Sex Offender's Victim*, FED. PROB., Sept. 1950, p. 22; REIFEN, DAVIS, *Protection of Children Involved in Sexual Offenses*, J. CRIM. LAW CRIMINOL. AND POLICE SCIENCE, 49, 1958, pp. 222-229; REPORT OF GOVERNOR'S STUDY, DEVIATED CRIMINAL SEX OFFENDER, State of Michigan, 1951, pp. 75-83. STATE DEPT. OF MENTAL HEALTH; CRUCIAL ISSUES IN TREATMENT AND CONTROL OF SEXUAL DEVIATION. Lansing, Michigan, 1951, pp. 75-83.