

# A spotlight on court licensed child abuse

Child sexual abuse and exploitation are notorious for the difficulties they create for a legal system which seeks to act with integrity. Unfortunately, these crimes, particularly when carried out within the family, create less difficulty for a legal system which seeks to distance itself from the realities of child sexual abuse and exploitation. Missing out on, or ignoring the realities, or not wanting to acknowledge them, brings about the result that the abuse and exploitation are compounded by the very system which exists, ostensibly, to end them.

Steps must be taken to correct this, but how? And what? *Court Licensed Abuse* shows the way. Dr Caroline Taylor's work is notable for its thorough explication of the issues confronting not only children and young people, but adults who seek justice through the courts. It is notable, too, for the issues that should confront judges, defence counsel and prosecutors. However, when great truths are told, those about whom they are told, particularly when they sit in positions of power and authority, choose not to accept the truth. Rather, they attack the truth-teller. This is a pity, for it means that the legal system is denied a chance of redeeming itself and working towards a design that may better represent the interests of the community and the state, in ensuring that justice may be done in child sexual abuse and exploitation cases.

*Court Licensed Abuse* is another great step in the march towards clearing the courtroom and criminal justice system of the anomalies, deceptions and distortions that have accompanied child sexual abuse and exploitation in the courtroom from Chief Justice Hale's time, in early to mid 18th century England.

Dr Caroline Taylor's work highlights for every one of us the deficiencies in the running of the criminal justice system which add to the abuse, by confirming so well to victims and survivors of child sexual abuse and exploitation that the power of the father is supported by the power of the courts, while the powerless are not. This is what they have learnt at the feet of their fathers. It is what they are told as sexually abused and exploited children by the parent who engages in these crimes: "Don't tell anyone, because no one will listen to you". "Don't bother telling anyone, because no one will believe you". "I am your father, I can do what I like with you". "You are *my* child, so I have the right . . ."

Every child or young person whose case is recounted in *Court Licensed Abuse* has had their father's abusive words and the intimidation underlying them confirmed to them by the processes adopted and played out in the courtroom. "No one will listen to you, even if you tell them." "Why did you bother telling anyone, because no one believes you." This means, in turn, that fathers are placed in an almost unassailable position, where their own immorality is supported and condoned by the legal system.

The newly released book, *Court licensed abuse: Patriarchal lore and the legal response to intrafamilial sexual abuse of children*, by Dr S. Caroline Taylor, is based on national award winning research that analyses complete transcripts of intrafamilial child sex abuse trials. The reader is taken on a virtual walk through a finite number of trials and is privy to evidence and legal arguments withheld from juries.

These trials are presented as textual case studies and show the legal mechanisms through which victim/survivor accounts of abuse are transmuted into forms that facilitate both the theoretical and legal acquittal of the alleged abuser, thus replicating the power relations inherent in the original abuse.

The work presents hitherto uncharted terrain in explicating the response of the judicial system when confronted with disclosures of child sexual abuse.

Renowned Australian feminist lawyer and author of numerous books on law and violence against women and children

**Dr Jocelyne Scutt**

has this to say about *Court Licensed Abuse*.

The criminal justice system should not be about who is sufficiently “clever” to have evidence kept out of the courtroom, then using its absence to portray a picture to the jury, which is at odds with what the court knows to be true, or untrue. Nor should the criminal justice system be about judges and defence counsel reaching agreement on eliminating evidence so that witnesses must (with the sanction of court and counsel) constrain and strain their evidence to conform to the false picture that is necessitated by the absence of “key” evidence.

Yet *Court Licensed Abuse* gives numerous examples of this occurring with prosecutors being hamstrung or simply complying with the defence counsel’s arguments for evidence to be omitted, and making no or little argument to the contrary.

### Several examples in this book stand out.

In one, the judge agreed with defence counsel that DNA evidence should be excluded. The DNA evidence showed that the accused was father to two of his daughter’s three illegitimate children. Once the DNA evidence was removed, defence counsel was free to impugn the character of the young woman, using the existence of three children born out of wedlock to support the proposition that she was a “slut”, a person of “loose morals”.

In another, DNA evidence showing that the father had been in his daughter’s bed was excluded. The proposition was then put to the jury that semen belonged to her boyfriend – although they had not had sexual intercourse for some time before the father’s alleged imposition.

In others, where a man is alleged to have committed multiple crimes upon several children, the cases are run individually, as if he is alleged to have committed crimes upon one child only. Then, when giving evidence, the child and mother are obliged to put their evidence without any reference to the crimes alleged to have been committed upon the other child, or other children. The jury receives a false story. This is a false story sanctioned by the court, promoted through the court processes. These lies are condoned – nay, *required* by the court to extend “justice” to the accused.

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*Court Licensed Abuse* is essential reading for everyone who ever hoped that the legal system would and should be opened to thorough scrutiny. It is essential reading for those who believe that the way they conduct their courtrooms is “right”, whatever the consequences for victims and survivors of child sexual abuse and exploitation. It is essential reading for defence counsel and prosecutors, along with judges, who may deep down have an inkling that what they do is not admirable, but worthy only of condemnation.

The book is essential reading for everyone who ever cared about making the legal system into a system of justice – one where the abuse and exploitation of children and young persons will no longer be condoned, and “truth” is truth, not a court manufactured lie masquerading behind a mask which shames us all.

Respected journalist and author of numerous books dealing with criminal law in Australia, Evan Whitton, reviewed *Court Licensed Abuse* and provided this advanced praise for the book: “This is a stunning piece of work. It exposes the evils of the adversarial legal system in allowing defense lawyers to defeat the truth by vicious cross-examination of child victims of sexual abuse. Dr S. Caroline Taylor’s rigorous research and magisterial analysis make a compelling case for change.”

**Dr S. Caroline Taylor** is currently a Research Fellow at the University of Ballarat and is the author of *Surviving the Legal System: A handbook for child and adult survivors of sexual abuse and those supporting them*, Coulomb, Melbourne, 2004. The Australian stockist for *Court Licensed Abuse* is Ballarat Books, Armstrong Street North, Ballarat. Phone (03) 5333 3222; Fax (03) 5331 5604. Email [orders@ballaratbooks.com.au](mailto:orders@ballaratbooks.com.au) The book may be viewed and ordered on line at [Ballarat Books: www.ballaratbooks.com.au](http://BallaratBooks.com.au)

***Court Licensed Abuse: Patriarchal lore and the legal response to intrafamilial sexual abuse of children*, by S. Caroline Taylor, Peter Lang, New York, 2004. ISBN 0-8204-6171-7. Price: \$59.95.**