

**SEXUAL SCRIPTS AND STRUCTURED ACTION:
EXPLORING GENDERED LANGUAGE IN CASES OF FEMALE
SEXUAL OFFENDING**

by

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Abstract

Few research studies have examined female sexual offending. Furthermore, most of what we know about sexual offending is based on male perpetrators. Our conceptions of female criminals who act outside their designated sexual scripts are formed by prevailing stereotypes of femininity. This research expands the available literature in the field of sexual offending, while examining how women are constituted when it comes to female child sexual offending. I conduct a critical discourse analysis of court transcripts and electronic news articles of cases involving women as child sexual perpetrators. Three criminal cases are examined from Wisconsin, U.S. The goal is to examine whether, and through what processes, traditional sexual scripts are discursively reproduced in court proceedings and media reporting of female sexual offending.

Two cases reveal that women who adhere to their expected sexual scripts despite having committed a sexual offense receive sympathetic responses from legal officials and news journalists. The legal and media responses also ensure these women are able to continue their expected roles as women during and following sentencing. On the other hand, one case reveals that women who overtly contravene their expected gender scripts are legally and morally condemned. The call for strict punishment centred upon removing the female offender's ability to participate in motherhood, because of the offender's contravention of expected gender scripts by sexually offending against her own children. Furthermore, the male co-offender in this latter case was not deemed to have contravened his sexual scripts, resulting in less social condemnation. Overall, this thesis demonstrates discursive maneuvering that occurs in female sexual offender cases, in which legal officials and news journalists justify offenses based on prevailing notions of femininity.

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Chapter 1

Thesis Introduction

Introduction

Research surrounding child sexual offending in general is limited. Most of what we know about sexual offending is the result of research and social conceptions of *male* sexual offenders. While male sexual offending research is somewhat scant, much rarer is research surrounding sexual offenses perpetrated by women. The literature has generally shown female-perpetrated child sexual abuse to be a rare occurrence. Most sexual offending involves male perpetrators (Byers and O’Sullivan 1998; Denov 2001, 2003a, b, 2004; Vandiver and Kercher 2004; Vandiver and Walker 2002). Further research is needed to expand our knowledge of female sexual offending.

Research has acknowledged that the limited resources to address female sexual offending are due, in part, to societal conceptions about female perpetrators. Prior to the 1980s, women were not seen as being able to abuse sexually. Therefore, research dedicated to female sexual offending is scant, even to this present day (Denov 2003a, b, 2001; Ferguson and Meehan 2005; Grayston and De Luca 1999; Kubik, Hecker and Righthand 2002; Oliver 2007; Vandiver and Kercher 2004; Vandiver and Walker 2002).

It is important to investigate conceptions of female sexual offending. This is because research has pointed to the fact that what we know about female sexual offending is largely based on social standards of femininity (Denov 2004; Ford 2006; Nelson 1994). Our ‘sexual scripts’ – or traditional gender norms that inform our everyday actions and experiences – portray women as sexually passive and non-aggressive; whereas, males are often described as over-sexed and the main initiators of sex and

violence. It is difficult to fathom a female sexual abuser – based on our sexual scripts of femininity involving women who are expected to be caring, nurturing, and maternal. These scripts surrounding femininity exclude women as sexual perpetrators. Thus, as there is little research in the area of female sexual offending, it is important to look at ways in which the criminal justice system responds to these offenses.

Notable researchers in this area, who investigate specifically the role of sexual scripts and female sexual offending, include Myriam Denov (2001, 2003a, b, 2004) and E.D. Nelson (1994). However, there has also been research conducted in the area of sexual scripts and interpersonal violence (Hird 2002). Research has also investigated how scripts operate through the law and media reporting more broadly (Cheit 2003; Comack and Balfour 2004; Crenshaw 1996; Franiuk, Seefelt, Cephress and Vandello 2008; Gavin 2005; Pritchard and Hughes 1997; Smith and Kimmel 2005). This thesis provides an analysis that combines research on sexual scripts focused on legal and media discourse. These two societal institutions, law and media, share a close relationship and reinforce each other when it comes to criminal cases.

Research Goals

The goal of this research is to contribute to the existing body of literature surrounding female sexual offending. This study investigates how female offending is interpreted through the lenses of criminal justice officials and news media reporters. Structuration of action theories are useful in studying female sexual offenders in this research. Past research demonstrates that legal proceedings and media reporting rely on societal structures to formalize hegemonic discourses, while at the same time, these

discourses may be re-produced through court proceedings and news reporting of these cases. This process impacts how we conceive of female sexual offending. This research aims to explore the prevailing discourses surrounding cases of child sexual abuse. As such, this research examines how women are constituted when it comes to offending of a sexual nature against children. This project analyzes court transcripts and electronic news articles of female sexual offending in order to meet these research goals.

Research Questions

The research questions addressed by this project are as follows:

- (1) Are traditional sexual scripts upheld in court proceedings and media reporting involving sexual offenders?
- (2) How are women depicted when it comes to sexual offenses?
- (3) Are there categories used to describe/depict female sexual offenders consistent with traditional sexual scripts?

Overview to Chapters

In Chapter 2, the literature review provides an extensive overview of research related to female sexual offending and sexual scripts. First, general research lays the groundwork for this chapter, demonstrating in more detail what we currently know about female sexual offending. Next, the review of the literature specifically analyzes research focused on both the law and the media as being discursive events by looking at the sexual scripts involved in legal proceedings and media reporting. Finally, social constructionist

research demonstrates the relationship between the law and the media and why it is important to investigate these two social institutions as we study female sexual offending.

Chapter 3 addresses the theoretical perspectives that guide this thesis. More specifically, James W. Messerschmidt's (1993) structuration of action theory is used as the central theory. Messerschmidt contends that crime is 'structured action' and operates in a dualist structure from both societal institutions and individuals. More importantly, this dualism reproduces notions of gender, race, and class, which in turn influences how individuals act to conform to these social expectations, and also informs individuals on how to respond to others' actions based on what we know about gender, race, and class. To inform Messerschmidt's theory, Chapter 3 also integrates: Anthony Giddens's (1984) structuration theory; Erving Goffman's (1959) theory of social interaction; Antonio Gramsci's (1971) notion of hegemony, and Robert Connell's (1987) extension of hegemony to include hegemonic masculinity and emphasized femininity; and John Heritage's (1984) notion of social accountability. In addition, there is discussion of sexual scripts more generally.

Chapter 4 outlines the methodology used in this thesis. This chapter overviews the steps taken in the discourse analysis and specifies how the data were obtained and coded. This project relies on three case studies involving women as perpetrators of child sexual abuse. Both news reporting surrounding the cases and the court transcripts from the legal proceedings are used. Michel Foucault's (1972) theory of power-knowledge is outlined, in order to better inform the methodology section of discourse analysis which is used in this thesis.

Chapters 5 and 6 are dedicated to the analysis of court transcripts and electronic news articles. Chapter 5 analyzes the Anne Knopf and Marnie Staehly cases. Chapter 6 looks at the Roger Smith and Carrie Wheaton case. These chapters provide background information on cases used and reveal discursive themes uncovered when analyzing both the news articles and legal court transcripts. This project utilizes cases from Wisconsin, U.S., and therefore, an important part of each of these chapters is dedicated to Wisconsin's legal conceptions of child sexual abuse. This discussion includes the legal definitions and sanctions involved for individuals convicted of such offenses.

Chapter 7 offers a discussion of the main research findings. More specifically, this chapter summarizes themes and connects themes to the existing literature. Furthermore, this chapter discusses ideas for future research, limitations, benefits, and theoretical contributions.

To begin, a review of the literature in Chapter 2 surveys previous research surrounding legal proceedings and media reporting of female sexual offender cases, which investigate the societal conceptions of gender implicit within these cases and news reports. The review of the literature focuses on the discursive maneuvering that occurs during female offending, as their actions are re-aligned into females' sexual scripts. This literature review also reveals limits of past research and the ways in which the current project advances research in this field.

Chapter 2

Literature Review

Introduction

When it comes to female sexual offending, women are looked at as betraying their maternal *and* sexual scripts: females who sexually offend against children not only act outside of their gender roles as being sexually passive, but they also act outside their maternal role of being caring and trustworthy toward children. As such, the discursive maneuvering in these cases may differ from instances where females commit violence without a sexual nature.

While the body of literature relating to sexual offending by females is relatively scant, a few studies have endeavored to explore the topic of female sexual offenders. The following explores some of the research on female sexual offending. I investigate the demographic characteristics, typologies, and victim characteristics of female sexual offenders. Overall, this review shows that explanations to female offending may be based on prevailing social conceptions surrounding femininity. Therefore, social conceptions of femininity that define female sexual offenses need to be explored through research.

This project sheds light on courtroom proceedings and the discourse used to constitute men's versus women's offending. It is beneficial to examine courtroom proceedings because the outcome of the case relies on the discourse used by legal professionals. It is also important to address news media depictions of female offending. Literature in this area is addressed further on in this chapter. Finally, research has documented the close relationship between the law and news media. Therefore, this

literature review also discusses how the law and media influence each other using a social constructionist standpoint to contextualize this relationship.

To begin this review, the following outlines what is currently known about female sexual offenders. Demographic characteristics, offender typologies, and victim characteristics are described in detail.

Female Sexual Offenders

Demographic Characteristics

Data show that females are typically young when they commit sexual offenses. Demographic research on female sexual offenders reports on average an age range of offenders being in their 20s to 30s (Faller 1987, 1995; Ferguson and Meehan 2005; Finkelhor, Williams and Burns 1988; Lewis and Stanley 2000; Miccio-Fonesca 2000; Nathan and Ward 2001, 2002; Oliver 2007; Sandler and Freeman 2007; Vandiver, Dial and Worley 2008; Vandiver and Kercher 2004; Vandiver and Walker 2002). However, some studies document girls perpetrating sexual offenses from the age of 4 years old (Johnson 1989) to women of 70 years (Finkelhor, Williams and Burns 1988; Margolin 1991).

The majority of research on female sexual offenders has reported most offenders to be Caucasian (Faller 1987, 1995; Ferguson and Meehan 2005; Lewis and Stanley 2000; Oliver 2007; Rosencrans 1997; Sandler and Freeman 2007; Vandiver, Dial and Worley 2008; Vandiver and Kercher 2004; Vandiver and Walker 2002). Vandiver and Kercher (2004) examined offender and victim characteristics of female sexual offenders registered in Texas. The authors reported that twelve percent (N=56) were African

American whereas eighty-eight percent (N=415) were reported to be Caucasian (sample size = 471 cases).

Few studies have documented female sexual offenders' marital status at the time of offending. Faller (1995) examined 72 female sexual offenders undergoing treatment for the abuse of a total of 332 children. The Interdisciplinary Project on Child Abuse and Neglect (IPCAN) and the Family Assessment Clinic (FAC) are organizations that are concerned with child welfare, including: research, training, and clinical assessments. IPCAN-FAC provided Faller (1995) with their sample of 72 female offenders from Michigan and Ohio states as well as Ontario.¹ Demographic characteristics show 27 of the women (37.5%) were married, 23 (32%) were single, 12 (16.7%) were living with a partner, 6 (8.3%) were divorced, 3 (4.2%) were separated, and 1 (1.4%) was widowed.

Typologies

There have been attempts to classify types of female sexual offenders into specific offender typologies. These have been developed by researchers in order to more accurately describe characteristics of offenders (Mathews, Mathews and Speltz 1989; McCarty 1986; Nathan and Ward 2002; Sarrel and Masters 1982; Vandiver, Dial and Worley 2008; Vandiver and Kercher 2004). Researchers typically identify three categories of female sexual offenders: those who are forced/coerced into offending by a male partner, those who offend against adolescent or young children (teacher/lover or 'nurturers'), and pre-disposed offenders (female abusers with a history of victimization) (Ford 2006; Saradjian and Hanks 1996).

¹ These 72 female offenders represent 15.3% of IPCAN-FAC's total sample of offenders. The remainder are males (Faller 1995).

Vandiver and Kercher (2004) studied 471 registered female sexual offenders in Texas. They identified six categories in order to classify female sexual offenders. The first category “heterosexual nurturer” included 146 female offenders from their sample. Heterosexual nurturers only offended against males, and were engaged in caregiving-type roles toward their victims (such as a teacher or mentor, for example). Women in this category do not believe their behaviour is abusive toward the children and adolescents they target.

The second category is called “noncriminal homosexual offenders” and included 114 women. This group targeted females, and did not have subsequent arrests following their initial arrest for child sexual abuse. These women were not likely to use sexual assault. Vandiver and Kercher note that it is possible these women were offending with a male accomplice, however, they state there was not enough information to be conclusive on this point.

The third category of offenders identified by Vandiver and Kercher are women they call “female sexual predators.” There were a total of 112 women who were classified in this category, and exhibited sexual offending behaviours even following their arrests for child sexual abuse. Overall, this group shows a higher arrest rate than other categories.

Fourth is the category called “young adult child exploiters.” Of the 50 women classified into this category, most offended against young children (both male and female victims) and were more likely to use sexual assault in the commission of their offenses. This category included women who were related to their victims (such as mothers), while others were not related.

The fifth category is called “homosexual criminals.” Vandiver and Kercher identified 22 women who classify into this group of female sexual offenders.

‘Homosexual criminals’ showed the highest level of arrest rates both before and after their arrest for child sexual abuse. They also typically victimized older children. These women were not arrested for sexual assault, but for crimes such as forcing the child victim to engage in prostitution. Vandiver and Kercher highlight that this group may offend with economic gain as the main motivating factor for the sexual offenses.

Finally, 17 of the women in Vandiver and Kercher’s (2004) study were identified as “aggressive homosexual offenders.” Victims were female adults and offenders in this category were most likely to use sexual assault.

Ford (2006) emphasizes the fact that Vandiver and Kercher (2004), unlike other researchers, did not classify female sexual offenders into a specific category that includes women who were coerced into offending by men. Due to the scant research available on female offender typologies, and the discrepancies between research studies, it is clear that more work needs to be conducted on female sexual offending populations in general.

Victim Characteristics

Research suggests that female sexual offenders tend to offend against young children (Faller 1987, 1995; Lewis and Stanley 2000; Peluso and Putnam 1996; Rosencrans 1997; Vandiver and Kercher 2004; Vandiver and Walker 2002). Vandiver and Walker (2002) analyzed 40 cases of female sexual offending from Arkansas, and found that all of the victims were younger than 16 years old.

A study conducted by Faller (1995) researched women in clinical settings who had sexually abused children. The research examined 72 women who abused 332 children in total. Characteristics of the abuse found that, on average, female offenders victimized 4.5 children. Furthermore, the majority of offenders in the sample abused both female and male victims (48.6%); whereas, 40.3% abused only against female victims, and 11.1% abused only against males.

There is no consensus within the research as to whether females consistently offend alone, or with a partner. Research does assert that females victimize children to whom they are close and who are easily accessed (Rosencrans 1997; Vandiver and Walker 2002). Some research suggests that female sexual offenders “may be acting alone and out of self-interest” (Vandiver and Walker 2002: 285). However, some may act in accomplice with, for example, a male offender (Nathan and Ward 2001). Literature suggests that female perpetrators of sexual abuse may gain access to children by seeking employment within organizations involving children (Finkelhor, Williams and Burns 1988; Vandiver and Walker 2002). A study conducted by Faller (1995) examined women undergoing clinical treatment for the sexual abuse of children. Of the 72 women studied, Faller found that 33 involved ‘multiple intrafamilial offenders’ (that is, involved a co-offending man related to the victim) and also that 16 of the offenders abused their victims, involving ‘multiple extrafamilial offenders’ (co-offending man unrelated to the victim). Interestingly, a high rate of mental illness and/or mental retardation among the clinical population studied suggests that these offenders may have committed child sexual abuse due to “male dominance rather than their own sexual deviance,” as they committed the offenses with males who held a “leadership role” (Faller 1995: 27).

Research shows that there are slightly more female victims than male victims of female sexual offenders (Faller 1987, 1995; Finkelhor and Russell 1984; Finkelhor, Williams and Burns 1988). The research on female sexual offenders also reports that females generally offend against known victims and rarely seek out strangers in which to offend (Nathan and Ward 2001; Vandiver and Walker 2002). Furthermore, research shows that women tend to abuse their victims over the long-term, versus offending over a short period of time (Nathan and Ward 2001; Saradjian and Hanks 1996).

The literature states that violence is used in a minority of cases involving female sexual offenders (Johnson and Shrier 1987). However, there are some studies that do report violence used by females to commit sexual abuse at comparable rates to male offending (Faller 1995; Finkelhor, Williams and Burns 1988). For example, in Faller's 1995 study of female juvenile sexual offenders, the offenses were coded according to their seriousness. Non-contact offenses were the least serious (i.e. voyeurism), followed by sexual contact (i.e., fondling), oral sex, intercourse, and, finally, sexual exploitation (child prostitution/pornography) was deemed the most serious offense. The majority of offenders in the sample of 72 offenders committed very serious types of sexual abuse. Oral sex (20.8%), intercourse (23.65%), or exploitation (20.8%) was used in the commission of their offenses.

Compared with male sexual offenders, research shows that females are more likely to be diagnosed with psychiatric impairment. In addition, there are high rates of mental illness (such as depression and personality disorders) present in female sexual offenders (Faller 1987, 1995; Lewis and Stanley 2000; Nathan and Ward 2001; Vandiver and Walker 2002). It is important to note that most of these studies are drawn from

psychiatric clinical samples. As such, these studies may report high rates of mental illnesses within female sexual offender populations.

The few research studies that have attempted to quantify the prevalence rates of women who have sexually abused have typically reported prevalence rates as less than 5% of sex offenders overall (Ferguson and Meehan 2005; Kubik, Hecker and Righthand 2002; Vandiver and Walker 2002).

Self-report studies tend to yield a higher incidence of sexual offending by women (Denov 2003a; Oliver 2007). This may be due to the fact that most prevalence rates are based on convicted sexual offender populations. However, it is widely acknowledged that female-perpetrated sexual offending is underreported to authorities. Therefore, research suggests that self-reports may be more accurate in citing the prevalence of female sexual offending due to underreporting of these offences (Nathan and Ward 2001; Oliver 2007; Vandiver and Kercher 2004). Specifically in Canada, Denov (2003a) reports a prevalence rate of 1.5% for convicted female adult sexual offenders.

Female Offenders and Sexual Scripts

Due to prevailing sexual scripts, females are generally perceived by society as being incapable of committing violent and/or sexual offences against a child (Banning 1989; Byers and O'Sullivan 1998; Denov 2003a, b, 2004; Hird 2002; Nelson 1994). Empirical research has shown this perception to be widely held among court, police, and legal professionals (Allen 1987; Comack and Balfour 2004; Denov 2004; Nelson 1994), the public and media (Nelson 1994), sexual abuse victims (Denov 2004), and clinical and psychiatric professionals (Denov 2004).

This thesis benefits from previous research that has examined prevailing sexual scripts as they pertain to how violent female offenders more generally are constituted. Allen (1987) investigated the professional responses to violent female offending by psychiatrists and probation officers. To conduct this analysis, the author examined the official reports of female offending (from English Crown courts during the years 1982-1987). Allen (1987) contends that female violent offender cases involve discursive transformations by officials involved. More specifically, Allen (1987) states “the portrayal of female violence follows a distinct and sexually specific pattern which tends towards the exoneration of the offender and deploys discursive maneuvers that are either absent or untypical in cases involving males” (p. 82).

Allen (1987) states that “psychologization” of the female offender is frequent when it comes to women charged with violent crimes. Allen’s (1987) research revealed that 20% of reports surrounding violent female crime are concerned with the offender’s mental capacity. She states that the transformation of female offenders into subjects who completed crimes under significant psychological impairment removes female offenders’ agency and responsibility for the offenses: “at the moment of the deed she was acting without conscious volition, without comprehension or without meaning” (Allen 1987: 84). Furthermore, the psychologization of female offenses normalizes mental illness and duress as ‘natural’ within females: it is a “natural state of womankind, for which no exceptional cause need be sought” (Allen 1987: 84). The crime is regarded as an action without intention or culpability – which results in a focus on women’s victimization as someone who is suffering from a mental disorder versus a focus on the crime that took place.

Female offenders may be deemed as mentally capable or ‘normal’ depending on their conformity to her sexual script despite the crime(s) that took place (Allen 1987). For example, a female offender charged with murder, manslaughter and arson was discussed as follows: “A pleasant straightforward girl...Open with good social skills and normal emotions. I could detect no sign of any mental illness or any abnormal thought process [and she] could not be described as having a personality disorder...*She is a perfectly normal young woman in every respect*” (Allen 1987: 91; Allen’s emphasis). In contrast, Allen (1987) states that reports on male offenders typically include less than half the psychological statements as in female reports – and when they are present in male reports they “tend to be perfunctory and formulaic” (p. 83).

Furthermore, Allen (1987) notes that the female offender’s dangerousness is minimized – in cases of male offenders, protecting citizens is emphasized when it comes to informing decisions regarding release, for example. However, discourse surrounding women’s dangerousness following a violent crime is absent. In addition, discourse often encourages women’s treatment to be completed in the home due to familial obligations such as childcare, despite the fact that children may be or have the potential to become victims of violent crime. This serves the purpose in that female offenders are discursively positioned to occupy a woman’s ‘place’ – which is at home caring for family: “Home and family are her proper place. Looking after her husband and child is her normal life. Tenderness towards her family is her natural emotion” (Allen 1987: 89).

Interestingly, Allen (1987) traces the statements concerning male offenders’ past histories and compares to statements regarding female offenders’ lives. She notes that men’s histories are “regularly described in simple statements in the active voice” (p. 90).

This highlights instances in which the offender has intentionally *done* something. In contrast, statements pertaining to female offenders erase any sense of intention or responsibility surrounding their past experiences. As such, Allen's (1987) research demonstrates the discursive maneuvering that occurs when it comes to responses to female offending: her agency is stripped; culpability ignored, and she is regarded as harmless consistent with the female sexual script.

Myra Hird (2002) looks to the socially created categories of 'male' and 'female' in her analysis of heterosexual dating relationships. Hird (2002) argues the gender binary created by these distinctions causes individuals who act outside the sex categories to be considered as "not really fully human" (p. 5). In her analysis, Hird (2002) highlights how keeping aggression within the realm of a 'male' problem serves the purpose to sustain male dominance in society (see also Campbell 1993). This is because women's aggression may seem like resistance to sexual scripts (Campbell 1993) in which females are embodied as non-violent, passive, and compassionate individuals (Hird 2002). A closer analysis reveals that 'heteronormative' behaviours that occur during adolescent dating situations may contribute to aggressive behaviour among males towards females. Heteronormativity embodies males as goal-driven within dating relationships to reach intercourse. This is achieved through a persistent effort to have sex with female partners. On the other hand, female sexuality within adolescent dating relationships is equated with love and romance, in which females are sexually passive and non-initiators of intercourse. Hird (2002) traces the existence of these sexual scripts within narratives by adolescents who discuss incidences of psychological, physical, and/or sexual victimization.

In Hird's (2002) research, some findings reveal that biological essentialism was referred to as the cause of sexual violence within heterosexual relationships. For example, males are different than females in their drive for coitus, thus resulting in coerced and/or unconsensual sex. Furthermore, females were viewed as being responsible for refusing advances to sexual behaviour, or else they are labeled as 'leading men on.'

Biology was reasoned to be the factor behind sexual violence – that males have a high active and aggressive sex drive, versus a virtually non-existent or passive sex drive among females. Furthermore, it was assumed within the narratives of Hird's (2002) analysis that the males know what women's sexuality encompasses. This leads to the perception that refusing sexual advances by males does not 'necessarily' mean the woman does not 'want' sex. This gender binary, as Hird (2002) emphasizes, polarizes males and females as that which males *are* is what females *are not*: "if masculinity is rationality, assurance, conviction and stability, then femininity must necessarily be emotion, fickleness and indecision" (p. 57). Resisting these scripts among the females caused them to be labeled as "sluts" (Hird 2002: 59).

Hird's (2002) research reveals that sexual scripts play a large part in understanding heterosexual violence due to social expectations of gender. Not only does the discourse serve to place males and females within their proper sexual 'places' within society based on these scripts, but it gives individuals a frame of reference for justifying others' behaviour. However, Kruttschnitt and Carbone-Lopez (2006) argue that assuming female offending necessarily 'fits' within popular conceptions of gender behaviour should be challenged through research.

Research by Kruttschnitt and Carbone-Lopez (2006) examined the narratives of incarcerated women at a penal institution located in Minneapolis, Minnesota, in order to more closely examine claims toward the ‘anti-agentic’ nature of female offending. In total, 205 women were interviewed. The authors applied a life course calendar to examine both victimization and offender experiences within the 36 months prior to imprisonment. The authors used in this analysis information from 66 offenders regarding 106 violent incidents they perpetrated. Findings reveal five common themes among violent incidences. First, the most common theme reported by female offenders as a reason behind the offense(s) was “humiliation and disrespect.” This encompassed 20% of the cases under investigation. Kruttschnitt and Carbone-Lopez (2006) note this reasoning is often applied to male-perpetrated violence, but has not been considered as a motive behind female offenses (i.e., see Mullins, Wright and Jacob 2004). Second, participants indicated jealousy as the next common motive behind violent offending. This comprised 19% of the cases. In describing violence due to jealousy, the authors note that often this involved “unapologetic descriptions.” Further, self-defence was indicated as a primary motive for violent offending (18% of cases). The fourth motivator for violence was “self-help” (12% of cases). This means the perpetrator believed she was ‘wronged’ and sought retribution through violence. Finally, in 7% of the cases, “victim precipitation” was indicated as the primary motivator behind the violent offense(s). The other less-frequent primary motivators were: mutual violence between partners and “illicit gain” such as using violence for drugs or money (Kruttschnitt and Carbone-Lopez 2006: 337).

Contrary to popular conceptions of female offenders being mentally incapacitated or ‘evil’ for their initiation of violent offenses, Kruttschnitt and Carbone-Lopez (2006)

show that offending is not simply characterized by strained partner relationships or victimization. Women's violence shares similarities with male offending and incidences of violence should not be characterized as stereotypical anti-agentic events, but rather as being heterogenic in nature (Kruttschnitt and Carbone-Lopez 2006). Kruttschnitt and Carbone-Lopez's (2006) work demonstrates that women's narratives as offenders reveal more complex motivators for violence versus the popular conceptions of offending that remove female culpability.

When a woman sexually abuses a male victim, the abuse is re-aligned with the sexual gender roles comprised of males as sexual initiators, who are unable to control their sexuality. Sexual activity between adult women and younger males is often "glorified" by society (Oliver 2007: 20). Therefore, it is perceived that males enjoy being sexually coerced (Byers and O'Sullivan 1998; Dhaliwal, Gauzas, Antonowicz and Ross 1996; Oliver 2007). Child sexual abuse of male victims by female perpetrators is often labeled as simple "seduction" (Banning 1989: 567). Therefore, the abuse is not seen as serious and cases are often ignored (Denov 2001; Dhaliwal et al. 1996; Oliver 2007).

This has serious repercussions for male victims, relating to their reluctance to report sexual abuse by a female perpetrator. Firstly, research has shown that male victims fear disbelief by authorities if they report female sexual offending (Dhaliwal et al. 1996). Males may fear they will be perceived as the "instigator" of the abuse, as they are seen as sexually active beings desiring sex by older women, due to the sexual scripts that exist in society (Dhaliwal et al. 1996: 620). The male victim may be reluctant to report sexual abuse by an older female for fear others may deem he is "lucky" (Ford 2006: 9). When he does report the abuse, the harm he experiences as a result of the abuse; such as physical

and/or emotional trauma, may be minimized by his peers and the criminal justice system because of the male sexual scripts that males are always sexual, willing beings who cannot control their sexual behaviour. Males may also feel labeled as a “feminine-like male” if they report to authorities they were sexually abused (Dhaliwal et al. 1996: 620). They may feel inadequate if they did not enjoy the sexual activity that occurred as a result of the abuse.

This minimization has been documented in literature relating to domestic violence against men that is perpetrated by females. Hines, Brown and Dunning (2007) investigated intimate partner violence (IPV) perpetrated by females against males. Participants were callers to the Domestic Abuse Helpline for Men (DAHM) in the United States. The DAHM uses volunteers to intake calls from individuals who need help for domestic abuse incidents that are violent in nature, with a specific focus on male victims. In total there were 246 callers used who called the hotline between January 2002 and November 2003. Researchers analyzed the summary information that volunteers at DAHM recorded; such as, demographic, abuse and partner information.

Interestingly, the researchers found that male callers to the DAHM indicated further victimization when they sought help from authorities or agencies specializing in domestic violence. The authors state that due to the assumption that domestic violence is perpetrated by males towards women, domestic violence agencies were not only ill-equipped to deal with situations involving male victims, but victims also experienced revictimization. Researchers documented incidences where male victims were “turned away, laughed at, or accused of being a male batterer” (Hines Brown and Dunning 2007: 69).

Furthermore, if males experience a physiological response to the sexual abuse; such as an erection or ejaculation, they may be reluctant to report the abuse. Research has indicated that males may experience physiological reaction to sexual abuse – even if the abuse was coerced and unwanted (Sarrel and Masters 1982). However, due to society’s conception of “masculinity,” bodily reactions such as an erection may be perceived by authorities as an indicator of sexual enjoyment – and not abuse. Male victims themselves may re-align their abusive experience(s) with a female as ‘enjoyable’ to conform to their sexual script of sexually active beings (Dhaliwal et al. 1996).

Whether these observations apply female sexual offending is in need of further exploration. The literature does point to the fact that women who commit violent or sexually abusive crimes are seen as performing against their assigned sexual scripts. It is acknowledged that “women react to feelings of anger, rage, and jealousy with violence” (Ferguson and Meehan 2005: 76). Moreover, it has been acknowledged that some women are capable of the physical abuse of their children (Elliot 1993; Ford 2006). However, women are generally not seen as capable of committing *sexual* abuse because of sexual scripts assigned to men and women. These scripts convey women as sexually passive. Furthermore, when females do commit crime, or more specifically sexual offences against children, their actions are re-constructed, or ‘re-aligned’ by society in a way that justifies their actions as conforming to feminine sexual scripts (Denov 2001, 2003a, b, 2004; Hird 2002; Nelson 1994). Their actions are re-aligned with traditional gender roles that embody the sexually passive, emotionally dependant woman (Denov 2003a, b; Elliot 1993; Ford 2006; Hird 2002). In other words, the language used to understand sexual

offending by women is framed in such a way that constitutes the female offender as non-agentic in her actions, based on prevailing sexual scripts surrounding femininity.

The re-alignment of a female offender's sexual scripts is done for a variety of reasons. For example, women who sexually offend are seen as being more dangerous than when men sexually abuse children (Elliot 1993; Ford 2006). Women are perceived to be safe and caring – individuals to rely on when in need of help. As such, female sexual abusers “[shatter] feelings of security and safety for children and thus makes it more difficult to accept” (Ford 2006: 8). This may contribute to minimizing female-perpetrated child sexual abuse by criminal justice professionals (Denov 2003a, b; Elliot 1993; Ford 2006). In aligning with a woman's expected sexual script, “we find a particular discursive maneuvering to transform female heterosexual interpersonal violence into something understandable and non-threatening” (Hird 2002: 96).

In the following sections, I examine the law and news media. Research shows how these structures are discursively responsible for upholding conceptions surrounding femininity when it comes to legal handling of cases and media portrayals of criminal events. Furthermore, research demonstrates how these conceptions of femininity are used to frame female sexual offending.

Discursive Event: Legal Proceedings

The following outlines research that demonstrates the law as being a discursive event. This section explores studies that examine sexual scripts and legal proceedings and how societal conceptions of masculinity and femininity may factor into the criminal justice system.

The Neutrality of the Law

There has been extensive research that looks at how law ostensibly operates under fundamental principles of equal access to justice (Comack and Balfour 2004; Naffine 1990; Tavis 1992). The law is supposed to offer the utmost level of neutrality when responding to issues of a legal matter. Ngaire Naffine (1990) describes the theoretical legal agent as being “the blind maiden, balancing the scales of justice, dispensing her services with perfect impartiality” (p. ix). However, upon closer examination, it appears the law actually operates based on a “deep-seated bias” (Naffine 1990: xi) in which the law places a preference for certain types of individuals and thus “reflects the world-view of a certain middle-class type of man” (Naffine 1990: xiii).

Some literature points to the fact that the law and criminal justice system has historically maintained a social order of patriarchy. Scholarship has identified the ‘chivalry hypothesis’ as one explanation as to why there are fewer women who enter the criminal justice system as perpetrators (Sanderson, Zanna and Darley 2000; Viki, Massey and Masser 2005). The ‘chivalry hypothesis’ assumes women, the “fairer sex” (Naffine 1987: 2), are dealt with less harshly than males when they commit crime stereotypical to their femininity. On the other hand, women who commit crime that does not represent societal conceptions of femininity are treated more severely than men who commit the same offense. Stereotypical notions of femininity portray women as not being dangerous or harmful. This which translates into legal officials’ sympathetic responses to women’s offending (Sanderson et al. 2000; Viki et al. 2005). The result is greater penal leniency given to certain women who commit offenses and severe penalties for those women who

commit offenses that violate our traditional conceptions of femininity, such as sexual offenses.

However, harsher sentences for female sexual deviants compared to males creates a notion that we are much less tolerant of *women* as sexual offenders. In addition, research shows that women who do commit offenses against their traditional sexual scripts are judged in relation to psychological fitness (Allen 1987; Comack and Balfour 2004; Heidensohn 1981; Hird 2002; Smart 1977; Viki et al. 2005; Wilczynski 1997). Women who commit crime and are diagnosed with mental illness are deemed more worthy of intervention or ‘protection’ and ‘care’ rather than incarceration. This reinforces our view that women are less agentic in the commission of crime. However, if women are not deemed to have psychological issues, they are judged more severely because they challenge conceptions of femininity. What this research demonstrates is that the law reinforces conceptions of femininity and thereby contributes to biases when it comes to the processing of crime committed by women.

In Canada the law claims to be rational and fair in its administration of justice. Section 15(1) of the *Canadian Charter of Rights and Freedoms* (Department of the Secretary of State of Canada: 1987) states the following with respect to equal rights under the law:

Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age, or mental or physical disability (p. 15).

Section 28 of the Charter also states: “Notwithstanding anything in this Charter, the rights and freedoms referred to in it are guaranteed equally to male and female persons” (p. 24).

The law defines activities deemed to be illegal and legal, sets out sanctions for violating the law, and has the power to punish individuals based on these violations. Therefore, it is crucial the law is just and fair. The law is given incredible agency to enact laws and proscribe penalties.

Legal Officials

In their 2004 study, Comack and Balfour examine criminal proceedings and the reproduction of class, race, and gender inequalities through the legal discourse in these cases. Comack and Balfour (2004) argue that criminalization is structured action – lawyers use their agency to construct the players involved in the court proceedings based on the “social-structural constraints that prevail at given historical points in time” (p. 21).

Comack and Balfour (2004) state that lawyers are bound by ethical procedures to adhere to the “fundamental principles of justice.” The legal system is supposed to be unbiased, fair and just and premised on the rule of law. Everyone is subject to the law, and everyone is treated equally under the law. In order to conform to the rule of law, due process, or the “procedural requirements,” is applied during legal proceedings. As such, each official in the court process has certain roles in order to achieve equality and equal distribution of justice. There are also many steps that are involved in the adversarial system. The preliminary hearing, the pretrial conference, plea bargaining, and the criminal trial are steps that may unfold during a criminal case. In each of these, parties such as the Crown and defence lawyers must adhere to the fundamental principles of justice in order to make their cases, and ensure that the accused is being treated fairly and equally under the law. These regulations and expectations both “constrain Crown

attorneys and defence lawyers and enable them to carry out their roles” (Comack and Balfour 2004: 21-22).

Comack and Balfour (2004) highlight that areas of inequality such as gender, race and class may be created through discourse used by lawyers when constructing their cases. The law is a discourse that bases itself on social events and “[imposes] its definition of events onto everyday life” (Comack and Balfour 2004: 32). The authors emphasize the “law is...a series of strategies that constitute both the identities of legal subjects and their social relations with each other” (2004: 34). Certain ideologies about individuals who are perpetrators of crime will be assessed during legal proceedings based on the “prevailing hegemonic scripts of masculinity” (Comack and Balfour 2004: 35). The way in which we think about class and race, and societal stereotypes based on these constructs, also form how legal methods are used in criminal cases. As such, the law does not achieve an absolute truth based on what happened during the commission of a crime: it is a “contested terrain on which various discourses operate to produce and reproduce certain claims to ‘truth’” (Comack and Balfour 2004: 31). Therefore, as Comack and Balfour argue, these discourses in turn construct “gender, race and class inequalities” (2004: 31).

The law produces meaning and language regarding activities that are deemed illegal. Interestingly, research has exposed how the law has excluded women as even being capable of sexual abuse until 1983 (Nelson 1994). For example, the *Criminal Code of Canada (CCC)*, in defining rape, only listed women as offenders if they participated in a rape alongside a male perpetrator (Denov 2004; Nelson 1994). Furthermore, until 1986, there were strict conditions for finding a female guilty of a sexual incest (Nelson 1994):

“where a female person is convicted of an offence under this section and the court is satisfied that she committed the offence by reason only that she was under restraint, duress or fear of the person with whom she had the sexual intercourse, the court is not required to impose any punishment on her” (*Tremear’s Criminal Code* 1983: 77). The law has changed, and the vocabulary surrounding sexual offenses has allowed individuals regardless of gender to be charged with sexual crimes or be considered as potential victims. This is due to the implementation of gender neutral wording within legal documents such as the *CCC*. For example, section 155 with regards to incest now reads: “No accused shall be determined by a court to be guilty of an offence under this section if the accused was under restraint, duress or fear of the person with whom the accused had the sexual intercourse at the time the sexual intercourse occurred” (*Criminal Code of Canada* 2009).

While at the outset it would appear that the law is just and objective in exercising legal authority when it comes to violations of the law, a glimpse into the actual facts of legal proceedings and legal discourse may reveal otherwise, which the following literature demonstrates. The literature shows that when it comes to legal proceedings and handling of legal cases, women are often treated differently than men, and the language used actually upholds traditional sexual scripts.

The Law and Sexual Scripts

Re-aligning sexual scripts, as well as minimizing sexual offending by females, has been documented in a study conducted by Denov (2004) exploring professionals’ and victim perspectives on females who sexually offend. Denov found that both police

officers and psychiatrists who responded to incidences involving female-perpetrated child sexual abuse contributed to a “widespread denial of women as potential sexual aggressors” (Denov 2004: 175). In addition, police, psychiatrists, and victims re-aligned female sexual offending into traditional sexual scripts, by claiming women are “harmless” or “not ‘real’ women” (Denov 2004: 75).

Denov (2004) conducted semi-structured interviews with 23 police officers from a Canadian police department, and 10 psychiatrists from two Canadian hospitals and a private practice. Police officers and psychiatrists were asked questions relating to the investigations of sexual abuse allegations, training procedures, and questions directed at professionals’ own experiences working with victims and/or perpetrators of female sexual offenders. Twelve victims of female sexual abuse were also interviewed with an emphasis on biographical factors, such as histories and victimization. Results of the study reveal that both the ‘informal’ (“storytelling” and “informal exchanges”) and the ‘formal culture’ (consisting primarily of training and structural procedures within police and psychiatry professional organizations) influenced the way in which police and psychiatrists view sexual offending. Denov (2004) found that police and psychiatrists placed female offenders into specific categories which reflect traditional sexual scripts that exist in society. Professionals would minimize female sexual offending as ‘harmless’ and ‘not dangerous’ – even though there was an acknowledgement that the sexual offense indeed took place. In addition, professionals constructed cases of female sexual offending in which male victims were ultimately the ones responsible for their abuse in cases of heterosexual female sexual abuse. Professionals viewed sexual assault by a woman as simple consensual activity between a man and a woman.

Denov (2004) found that procedures within the professional organizations observed were also focused primarily on males as sexual offenders and females as victims. Denov analyzed police and psychiatry organizational policies. For example, the *Crime Analysis Report* must be completed by police officers following an investigation of sexual offending. The *Diagnostic and Statistical Manual of Mental Disorders IV* (DSM-IV) is used to clinically evaluate clients. Denov found that the *Crime Analysis Report* employs categories to describe victims using checklists such as victim dress, including primarily 'female' characteristics (such as bra, dress, skirt). Furthermore, within the DSM-IV, clinical diagnostic definitions describing those with sexual tendencies toward children were primarily listed in male terms, excluding the possibility of women as offenders. For example, in gaining access to potential victims, the DSM-IV describes individuals with pedophilia who may obtain trust from the mother of the child through marriage, for example. This indicates that the perpetrator is portrayed as a man, while women are portrayed as the children's primary guardians. Denov states that "the invisibility of women as potential sexual offenders within the DSM-IV is a reflection of psychiatry's reliance on traditional sexual scripts and broader cultural notions of females as sexually passive and harmless" (2004: 106).

Research has documented that when it comes to sexual offenses committed by a woman against a male victim, it is often trivialized as the achievement and acting out of a 'male fantasy,' or being 'seduced' by a female (Nelson 1994). For example, research by Nelson (1994) analyzed 1335 police reports to a Canadian police department of allegations of sexual abuse. She conducted content analysis of reports of female offenders between the years 1980 to 1985. A total of 98.7% of the cases involved male perpetrators.

The remaining 1.3% (n=17) cases involved reports of female sexual offenders. Nelson (1994) compared complaints of a sexual assault by a female babysitter against a five-year old boy and his infant brother, by looking at the victims' mother's demands for police intervention and the actions by police. Contrary to the mother's demands, charges were not laid against the babysitter, even though the accused admitted to touching the five year-old boy's penis, taking off his pants, and tongue-kissing him (Nelson 1994: 74). Nelson (1994), in speaking with police officers in charge of the investigation, was told: "Shit, I wish someone that looked like her (the babysitter) had sexually abused me when I was a kid" (p. 74). Another officer stated: "The kid's mother is overreacting because someone popped her kid's cherry. Hell, it's every guy's dream" (p. 74). Nelson (1994) appeals that incidences such as this may prohibit society, and especially legal professionals, from seeing males – even young ones – as potential victims of sexual offenses committed by females, due to our conceptions of male versus female sexuality. These conceptions skew our notions of what is considered as sexual assault and thus worthy of intervention. Further research is necessary to determine whether these ideologies are shared among police officers, and whether both young victims (i.e., pre-pubescent) and teenage victims of female sexual abuse are trivialized in the same ways as Nelson (1994) suggests.

Comack and Balfour (2004) conducted research on violent criminals, and found that lawyers constructed their cases based on stereotypical masculinities and femininities. The authors studied 90 violent crime cases that appeared before the Manitoba Court of Queen's Bench that took place during the years of 1996 to 1999. Case files included police reports and notes, court transcripts (such as bail, plea, preliminary hearing and

sentencing), Crown and defence notes surrounding the cases, psychological assessments, and case law and appeal court decisions. The authors conducted an extensive content analysis of these documents. Comack and Balfour (2004) also interviewed 12 criminal defence lawyers, in which they were given hypothetical police reports and were asked to discuss the techniques they would use to process the police complaints. The authors contend that the Crown and defence lawyers operate under the assumption that male aggression is acceptable in society – or something that males just ‘do.’ This reinforces the notion that violence and aggression amongst males is simply ‘typical’ male behaviour. Lawyers construct their cases in which this ‘male aggression’ is normalized.

When individuals commit violence deemed ‘abnormal’ or outside masculine scripts, psychological reasoning is used to explain the crime. For example, when it comes to a serious violent crime committed by males, the courts often rely upon psychological and/or psychiatric assessments to explain the violence. Comack and Balfour (2004) argue that while this may differentiate the offenders from other ‘normal’ criminals, the perpetrators are “expected to take what’s coming to them “like a man”” (p. 61). Women, on the other hand, are treated as an “anomaly” (p. 62) when they commit violent crime. They are seen as “betraying” their gender and acting out “masculine scripts” (p. 61). As such, defending a violent criminal female is often based on her stereotypical “femininity” (p. 62).

Comack and Balfour (2004) found in their research that defence lawyers find it easier to construct their cases when women are accused of violent crime. They “successfully use a woman’s history of abuse to mitigate her culpability” (p. 64). In addition, violence committed by women is often sensationalized due to its perceived

'rarity' and public pressure may play a role in tough sentences for women. When abuse is not found to be a factor in women's lives who commit violent crime, stereotypical femininity is played upon by the defence and Crown lawyers when constructing their cases. The defence often portrays the woman accused as a good person who is deserving of a lighter sentence. The Crown, on the other hand, takes the opposite approach, and paints a picture of a "cold and calculating" or "evil" (p. 72) woman, opposing the stereotypical notion of women as passive and caring.

Smith and Kimmel (2005) analyzed six gender discrimination court cases at the U.S Supreme Court level in order to examine the gendered nature of U.S. law. The research shows that gender discrimination cases allow for multi-faceted definitions of femininity, while at the same offer a strict definition of masculinity. Employees who are "differently situated" and challenge stereotypical notions of gender do not have equal access to the law as a result (p. 1829). The authors argue that the courts use stereotypes involving masculinity to frame discrimination cases. This involves both women and men being accountable to a male norm of hegemonic masculinity.² Hegemonic masculinity "is deployed coercively against gender-nonconforming men and comparatively to maintain socially created differences between women and men as natural and therefore legitimate" (Smith and Kimmel 2005: 1831). By looking at six landmark cases, the authors argue that upholding hegemonic masculinities within court proceedings is detrimental to both men and women.

² Smith and Kimmel (2005) define hegemonic masculinity as "the ideal form and is considered to be the most respected, desired, and dominant within a society" (2005: 1831). For an in-depth discussion on hegemonic masculinity, refer to the section titled, "Hegemonic Structural Order" in the theoretical perspectives chapter, (Chapter 3), starting on page 56.

Smith and Kimmel (2005) describe traditional masculinity is premised on the following:³ “the relentless repudiation of the feminine;” “masculinity implies wealth, power, and status;” masculinity also involves “emotional impermeability, inexpressiveness, and reliability in a crisis;” and “daring, risk taking, and aggression” (p. 1830). They state that in certain cases where men filed same-sex sexual harassment complaints, their ‘masculinity’ was challenged by doing so. They were not seen as ‘real’ men as the reasons for their complaints were justified. They did not act in accordance with society’s conception of masculinity. For example, in the *Goluszek v. H.P. Smith* (1988) case, Goluszek filed complaint charges with his employer against his fellow employees. Goluszek was the victim of sexual harassment at the workplace. He constantly heard comments about his inability to find a female sexual partner and was labeled a homosexual. Finally, he was fired due to tardiness and missed work. His complaints were ignored. When Goluszek sued for sexual harassment, the case was thrown out. Smith and Kimmel (2005) argue Goluszek was considered to be “insufficiently manly” by his co-workers, and ultimately the courts, and therefore he was not granted protection from sexual harassment (p. 1845).

In their study, Smith and Kimmel (2005) also explore ways in which legal professionals approach sexual harassment cases involving female complainants. They found that women are often constituted as opposite to men – “what they are *not* is what men *are*” (Smith and Kimmel 2005: 1834). For example, in the case *Price Waterhouse v. Hopkins*, Hopkins filed sex discrimination charges after being refused a partnership in the firm. While she was one of the best candidates – she was also the only woman.

³ Smith and Kimmel (2005) rely on Brannon and David’s (1975) codes of traditional masculinity to inform these classifications of masculine gender stereotypes.

Justifications for the refusal, revealed during court proceedings, were centred on the fact that Hopkins did not act feminine enough and was 'macho' due to her unassertiveness. Essentially, she was labeled as being 'masculine.' Smith and Kimmel (2005) state that "as long as traits, attitudes, and behaviors are coded as gendered, then women who are "too masculine" and men who are "not masculine enough" will be negatively valued" (p. 1838).

Discursive Event: Media Reporting

The following section examines the news media, and reveals how, similar to the law, the news media uphold stereotypical conceptions of gender. The following section also incorporates social constructionism in order to show how media formulates news stories and to show the close relationship between law and media.

News Media's 'Objectivity'

Research has described how the news media and journalists attempt to remain neutral and objective in their reporting of stories (Crenshaw 1996; Ericson, Baranek and Chan 1991; Gans 1979; McManus and Dorfman 2005). Implicit within reporting are social values that are translated and reproduced among news stories (Pritchard and Hughes 1997). Thus, the 'experts' who are supposed to remain value-neutral in the media, such as reporters, formulate news stories based on subjective meanings that are applied to social events. This 'objectivity' is seemingly realized by reporting on both conflicting sides of the story and also by having journalists and news agencies remove their personal values and opinions from the story (Crenshaw 1996; Gans 1979). However,

most often the journalist's or news agency's social values enter into news accounts indirectly.

Researchers point to the fact that news stories are based on the maintenance of social order (Altheide 2003; Ericson et al. 1991; Gans 1979). Altheide (2003) examines the media in producing a discourse of 'fear' when it comes to crime. Crime is most often equated with 'violence' in order to maintain an entertaining format. However, this results in many social consequences. The rarer crimes, or non-typical criminal events, are often construed as a social reality, while the mundane criminal occurrences receive less reporting (Altheide 2003). For individuals, "the mass media in general, and the news media in particular, are a 'window' on the world" (Altheide 2003: 17). The media is a frame of reference in which individuals interpret their social realities (Yanich 2004).

Pritchard and Hughes (1997) conducted research to determine the decision-making factors of journalists that contributed to the 'newsworthiness' of stories involving homicide. The authors collected police and court documents, newspaper articles, and interviews with police reporters to determine what warranted news coverage for particular homicide cases. Pritchard and Hughes (1997) found that "race, gender, and age of homicide participants (especially victims) were the strongest predictors of newsworthiness" (p. 63). Specifically, the authors found that status deviance (the difference in one's social status compared to the perceived proclivity for deviance based on that status) and cultural deviance (behaviour that deviates from the cultural norms of healthiness, cleanliness, and normality) most often determined the newsworthiness of homicide stories. Statistical deviance (the unusualness of a story, such as a female perpetrator) was less of a factor in newsworthiness than expected. Interestingly though,

due to female sexual scripts, a woman involved in crime such as homicide is considered 'unusual' and thus classified as statistical deviance. Finally, the authors found that normative deviance (the severity of a criminal act) did not show significance in terms of determining the newsworthiness of a story. With regards to gender, the authors found that stories are judged as being newsworthy if they depict women as defenseless victims. This is because of the culturally-defined sexual scripts surrounding women as vulnerable and nurturing.

However, these results have demonstrated issues with the news coverage of female sexual offender cases. Frei (2008) critically examines both the media representations of sexual offenders and literature dedicated to sexual offending and media representation. Frei (2008) states the findings show how cultural and social norms primarily determine news coverage: "journalists were more likely to enhance the newsworthiness of homicide coverage when the victim or suspect was White and when the victims were considered vulnerable (females, children, and senior citizens)" (p. 496). This results in female perpetrators of serious crimes as being seen as "highly 'perverse'" (p. 497).

Newspaper audiences are more inclined to read and absorb information in headlines, rather than the actual text (Franiuk et al. 2008). This occurs based on the fact that individuals more often read the appealing and catchy headlines of articles first and only then portions of the actual article. Franiuk et al.'s (2008) research shows that the headlines actually mislead readers. By consuming only the headlines and not the text, even after reading the text people may have misinterpreted the meaning behind the article based on the alluring headline.

Research has addressed the presence of societal conceptions toward sexual assault by examining headlines in news reports. Franiuk and colleagues (2008) studied ‘rape myths’ by conducting a content analysis of newspaper reporting surrounding a popular sexual assault case in the U.S. (National Basketball Association’s Kobe Bryant accused of sexual assault during 2003-2004). Generally, they argue rape myths are defined as “generalized and false beliefs about sexual assault that trivialize a sexual assault or suggest that a sexual assault did not occur” (Franiuk et al. 2008: 790). The authors found that 10% of the newspaper headlines supported rape myths due to the language used. Furthermore, the researchers exposed both male and female (N=154) participants to newspaper headlines that either used language that supported rape myths or to headlines that did not use such language.

Findings show that the male participants in the study who read headlines containing rape myths were not as likely to think Kobe Bryant was guilty. They also held attitudes supportive of rape more often than women also exposed to headlines supportive of rape myths and those who read headlines that did not support rape myths. The research points to the fact that rape myths reinforce stereotypes of men and women. Franiuk et al. (2008) contend that “rape myths perpetuated in the media are a reflection of women’s inferior status in our culture and our culture’s defensive reaction to a heinous crime” (p. 798).

Cheit (2003) conducted a study examining the newspaper reports of child molestation cases that were published in a Rhode Island paper from 1993 to 2001. Cheit sought to understand the extent and nature of the newspaper coverage surrounding child molestation cases. He compared newspaper reports to police cases of child molestation.

Cheit (2003) found that out of all the police-reported cases of child molestation (n=187), only slightly more than half of those cases were covered in the newspapers (56.1%). The ‘newsworthiness’ of a child molestation case typically involved the “bizarre and the unusual” (p. 616). Typical news cases involved strangers versus known individuals to the victim and defendants who received long sentences. None of the stories in the news were cases involving incest, regardless of the fact that documented family members were the majority of child molestation perpetrators.

While Cheit (2003) did not include a discussion with regards to the gender of child molestation perpetrators in this study (Frei 2008), this work has important implications for the current study. Previous research has alluded to the fact that female perpetrators of child sexual abuse constitute “strange” and “unusual” cases. They become worthy of news coverage because these are not ‘typical’ events according to sexual scripts surrounding femininity. On the other hand, familial abuse stories, which make up the majority of child molestation cases, and even more specifically, female sexual offender cases, are rarely reported in the news. Most often, cases of female sexual offending often involve ‘titillating’ accounts involving an older, attractive female in a position of power (such as a teacher) who seduces a young, willing adolescent male (Frei 2008).

The Relationship between Law and News Media

Research has called attention to the relationship between media reporting and the law (Best 2008; Crenshaw 1996; Ericson et al. 1991). This is particularly important for this thesis as the media and the law can influence each other, especially with regard to

upholding societal conceptions of gender. This may impact individuals' perceptions of child sexual abuse by to female sexual offenders. The following will offer a brief discussion of the relationship between the law and news reporting. Examples from the literature will be used to demonstrate this close relationship.

The literature states that the law is entrenched within the social order of things (Crenshaw 1996; Ericson et al. 1991). In other words, the social order entails a legal structuring. The news media discursively maintains this order by reporting on deviations from the law. Furthermore, the news has the unique opportunity to translate legal proceedings into resources available to the public: “[news] media (re)produce the law’s ordering practice by transforming its discourse into a form accessible to people outside the legal community (Crenshaw 1996: 171).

Research highlights the many similarities between the law and news media. First, both provide “authoritative imprints of order” (Ericson et al. 1991: 7). Foucault (1977) describes disciplinary power of institutions, and states “[t]he perpetual penalty that traverses all points and supervises every instant in the disciplinary institutions compares, differentiates, hierarchizes, homogenizes, excludes. In short, it *normalizes*” (p. 183). This is important, as while the law provides justice when it comes to deviations from the societal structure, the news media substantiates the law by reporting on these deviations. The law provides legal penalties while the news media provides social penalties to deviations from the structural order. Ericson et al. (1991) describe this process by the law and media as “policing” – which “fosters a perpetual public conversation about what institutional arrangements are most appropriate” (p. 7). Ultimately, policing is based upon

social mores and how to construct news and laws based on what society deems as deviant.

Social constructionism is useful for this project to further contextualize the role the media play in constructing our social realities. Joel Best (2008) describes social construction as “the way people assign meaning to the world” (p. 11). Social constructionism posits that individuals who assign meaning are “claimsmakers” (Best 2008: 15). Claimsmakers reveal social issues occurring in our social world. In this thesis claimsmakers can be understood as legal officials and/or news journalists.

Scholars have described the construction of social issues as occurring through a natural history of stages (i.e., see Blumer 1971; Spector and Kitsuse 1977). Joel Best (2008) summarizes this natural history of social issues into six stages. This summary helps contextualize the close relationship between the law and the media. The first stage that occurs in social constructionism is ‘claimsmaking.’ This involves identifying a social issue and revealing its “characteristics, causes, and solutions” (Best 2008: 19). Claims are “arguments...[or] efforts to persuade others that something is wrong, that there is a problem that needs to be solved” (Best 2008: 18). Individuals involved in this stage of the natural history of social issues are authoritative ‘experts’ or social activists concerned with a social problem. Second, the constructionist process involves extensive media reporting on the issue. This is achieved so the social issue can be brought to the attention of a larger audience. The third stage involves “public reaction” (Best 2008: 19). The public reaction to the issue informs authorities and claimsmakers in their opinion toward the issue, and whether it should be further addressed in the fourth stage of policy-making. Policy-making attends to the social problem through legislative changes, for example.

The fifth stage in social constructionism involves “social problems work” (Best 2008: 22). The theoretical issues inherent to the social problem are addressed on a more practical level here. For example, school systems may implement educative policies to inform students about the social problem and how to confront it. Finally, the sixth stage in the natural history of social problems is “policy outcomes” (Best 2008: 22). This involves a critical analysis of the effectiveness of the policy related to the issue and the successes and downfalls in addressing the social problem.

Both the law and media operate from a realist standpoint: information conveyed is *the* truth. They both speak to how the world *should* be, and reproduce and maintain the social order. Individuals thus shape their worlds based on the messages conveyed through the law and the news media: “[t]hrough repetitive formulas and ritualized texts, precedent literally ‘brings home’ a familiar discourse that people feel comfortable with and incorporate as a significant part of everyday life” (Ericson et al. 1991: 10-11). Although there is an attempt made to remain objective in reporting, the discourse used in the media represents the broader social order. Reporting the news is anything but unbiased.

Research has acknowledged that news media may impact our perceptions of child sexual offenders (Gavin 2005). Gavin (2005), in his research on perceptions of male sexual offending, notes that male sexual offenders are more often labeled as “evil” in the media. This in turn impacts individuals’ notions of male sexual offending. It feeds into the perception that sexual offenders are violent stalking strangers who prey upon vulnerable females. As part of his research, Gavin (2005) asked twenty participants to indicate their largest influence on perceptions of sexual offending. Results showed that

newspapers (compared with parents, television, peers, or ‘other’), were most often chosen by participants.

Other research has highlighted that female sexual offenders are labeled, for example, as “sex mad” or “temptresses” (Soothill and Walby 1991). Social order is maintained through the media portrayals of sexual offenders. Although the reality is that sexual offenses are committed mostly by acquaintances or family members and violence may not be used in all cases of sexual abuse, the discourse surrounding news reports is that sexual offending consists of a violent male offender against a female victim unknown to the perpetrator. Thus, the media, which informs law and policy, applies social norms to events by examining each specific news worthy incident or event that requires judicial intervention.

Crenshaw (1996) has examined the relationship between the law and media as working together to uphold patriarchal ideals, by looking at both legal proceedings and mass media reporting in the *Johnson Controls* case. Crenshaw examines the fact that women are treated as the ‘other’ when it comes to a male standard, as exemplified through discourse related to the case. The *Johnson Controls* case occurred in 1982, where a company specializing in battery production excluded “women capable of bearing children” (Crenshaw 1996: 171) from participating in jobs that could potentially expose them to lead. However, in 1991 the Supreme Court ruled that this case violated sex discrimination laws, and thus the *Johnson Controls* policy was repealed. Crenshaw (1996) highlights that while the Supreme Court decision has the appearance of favouring women and attempting to eradicate sex discrimination in the workplace, the reasoning behind the Supreme Court decision was based on a male standard.

For example, the court argued that women are like men because both men and women have the capacity to effectively manage reproduction. Furthermore, arguments centered on the fact that women are “individuals” as are men (pp. 176-7), which, Crenshaw argues, ultimately denies gender differences due to the fact that women, unlike men, have the capacity to become pregnant. In addition, arguments were made surrounding the potential lawsuits that pregnant women (and not men or non-pregnant women) may launch due to lead exposure and fetal harm at the battery corporation. Newspaper reports surrounding the case contained stories that constructed the *Johnson Controls* case as a conflict between fetal risk protection and equality in the workplace. But this could not occur simultaneously. Crenshaw (1996) states that the courts produced patriarchal arguments by presenting males as the norm to which females were measured. He also notes that the news reproduced these ideals, by citing ‘authoritative’ individuals who were the “most dominant and vocal” (Crenshaw 1996: 182). Yet, the *Johnson Controls* case calls for an evaluation of workplace policies that would allow the interests of women to be incorporated. As such, Crenshaw (1996) exposes how discourse surrounding the legal proceedings and newspaper reports both worked together to discursively maintain the patriarchal ideal that the male is the standard, and to which women should be judged and treated as an ‘other.’

Conclusion

The literature related to female sexual offending is extremely limited. Research acknowledges that the relatively few studies that do study female sexual offending take into account “very obvious gender dimensions to child sexual abuse” (Nelson 1994: 64).

Research has begun to acknowledge that the social and legal responses to female sexual offending are largely based on societal expectations of gender. It is important to acknowledge that both the law and media work together in substantiating, reproducing, and maintaining patriarchal values and upholding societal conceptions of gender. This thesis examines both court transcripts and electronic news reporting of criminal cases in order to address this relationship. With reference to sexual offending, Nelson (1994) states:

the ‘typicality’ or non-typicality of an allegation of child sexual abuse may have profound implications for the assessment in terms of its veracity, severity, the assumed motivation for the offence, the “dangerousness” of the alleged offender and for its case management by agents and agencies mandated to respond (p. 63).

Due to societal conceptions of femininity and the maintenance and reproduction of sexual scripts in social institutions, female sexual offenders are certainly anything but ‘typical.’ Discourse surrounding these cases may be significant in the portrayals of offenders as deviating from social expectations of gender.

This literature review demonstrates how sexual scripts may be reproduced through legal proceedings and/or media reporting. Furthermore, links to social constructionism show the relationship between the law and media in substantiating claims relating to the maintenance of the social order (Best 2008). Messerschmidt’s (1993) structuration theory of crime guides this thesis, which contends crime and the way crime is responded to and justified operates in a dualist structure. This dualist structure involves social institutions such as the law and media, and individuals, which together reproduce socially expected constructs of gender, race and class. Literature on sexual

scripts and social constructionism in this literature review chapter have helped to show this dualist structure. However, it is important to conduct a thorough analysis of theories that lay the foundation for Messerschmidt's (1993) theory of structuration of crime.

Chapter 3 discusses in detail the theoretical perspectives used to guide this research. This will help offer explanation as to why sexual scripts are used to constitute individuals, especially when it comes to female sexual crimes. Theories, concepts, and their link to female sexual offending and sexual scripts are provided.

Chapter 3

Theoretical Perspectives

Introduction

In terms of theorizing female criminality compared to male offending, it is acknowledged that “we have no ways of conceptualizing violence by women except in terms of its ‘unnaturalness’” (Shaw 1995: 122). The same ideology can be applied to crimes committed by women of a sexual nature: the difficulty arises in that female sexual offending contradicts stereotypical notions of femininity.

This thesis is an analysis of gendered processes at work when it comes to constituting female child sexual offenders. This chapter lays the theoretical groundwork for understanding the social processes at work, based on societal expectations of gender, that constitute individuals certain ways when it comes to crime. Furthermore, these various theories support James W. Messerschmidt’s (1993) structuration of action theory. The various perspectives show that gender operates at both the broader social structural level (through institutions such as the law and media) and at the individual level where gender is a social ‘performance’ or ‘display.’ This gender performance ultimately impacts behaviour and how we constitute⁴ individuals, which thus has an impact on how we interpret criminal events; and more specifically, how we constitute female child sexual offenders.

In order to understand gendered processes as they relate to the analysis of crime, it is important to combine macro-level analyses with theories at the micro-level to understand these complex processes. Messerschmidt uses structuration of action in order

⁴ The term ‘constitute’ refers to our social depictions and representations of individuals.

to explain the relationship between human action and societal structures, and looks at how gender, race and class operate at both these macro and micro levels.

This chapter examines Messerschmidt's theory of structuration of action, along with a reliance on other important theorists that Messerschmidt uses to fully understand gendered processes as they relate to criminal events. Specifically, this thesis will rely on the following fundamentals to Messerschmidt's theory: Anthony Giddens's (1984) structuration theory; Erving Goffman's (1959, 1976) theory of gender and social interaction; Antonio Gramsci's (1971) theory of hegemony; Connell's (1987) extension of Gramsci's theory to include 'hegemonic masculinity' and 'emphasized femininity'; theories relating to John Heritage's (1984) social accountability; and theoretical research on sexual scripts.

Messerschmidt's analysis takes into account the limitations of criminological theories in explaining crime.⁵ These limitations include a reliance on androcentricism for explaining criminality and biological reductionism. Furthermore, these theories focus on either factors at the micro-individual level, or on factors at the macro-level, rather than both. Messerschmidt attempts to overcome the limitations of these theories by looking at crime as structured action involving gendered, racial, and classed processes at both the individual and social structural levels.⁶

Structuration of action provides an appropriate analysis of gender. This perspective views gender as operating in a dualist structure consisting both of human

⁵ Please refer to the following research for an in-depth discussion of various criminological theories: Agnew 1992; Broidy and Agnew 1997; Becker 1963; Cohen 1955; Gottfredson and Hirschi 1990; Hagan, McCarthy and Foster 2002; Harris 1977; Lemert 1967; Merton [1938], 1969; Steffensmeier and Allan 1981; Sutherland 1947; Turk 1969; Wilson and Herrnstein 1985.

⁶ The following scholars offer critiques of these theories in relation to gender: Chesney-Lind 1989; Messerschmidt 1993; Morris 1987; Naffine 1987; Schur 1979.

action at the micro-level and social structures at the macro-level. This is especially useful to the current project as this approach can help to contextualize the discursive positioning that may occur in criminal sexual offender cases. The discourse surrounding female child sexual offender cases may exemplify overall societal conceptions of femininity; conceptions that are upheld at the macro social structural level and at the individual micro level. Messerschmidt's theory of structured action looks at criminals as being constituted based on these social conceptions.

The following sections within this chapter outline the main tenets of Messerschmidt's (1993) structuration of action theory, and also relies on other theorists in order to fully illustrate how gendered practices structure our conceptions of criminality.

Structuration of Action

Anthony Giddens's (1984) structuration of action theory outlines how individuals' behaviour is shaped by both social institutions at the structural level and by individuals. This dualism determines action that is socially acceptable and how we should act and respond to behaviour. James Messerschmidt (1993) uses Giddens's (1984) theory of structuration as a framework for understanding criminality as it relates to gendered practices. This is useful for this thesis as female child sexual offending may be constituted in ways reflective of societal conceptions of femininity. Before embarking on an analysis of Messerschmidt's theory of structuration as it relates to gender, race and class, the foundational concepts of Anthony Giddens's (1984) theory of structuration will be outlined.

The theory of structuration was developed in order to understand “the nature of human action, social institutions, and the interrelations between action and institutions” (Bryant and Jary 1991: 201). Giddens is critical of both structuralism and theories of action. Structuralism overlooks the agentic nature of social interaction as it views these relationships as a “mechanical outcome” rather than a product of “active subjects” (Bryant and Jary 1991: 7). Furthermore, theories of action do not consider the role structures play in shaping, or “enabling” human action (Bryant and Jary 1991: 7). Therefore, Giddens’s theory of structuration is an attempt to overcome these limitations by looking at how social practices are shaped by both agency and social structures (Seidman 2004). More specifically, structuration of action explains how individuals, or social “actors,” *create* social systems while simultaneously are *created by* social systems.

Giddens states that individual’s agency stems from their “capacity to understand what they do while they do it” (1984: *xxii*). Giddens emphasizes that individuals have a “reflexive form of knowledgeability” which shapes their practices (1984: 3). This “reflexivity” refers to the capacity for individuals to socially monitor human action – which requires rational cognition of social practices as they are “ordered across space and time” (Giddens 1984: 2). This involves both self-monitoring and the monitoring of others’ behaviour.

Giddens states that the knowledgeability of human actors depends upon “practical consciousness[:]. . . all things which actors know tacitly about how to ‘go on’ in the contexts of social life without being able to give them direct discursive expression” (1984: *xxiii*). Essentially, individuals are aware of both “rules” and “resources” that comprise social structure, which individuals use as a frame of reference for shaping their

actions. Rules are the axiomatic social procedures of everyday life, whereas resources relate to elements of social life that enable the actor to carry out social action.

It is in this sense that Giddens talks about human action as operating in a dualism – or a “duality of structure” (1984: 25). He states that “the structural properties of social systems are both medium and outcome of the practices they recursively organize” (1984: 25). Therefore, social structure is internalized within individuals – which in turn both constrains and enables human action. This relationship between action and structure is highly changing and dynamic. When individuals shape their actions, they draw upon social structure, which then reproduces the structure through action. Giddens and Pierson (1998) assert that “we should see social life not just as ‘society’ out there or just the product of the ‘individual’ here, but as a series of ongoing activities and practices that people carry on, which at the same time reproduce larger institutions” (p. 10).

Giddens’s work is important as it shows the relation between elements such as behaviours, ideals, and norms and the broader social structures in which these elements are produced and reproduced. Furthermore, it demonstrates that these elements are also reproduced by individuals at the micro-level, and the production of these is dependent on the dualistic nature of both social institutions and individuals. Messerschmidt extends this structuration theory to include gender, race and class in his analysis of crime. He looks at how gender is a social performance shaped by social institutions at the structural level, and also at the individual level. Gender conceptions are thus produced in a dualism through social structures and individuals. Gender is looked as a situational accomplishment: one way for males to achieve their status as ‘men’ may be through crime. Gender conceptions also ultimately affect how individuals experience the criminal

justice system. Female child sexual offenders go against sexual scripts, which may have an impact on how they are constituted as offenders. The following section will outline Messerschmidt's theory in more detail.

Crime as Structured Action

Messerschmidt (1993) extends Giddens's (1984) structuration of action theory to the study of crime. Specifically, Messerschmidt (1993) looks at how gender, race, and class operate through crime, while at the same time are constrained and enabled by broader social structures. For the purposes of the current project, I will rely on Messerschmidt's analysis of gender.

Messerschmidt states that "structuration of action theory emphasizes the construction of gender as a situated social, interactional, and embodied accomplishment" (2004: 35-36). He emphasizes the dualist operation of gender, race, and class practices. Social structure is defined as "regular and patterned forms of interaction over time that constrain and channel behavior in specific ways" (Messerschmidt 1993: 63). Therefore, human action depends on the social structures that exist to determine behaviour, ideals, and norms. Furthermore, social structures "are realized only through social action" (Messerschmidt 1997: 1143). These interactions between human action and social structures mutually constitute each other, thus operating together in a dualist structure.

Relating to gender, Messerschmidt (1993) describes how existing categories of sex depend on specific societal circumstances that influence how these categories are interpreted and communicated. While individuals possess physical traits (one's sex) that are used by society as a reference to determine if they are 'male' or 'female,'

Messerschmidt looks to the socially constructed behaviours of femininity and masculinity and examines how *sex* and *gender* are related. He explores how individuals conform to their biologically determined sex by performing a number of social acts – such as gender-conforming dress, gait, speech, and so on. These performances, or gender ‘practices’ and the way in which individuals conform to their sex are based on social and historical conditions.

Due to societal conceptions of gender, individuals who do not embody ‘masculine’ or ‘feminine’ behaviour according to their biological sex, may not be seen as ‘accomplishing’ their gender. Relating to this thesis, females who sexually abuse children may be constituted differently compared with males, because females who offend counteract their sexual scripts.

In order to contextualize gender as an ‘accomplishment’, this thesis will rely on the work of Erving Goffman (1959), who theorized gender as being a social ‘display.’ The following section will analyze Goffman’s theory in more detail.

Gender Display

In order to better understand gender as being a ‘performance’ or ‘social construction,’ my research relies on Erving Goffman’s (1959) analysis of social interaction. Messerschmidt uses theorists such as Goffman in order to understand the gendered processes that occur when it comes to criminality. Messerschmidt, unlike the sex-role crime theorists, argues crime does not occur based on one’s gender. However, it is one’s *gender performance* based on social standards of gender that may contribute to the commission of crime, and how the crime is socially understood and justified. This

project focuses specifically on how crime is understood, and responded to, when the perpetrator has not only offended against the law, but against sexual scripts, such as female child sexual offenders. Erving Goffman (1959; 1976) along with West and Fenstermaker (1995) help to contextualize gendered processes. Goffman explains how individuals shape their actions and understand others' actions based on standards of what is acceptable in terms of acting out one's femininity or masculinity.

Goffman explores the specific "social situations" in which individuals engage in interaction (1976: 1). Goffman regards these social situations as "physical arenas anywhere within which persons present are in perceptual range of one another, subject to mutual monitoring – the persons themselves being definable solely on this ground as a 'gathering'" (1976: 1). The idea of 'mutual monitoring' is important. Goffman contends that during interaction within social situations, "small-scale spatial metaphors" are used to demonstrate the overarching social hierarchies that exist (1976: 1). These metaphors can be better understood in this thesis as sexual scripts, or expected gender roles.

Social interaction involves "idealized" representations of how individuals should act (Goffman 1976: 1). Thus, contrary to assumptions that individuals are interacting with 'natural' expressions or "essential natures" (1976: 3), Goffman theorizes that individuals actually interact through "perfunctory, conventionalized acts" (1976: 1). These acts become 'routinized' and serve as displays to those involved in the process of social interaction. Displays, according to Goffman, "tentatively establish the terms of the contact, the mode or style or formula for the dealings that are to ensue between the persons providing the display and the persons perceiving it" (1976: 1).

How do 'displays' relate to gender? It is presumed one's *gender* is determined based on the physical sex characteristics that an individual is ascribed as being 'male' or 'female' (Garfinkel 1967; Messerschmidt 1997; West and Fenstermaker 1995; West and Zimmerman 1987). This dichotomy presumes individuals will act accordingly depending on their physical sex characteristics of which their gender is derived. In other words, it is assumed that gender is a natural enactment of one's sex characteristics of 'male' or 'female,' or that gender is "an extension of our animal natures, and just as animals express their sex, so does man" (Goffman 1976: 3). Therefore, Goffman states that "if gender be defined as the culturally established correlates of sex (whether in consequence of biology or learning), then gender display refers to conventionalized portrayals of these correlates" (1976: 1). As such, while sex may seem like a 'natural' derivative of physical characteristics, West and Fenstermaker (1995) argue "sex is socially and culturally constructed rather than a straightforward statement of the biological 'facts'" (p. 20).

Those who do not behave according to their biological sex characteristics, or follow the designated gender categories, are considered "scandalous" (Connell 2002: 4). Female child sexual offenders may be constituted differently because they behave contrary to their sexual scripts – which are based on their sex characteristics of being 'female.' Those who do not behave according to their assigned sex, or appropriately display their 'gender' may be considered unnatural and thus constituted differently.

In the next section, I will discuss the importance of social accountability to achieve an appropriate gender display. This discussion will reinforce how standards of behaviour for males and females are maintained and how these are based on social structures and others' perceptions of gender.

Accountability

Although the gender binaries are socially constructed based on physical sex differences, these categories are substantiated through gender-conforming practices (Messerschmidt 1997: 4). This reveals how behaviour is based on societal conceptions of what is and what is not ‘masculine’ or ‘feminine.’ This reciprocity is achieved through the concept of “accountability” (Heritage 1984; Messerschmidt 1997; West and Fenstermaker 1995; West and Zimmerman 1987) which Messerschmidt draws upon to contextualize structuration of action.

Heritage (1984) points to the fact that “ordinary description” is a central focus within our social milieus (p. 137). The simple use of language has profound influence in that “the function of sentences is to express propositions, preferably true ones, about the world” (Heritage 1984: 137). Heritage (1984) reveals that social action – or, for example, the use of language to describe our worlds – depends not only on the individual producing the action, but also that others recognize that social action as significant. Heritage (1984) states “the production of an action will always reflexively re-determine (i.e., maintain, elaborate or alter) the circumstances in which it occurs” (p. 180). Thus, during the process of social interaction, individuals use “ordinary description” (Heritage 1984: 137) in order to characterize themselves and others based on society’s conception of what is ‘normal’ and what is ‘deviant.’ It is in this sense that individuals are ‘accountable’ to the social categories such as ‘male’ and ‘female.’

Scholars note that this notion of ‘accountability’ is contingent on a number of factors (West and Fenstermaker 1995). First, individuals base their actions on the prevailing “normative conceptions,” whether their actions are ‘normative’ or ‘deviant’ (p.

21). The key point is that regardless of the activity, there is an evaluation that takes place based on society's expectations of 'normal' behaviour. Second, this process of accountability takes place during social interaction. Finally, relating to 'gender,' individuals engage in accountability that is not only interactional during social relationships, but also "[reproduces] social structure" (p. 21). In other words, gender "is a feature of social relationships, and its idiom derives from the institutional arena in which those relationships come to life" (West and Fenstermaker 1995: 21).

Messerschmidt (1997) emphasizes the dualist structure in which human activities operate is central to understanding 'gender.' This concept of 'doing gender' that Goffman (1959) introduces as a gender performance/display ultimately involves making a choice to conduct oneself in a manner conforming – or not – to one's gender role, which is dependant on a constant reflection of what is and what is not appropriate behaviour based on one's sex category.

Our conceptions on what is or is not appropriate behaviour based on gender categories, are founded on a structural order. The following section will address this social order by incorporating Antonio Gramsci's (1971) notion of hegemony. This concept is important for understanding how social conceptions of gender are maintained, and rely on both structures and individuals to reinforce these notions of gender and preserve a patriarchal structural order.

Hegemonic Structural Order

This capability to appropriately display gender significantly relies on the status of the individual in specific contexts. Messerschmidt (1993) discusses how the acting out of

one's masculinity or femininity based on societal expectations actually reinforces the overall patriarchal social structure in which males dominate females. Gramsci's (1971) theory of hegemony is important for understanding Messerschmidt's structuration theory with regards to gender. Connell (2002) explains how 'masculinities' and 'femininities' are based on society's popular conceptions of how males and females should think, feel, and act. These 'popular conceptions' demonstrate the overall structural order of societal relations that exist in society. Furthermore, as the ordering of gender expects males and females to adhere to their 'sexual scripts,' as will be further illustrated in this chapter, the concepts of hegemony will lay the groundwork for understanding the discursive maneuvering that occurs when it comes to female child sexual offenses.

In his analysis of class structures in Italy, Antonio Gramsci (1971) employed 'hegemony' in reference to the ascendancy of a social group over another (Connell 1987; Messerschmidt 1993). In general, the term 'hegemony' refers to the *domination* of the economic, political, cultural and social spheres by the ruling groups of society. In their comprehensive critical analysis of Antonio Gramsci's concept of 'hegemony,' Howson and Smith (2008) emphasize that domination is not necessarily achieved through overt mechanisms of physical force and power, but rather through "a far more complex operation of coercion and consensus" (p. 1). In order for social power to be achieved, the ruling class or groups need to incorporate their own culture into that of the dominant culture, which in turn legitimates their ideologies (Gramsci 1971; Seidman 2004). Thus, the ideologies of the ruling class are entrenched within social culture; namely within popular culture (including mass media) (Seidman 2004). Moreover, these cultural ideologies are comprised of social norms and values (Gramsci 1971; Seidman 2004) that

require consensus from subordinate social groups for the ruling groups to achieve social, economical, and political power.

The concept of hegemony is useful for our study of how female sexual offenders are constituted. Hegemony relies on social domination over certain groups in society, namely, males over females. In achieving this power relating to gender subordination, society relies on masculinity and femininity to maintain social ascendancy over girls and women. These categorize men and women into specific gender roles, or sexual scripts, and define what actions and behaviour are appropriate based on society's standards. These scripts ultimately benefit men, and thus place men higher on the social hierarchy.

The following section will explain both “hegemonic masculinity” and “emphasized femininity” in more detail, in relation to Gramsci's notion of hegemony. This will help lay the groundwork for a subsequent analysis of prevailing sexual scripts, which demonstrate social expectations of gender and how they relate to the discursive positioning that may occur when it comes to female child sexual offenses.

Hegemonic Masculinity

The general concept of hegemony developed by Gramsci (1971) is fitting to the overall social ordering of gender. Connell (1987) has extended hegemony to describe ‘hegemonic masculinity’ and ‘emphasized femininity.’ He contends that these are used to structure society with men dominating and women subordinating.

Hegemonic masculinity is defined as “the pattern of practice (i.e., things done, not just a set of role expectations or an identity) that [allows] men's dominance over women to continue” (Connell and Messerschmidt 2005: 832). Connell (1987) emphasizes that

social relations are structurally ordered to allow for this domination of men over women. Essentially, hegemonic masculinity is the “culturally idealized form of masculinity” (Messerschmidt 1997: 9). Hegemonic masculinities relate both to women as being inferior, but also in relation to other ‘subordinate’ males (such as homosexuals). Furthermore, Connell (1987) states that dominant forms of masculinity are “embedded in religious doctrine and practice, mass media content, wage structures, the design of housing, welfare/taxation policies and so forth” (p. 184).

The most hegemonic forms of masculinity are portrayed through, for example, popular culture, in which society correspondingly situates individuals based on the popular portrayals of the masculine form (Connell 1987). Connell (1987) states that “the public face of hegemonic masculinity is not necessarily what powerful men are, but what sustains their power and what large numbers of men are motivated to support” (p. 185). This means that there is not a “total cultural dominance” but a “balance of forces” whereby individuals negotiate gender forms based on popular conceptions and situate these forms in relation to one another (Connell 1987: 184). This involves a sort of “maintenance of practices” to allow for this social ascendancy to continue (Connell 1987: 185). Messerschmidt (1993) highlights that masculinities are characterized by “work in the paid-labor market, the subordination of women, heterosexism, and the driven and uncontrollable sexuality of men” (p. 82). Importantly, he emphasizes that hegemonic masculinities are different from traditional conceptions of “male sex role” – due to the fact that masculinities are subordinated and hierarchically arranged rather than existing as a category of male behaviour.

Emphasized Femininity

‘Emphasized femininity,’ relates to females in that it is the “culturally idealized form of femininity” (Messerschmidt 2004: 42). Emphasized femininity is designed to cater to the desires of men, and more specifically, “all forms of femininity in this society are constructed in the context of the overall subordination of women to men” (Connell 1987: 186-187). Whereas, hegemonic masculinities rely on subordinated masculinities (such as homosexuality) in order to sustain its dominance, femininities rely less on maintaining power relations over other women, and do not subordinate other females to the same extent (Connell 1987). Connell also contends that emphasized femininity is centred upon “accommodating the interests and desires of men” (1997: 183) or simply “compliance” (p. 187). ‘Compliance’ is the *most* idealized form of femininity in contemporary Western industrialized societies. Connell (1987) offers the following as examples of forms of compliance:

[T]he display of sociability rather than technical competence, fragility in mating scenes, compliance with men’s desire for titillation and ego-stroking in office relationships, acceptance of marriage and childcare as a response to labour-market discrimination against women (p. 187).

How is ‘compliance’ promoted? Connell states that the use of media and advertising allows emphasized femininities to be disseminated as cultural ideals relating to gender are overseen by males. Through these media, Connell (1987) states that “[t]here is a great deal of folklore about how to sustain the [feminine] performance” (p. 188).

In Western industrialized societies, as Messerschmidt (2004) contends, heterosexuality is placed above other forms of ‘deviant’ sexualities – and the

‘fundamental indication’ of heterosexuality is the capability to conform to hegemonic masculinity, in the case of males, or emphasized femininities, in the case of females.

Hegemonic masculinities may change depending on the social situation and context in which behaviours occur. However, it is important to emphasize that in no matter the circumstance, “hegemonic masculinities are culturally honored, glorified, and extolled at the symbolic level and through embodied practice” (Messerschmidt 2004: 43). Hegemonic masculinities thus serve to place males above women – and above other subordinate males who do not embody the ideal ‘masculine’ type – on the social hierarchy. As individuals reflect on societal expectations of behaviour which in turn shapes their actions, hegemonic masculinities and emphasized femininities also “shape a sense of reality for men and women” (Messerschmidt 2004: 44).

Messerschmidt’s theory of structuration of action relating to crime provides new insight into the commission of crime as a situated gender accomplishment, as well as how individuals’ actions are understood and conceptualized. This project explores how individuals who commit crime outside their designated sexual scripts are constituted during female child sexual offender cases. Karlene Faith (2003) argues that relying on such constructs of emphasized femininity to explain criminal behaviour “[denies] women’s diversity and [promotes] gender-based objectification and stereotyping” (p. 57). This project focuses on social conceptions of femininity in relation to female child sexual offenses and how these conceptions are portrayed through legal proceedings and media reporting of cases.

The following section will guide this understanding by showing sexual scripts as representative of two distinct gender dichotomies – and if behaviour does not ‘fit’ within

one script, it is perceived to be reflective of behaviour of the other script, which ultimately upholds gender stereotypes of acceptable gender displays.

Sexual Scripts

‘Sexual scripts’ is a term coined by John H. Gagnon and William Simon (1973) Sexual scripts are “dramatic, performed, improvised, [and] created through all the arts and skills of symbolic interpretation and presentation” (Plummer 2005: *xiv*). Scripting theory attempts to quash popular conceptions of sexuality and gender. Gagnon and Simon explore the “informing imageries” (2005: 1) or meanings behind our cultural understandings of sex and gender. These cultural understandings cause us to perceive “our hunting-gathering natures are the central themes around which modern men and women must organize their marriages and reproductive lives” (Gagnon and Simon 2005: 2).

Social expectations of female gender roles cause women to be expected to conform to their expected femininity or ‘sexual scripts’ (Banning 1989; Byers and O’Sullivan 1998, Denov 2003a, 2001; Ford 2006). These scripts involve women as being “nurturing, protecting, caring, nonaggressive, and nonsexual” (Denov 2003a: 308). Women are expected to be sexually passive - which thus excludes an image of females who are sexually deviant (Byers and O’Sullivan 1998; Denov 2001). In fact, women are expected to be “unassertive...[women] protecting worth to [their] sexuality” (Byers and O’Sullivan 1998). Women are only expected to respond to men’s desire for sex, rather than initiate it themselves (Denov 2003a, b; Ferguson and Meehan 2005). Therefore, women are perceived to be sexually non-violent and non-coercive (Dhaliwal et al. 1996;

Ferguson and Meehan 2005).

Conversely, male sexual scripts embody males as being “active, persistent and powerful” (Hird 2002: 44). As such, hegemonic conceptions of masculinity perceive males as being biologically driven toward intercourse therefore causing them to initiate sexual activity (Hird 2002). It is also viewed that men have difficulty curbing their sexual drive for intercourse which leads them to be sexually coercive behaviour (Denov 2003a, b). It is therefore more socially acceptable for men to engage in sexual activity and perpetrate sexual offenses than women (Banning 1989).

Conclusion

The theoretical perspectives outlined in this chapter help to explain how criminal events may be interpreted through gendered practices. The literature review chapter outlined many studies that demonstrate female offending is conceived to be based on social conceptions of femininity. Theories such as Goffman’s (1959, 1976) social interaction theory demonstrates that individuals ‘practice’ their expected gender based on sex characteristics of being a man or a woman. Furthermore, Heritage (1984) contends social accountability sustains these gender performances. These gender performances are centred around maintaining a patriarchal social order of hegemonic masculinity and emphasized femininity. Justifications for female sexual offending may therefore be based on these gender scripts which inform our conceptions of femininity, as the literature in Chapter 2 suggests.

This project relies on an analysis of gender as it operates through two discursive events: legal proceedings and media reporting. The study concentrates on cases of female

sexual offenders and explores discourse within legal proceedings and news media reporting. The following chapter details the methodology used to carry out the discourse analysis.

Chapter Four

Methodology

Introduction

A discourse analysis of court transcripts and electronic news reports is employed in this thesis. This chapter provides an overview methodology in more detail. This includes the retrieval of data, operational definitions and codes used in the analysis, a discussion of ethical issues, as well as the Foucauldian method of discourse analysis. To begin, this chapter will outline the retrieval of court transcripts.

Data

Retrieval of Court Transcripts

This thesis uses transcribed legal proceedings of cases heard within judicial courts of Wisconsin. Cases were derived from the state of Wisconsin due to the availability of sexual offender cases to the public. Cases involving female sex offenders were able to be easily found using the online public Wisconsin Sex Offender Registry. The first case found involved sex offender Anne Knopf. Once it was discovered the court transcripts pertaining to this case were available publicly for a fee, other cases within Wisconsin were searched. This search revealed the cases involving *USA vs. Carrie Wheaton and Roger Smith* and *Wisconsin vs. Marnie Staehly*.

In order to obtain the court transcripts associated with these criminal cases, a number of steps were taken. First, the State of Wisconsin allows public access to their online Sex Offender Registry.⁷ After accessing the site, a search was conducted of all

⁷ The online registry is available at URL: <http://offender.doc.state.wi.us/public/>

offender last names. A search of all letters pertaining to offenders' last names revealed that the Sex Offender Registry listed a total of 2,600 names.⁸ Within this list, 41 offenders were listed as being female. Two cases were derived from this sample of 41 female sexual offenders.

Not all sexual offenders are listed within the Wisconsin Sex Offender Registry. This is due in part to recent cases not yet being entered into the database. Therefore, news articles involving female sexual offenders within the state of Wisconsin were searched using the Google search engine. Terms such as "female sexual offender," "news," and "Wisconsin" were used to determine if any other cases existed involving female sex offenders in Wisconsin. This search resulted in news articles being obtained regarding the 2008 case involving Carrie Wheaton and Roger Smith.

The cases used in this case were searched within news article databases Factiva and NexisLexis, using search terms such as the offender's last name and location.

The cases used in this study are:

1. *State of Wisconsin vs. Anne M. Knopf*
2. *United States of America (USA) vs. Carrie Wheaton*
3. *USA vs. Roger Smith*⁹
4. *State of Wisconsin vs. Marnie Staehly*

⁸ The total amount of offenders registered in Wisconsin was indicated as 21,088; however, the site only displays a maximum of 100 entries per search term entered. These 100 entries per search term are sorted alphabetically, and therefore, not all entries per searched letter could be viewed.

⁹ *USA vs. Carrie Wheaton* and *USA vs. Roger Smith* are linked and thus will be analyzed together. This case involves co-accused Smith and Wheaton, who offended together when they were involved in a common-law relationship.

Most of the cases within the Sex Offender Registry were not chosen. This is because there were none, or very few, news articles associated with the case. Once a case was identified with an adequate number of news articles (at least 5 articles), the court reports were obtained by telephoning the court clerk in the city in which the crime took place.

These documents are publicly accessible. The court reporters prepared the transcripts associated with the cases for a fee. The fee is calculated based on a cost per page associated with each transcript. Once the transcripts were prepared, they were sent to me. The Anne Knopf case was mailed to me; whereas, the Carrie Wheaton and Roger Smith case and Marnie Staehly case were sent to me via electronic email in Portable Document Format (PDF).

While it would have been beneficial to use Canadian cases, I encountered difficulty obtaining Canadian court transcripts. Canadian law prohibits public access of court transcripts when the case involves children. Therefore, most of the cases involving the sexual abuse of a child had publication bans. The few cases that have been documented in Canada either had publication bans and could not be accessed and/or they were high profile cases (such as the case involving Paul Bernardo and Karla Holmolka) and already the subject of many research and media reports.

Cases were selected for a variety of reasons. It is beneficial to include many unique types of female child sexual offending. For this study, the cases include: (1) a female and male co-offending pair accused of victimizing two female children; (2) a female coach accused of victimizing two female adolescents; (3) a female teacher accused of victimizing a male adolescent. The three cases used for this thesis were

chosen due to the availability of news articles associated with the case. Furthermore, they are unique cases and provide for an interesting analysis of different types of cases involving female perpetrators of child sexual offenses. Please refer to Table 1 for a summary of each case, including case details, offender/victim details, and documents used in the analysis.

Retrieval of News Articles

My analysis also relies on an examination of electronic news articles surrounding the cases used. In order to retrieve news articles, offenders' last names were entered as search terms into the databases Factiva¹⁰ and LexisNexis.¹¹ In addition, these search terms were entered in the Google search engine to maximize the volume of news articles associated with each case. Due to the wide availability of news articles through databases such as Factiva and LexisNexis, this thesis relies on an analysis of electronic news articles versus television or radio broadcasts.

Regarding the case, *State of Wisconsin vs. Anne Knopf*, there were a total of 14 unique news articles retrieved from 6 journalistic sources, spanning from October 8, 2007 to October 25, 2008. In total, there were 15 unique articles from 7 journalistic sources found regarding the Carrie Wheaton and Roger Smith case. Articles found spanned a timeline from March 12th, 2008 to September 24, 2008. The case involving *State of Wisconsin vs. Marnie Staehly* generated 15 unique news articles from 4 journalistic news

¹⁰ Dow Jones Factiva is an online business news and informational database.

¹¹ LexisNexis is an online database that provides access to business and newspaper news media, as well as U.S. law such as codes and statutes. Specific news sources within the LexisNexis database that were selected to be searched are the following: News, All (English, Full Text), Wisconsin News Sources.

Table 1: Summary of Case Characteristics

Name	<i>Wisconsin vs. Anne Knopf</i>	<i>USA vs. Carrie Wheaton</i>	<i>USA vs. Roger Smith</i>	<i>Wisconsin vs. Marnie Staehly</i>
Location of Court Proceedings	Ellsworth (Pierce County), WI	Madison, WI	Madison, WI	Green Bay, WI
Offender Characteristics				
Age at time of arrest	39	30	37	21
Sex	Female	Female	Male	Female
Race	Caucasian	Caucasian	Caucasian	Caucasian
Charge(s)	Second Degree Sex. Assault	Parent Sex. Exploitation/Sex. Exploitation of Child	Sex. Exploitation of Child	Sex. Assault of a Student/Second Degree Sex. Assault
Relationship to Victim(s)	Teacher	Mother	Step-father	Coach
Victim Characteristics				
Number of Victims	1	2	2	2
Age(s) at time of offense(s)	13	6	15 & 17	15 & 17
Sex	Male	Female	Female	Female
Court Transcripts				
Types of Documents	<i>Plea Hearing; Sentencing Hearing; Waiver of Preliminary Hearing; Pierce County Sheriff's Dept. Narrative, Supplemental and Investigative Report.</i>	<i>Plea Hearing; Sentencing Hearing; Arraignment Hearing</i>	<i>Plea Hearing; Sentencing Hearing; Criminal Complaint</i>	
News Articles				
Total	14	15	15	15
Number of Journalistic Sources	6	7	4	4
Article Timeline	October 8, 2007 to October 25, 2008	March 12, 2008 to September 24, 2008	June 29, 1999 to October 25, 2001	

sources. This case spanned a media reporting timeline from June 29, 1999 to October 25, 2001.

Statement of the Facts

The court transcripts provide information on the actual court proceedings involved with each case. However, they do not include specific ‘statements of the facts,’ such as the details surrounding what brought the defendant(s) before the courts in the first place. Therefore, it was important to obtain factual information on the cases outside of the court transcripts and news articles. In order to obtain such information, both the police department(s) involved in the cases, as well as the clerks of the courts, were contacted via telephone for records that are publicly available.

For the case *Wisconsin vs. Anne Knopf*, the Pierce County Sheriff’s Department who laid the charges against Anne Knopf provided the following documents: (1) *Pierce County Sheriff’s Department Narrative Report*, (2) *Pierce County Sheriffs Department Supplemental Report*, and (3) the *Pierce County Sheriff’s Department Investigation Report* (2007). These reports provide details from the police officers involved in the investigation against Anne Knopf. The reports provide summaries of police actions written by the officers themselves, including questioning and interviews between the victim and Anne Knopf. These documents are available to the public. However, the names of witnesses and the victim were disclosed within the documents. For the purpose of this analysis, names of witnesses and the victim were excluded.

For the case *Wisconsin vs. Marnie Staehly*, the Brown County Court records office sent the criminal complaint associated with the court proceedings. This public document indicates details as to why the plaintiff(s) involved in the case sought legal

intervention. This document includes a summary of the charges, and background information on what led to the defendant being criminally charged.

The case *USA vs. Carrie Wheaton and Roger Smith* provided case details within the Sentencing Hearing, and therefore, additional case details such as the police department narrative and/or criminal complaint were not required.

Ethics

All information (the court transcripts and electronic news articles) was openly available to the public. Therefore, university ethics approval was not required, as publicly accessible archived documents were used as the data sample. In order to protect vulnerable persons within the court transcripts, the names of witnesses and victims were not disclosed, and pseudonyms were given to these individuals.

Strategies for Analysis

This section describes the method of discourse analysis in more detail. In order to do so, terms such as ‘discourse’ and ‘text’ are defined. Furthermore, linkages are made from discourse analysis to Foucault’s theoretical concepts of power, knowledges, and control. Moreover, the methodology of discourse analysis is explained in detail.

It is important to describe discourse analysis (DA) in order to better understand the methodology behind this current research project. DA is generally used to investigate communication found within mediums such as texts (Bryman 2004: 370). This type of analysis concerns examining how “a particular set of linguistic categories relating to an object and the ways of depicting it frame the way we comprehend that object” (Bryman

2004: 370). In other words, DA looks at the specific *meanings* depicted through communication (Maxfield and Babbie 2005), which in turn constitutes and discursively reproduces societal conceptions. DA is situated within a social constructivist framework (Baxter 2003; Phillips and Hardy 2002). DA is concerned with the social production of ideologies, and how these ideas were not only created, but maintained over time (Phillips and Hardy 2002).

But what, specifically, is *discourse*? Discourse is defined as “an interrelated set of texts, and the practices of their production, dissemination, and reception” that constitute people and objects (Phillips and Hardy 2002: 3). Often times discourse is referred to as language ‘above’ or ‘beyond’ the sentence (i.e., Stubbs 1983) and thus refers to the actual meaning behind language used to constitute our social worlds. Widdowson (2004), in his critical analysis of the study of discourse, emphasizes how the term discourse should not be used interchangeably with the term ‘text.’ To explain, Widdowson states that discourse is “the pragmatic process of meaning negotiation” (2004: 8). Therefore, text can be perceived as the “product” of discourse and meaning negotiation. The way we interpret our social realities is transformed into text.

‘Text’ is language that “has been produced for a communicative purpose (Widdowson 2007: 4). The meanings of the text are based on the context in which the text is situated. This process relies on our assumptions of social realities. As such, a specific linguistic text refers to larger, and more abstract, cultural contexts in which it is situated (Widdowson 2007). Once we understand the social context in which the text is found, we can understand the purpose the text serves.

Widdowson (2007: 5) states “[w]e cannot make sense out of [text] simply by focusing on the language itself.” We therefore need to recognize the meanings behind the text. These meanings, or the messages, ideas, and beliefs (Widdowson 2007) inherent within language in texts is referred to as discourse. In other words “texts can be used to express, and impose, certain ways of thinking about the world” (p. 7). These meanings – or discourse – can be interpreted in different ways by the person who is speaking, and by the person who interprets the discourse. These interpretations are based on the overall social context in which the “producer” of discourse, and the “receiver” of discourse, is situated. It is the connections between discourse and our social world that reveal how individuals are constituted in certain contexts (Phillips and Hardy 2002). Discourse is, in other words, the practice of expressing the interpretation of our social world and the way we understand it: “Meanings are socio-cultural constructs of reality: they represent particular beliefs and values that define ways of thinking about the world” (Widdowson 2007: xv).

DA often relies on the theoretical work of Michel Foucault, as a process for which this method can be contextualized and to which the theoretical significance of discourse can be understood. Foucault’s work shows how both at the macro structural-level and at the micro individual-level, sexual scripts may be discursively produced. In other words, discourse is upheld by both social institutions and individuals. Social structures create social standards of appropriate gender behaviour; substantiated and reciprocated by individuals who in turn perform gender based on these social conceptions.

Foucault examines how discourse can limit the human subject because it involves complicated power relations between subjected knowledges and governmental systems

(Simons 1995). Foucault calls for a rejection of totalizing ‘truths’ of grand theories. Instead, he uses a poststructuralist analysis in order to understand the power relationships involved in discourses which define social life (Seidman 2004). In his analysis of the human sciences, Foucault looks at the knowledges of institutions and how they affect social discourse. In doing so, Foucault attributes a number of meanings to the term discourse (1972). First, he states discourse is “the general domain of all statements” (1972: 90). He also states that discourse may sometimes be “an individualizable group of statements” and also “regulated practices that [account] for a certain number of statements” (Foucault 1972: 90).

Foucault sees institutional knowledges serving to both produce and constitute subjects (1972). Institutions produce ‘truths,’ which in turn “relates closely to particular identities” (Potter 1996: 86). We thus speak about a subject through discourse based on the produced knowledges from social institutions. Therefore, discourses are the “practices that systematically form the object of which they speak” (Foucault 1972: 49). Through the analysis of discourse through statements we can determine and define how individuals are constituted through the social institution in which they stem. Discourse ascribes meaning to statement and thereby restricts the subject matter as it discursively defines that object: “discourse finds a way of limiting its domain, of defining what it is talking about, of giving it the status of an object – and therefore of making it manifest, nameable, and describable” (Foucault 1972: 46).

Sexual scripts that define how males and females are expected to act create discourse that serves to constitute individuals based on this gender dichotomy. Women who act outside their assigned sexual scripts are thus regarded as socially abject. In

constituting subjects as ‘abnormal,’ “discourses...help to create and control the very objects they claim to know” (Seidman 2004: 181). Furthermore, discourses and claims to truth enables individuals who fall outside societal norms – such as, with deviant sexual interests – to be regulated by disciplinary practices in order to re-align them with hegemonic conceptions of sexuality (Foucault 1978).

But, where do these “totalizing truths” and “disciplinary practices” come from? This understanding is important with an analysis of the relationship between knowledge and power. Foucault states that “it is in discourse that power and knowledge are joined together” (1978: 100). There exist “authorities of delimitation” – social “institutions” (such as penal systems, medicine, religious authorities) that serve to constitute individuals and social practices (Foucault 1972: 46). Institutions shape our conceptions of reality by claiming certain truths and producing ‘knowledge’ about social existence. Foucault also looks to ways in which individuals subjugate themselves. This involves exercising power over the self by identifying with the social or scientific norms and definitions of who they are as human beings (Simons 1995: 2). It is in this sense that Foucault sees power and knowledge as being mutually constitutive between institutions and the dominant discourse that are produced by these institutions: in defining and constituting objects, or claiming ‘knowledge’ and ‘truths’ about these subjects, social structures establish boundaries of social practice in adhering to this knowledge.

Power is related to discourse in that the knowledges created that serve to constitute individuals and identities are used as a form of control (van Dijk 2008). In order to understand this further, van Dijk (2008) proposes we ask ourselves who is able to access the public discourse (such as media, legal, political discourses). This is most often

the white elites in society (p. *viii*). Therefore, van Dijk makes the connection that “power is related to control, and control of discourse means preferential access to its production and hence to its contents and style, and finally to the public mind” (p. *viii*).

We can examine court proceedings and determine how individuals are constituted as ‘legal subjects.’ DA can help reveal how institutional knowledges are maintained through legal proceedings and news reporting. Thus, this project will look at the *meanings* behind legal and journalistic discursive statements as they relate to expected sexual scripts.

DA is an important tool to use for the purpose of this research. DA lends insight into the social conceptions of femininity and masculinity – and how this may be reflected during court proceedings of sexual abuse cases. By analyzing the discourse within court transcripts, we can explore whether the law and news media discursively reproduce hegemonic conceptions of masculinity and femininity. This thesis examines the discourse used by legal professionals, such as crown and defence lawyers during court proceedings, and explores whether these reproduce hegemonic sexual scripts. This thesis also analyzes at the news media to determine whether this medium of communication also upholds societal conceptions of gender as they relate to the commission of crime.

Measurement

Refer to *Table 2: Codes Used for Measurement*, which reveals some of the initial codes that helped guide the analysis of court transcripts and news articles. These codes provide operational definitions of themes.

Table 2: Codes used for Measurement

Title of Code	Description	Authors
Mentally Ill	Past research identifies a process of psychological characterization whereby women who offend outside their sexual scripts are deemed as suffering a mental illness. Statements in news articles and court transcripts related to the mental (un)fitness of the female perpetrator are coded as ‘mentally ill.’ For example, justifications for offending that refer to mental instability and/or impairment as causal factors that led to female sexual offending were noted and coded as ‘mentally ill.’	Allen 1987; Comack and Balfour 2004; Heidensohn 1981; Hird 2002; Smart 1977; Viki, Massey and Masser 2005; Wilczynski 1997
Harmless	Several studies emphasized that female sexual offending is generally not seen as harmful compared with men’s offending. The ‘harmless’ code identifies discursive maneuvering in which the women’s actions are justified as not harmful or detrimental to victims. This entailed identifying the absence of terms such as “perpetrator,” “offender,” and/or “criminal” for example, when referring to a female sexual offender. In addition, the absence of the term “victim” when referring to the object of female sexual offending was noted and themed using the ‘harmless’ code.	Denov 2001, 2003a, b, 2004; Ford 2006; Nelson 1994; Oliver 2007; Vandiver and Kercher 2004; Vandiver and Walker 2002
Coerced	It is often assumed the female offender, not capable of committing an act on her own, is likely to be coerced and/or forced into offending by a male partner. Or, the female is portrayed as the victim of circumstances beyond her control, leading to the abuse. The code ‘coerced’ will be used when there is attribution to circumstances outside of the offender’s control to justify offending.	Elliot 1993; Ford 2006.
Seducer	Several studies identified that female sexual offenders are perceived as ‘seducing’ victims and are not construed as sexually abusing/assaulting their victims. The action is seen more as a ‘relationship.’ The code ‘seducer’ is useful when analyzing female sexual offenders who are perceived to have engaged in a ‘consenting’ relationship with a child, versus perpetrating child sexual abuse. This code was used in situations, for example, whereby the sexual activity was not referred to as ‘abuse’ or an ‘offense,’ but as sexual activity between individuals involved in a relationship.	Banning 1989; Byers and O’Sullivan 1998; Denov 2003; Dhaliwal et al. 1996; Ford 2006; Nelson 1994; Oliver 2007; Soothill and Walby 1991

Non-maternal	Literature notes that female criminals are often perceived as being 'cold' or 'evil' due to the fact they offended outside of their sexual scripts of being caring and helpful. The code 'non-maternal' was applied to circumstances in which the female offender was deemed as being non-caring, 'evil,' and/or not acting as a mother 'should.' For example, this code was applied in cases whereby the female sexual offender did not act maternal or as a mother should have, which was demonstrated by statements such as "It is difficult to fathom how a mother could have done this..."	Gavin 2005; Krusttschnitt and Carbone-Lopez 2006
Masculinized	Females who act contrary to their sexual scripts are often constituted as 'masculine.' Society accepts that males sexually offend against children due to the image of an over-sexed, un-restrained male who cannot sexually control himself. Therefore, when a woman commits a crime that supports the traditional male sexual script of offending, she may be labeled as masculine. This is done so female-perpetrated offending is easier to understand. Female offending remains within the traditional sexual script of a 'man's crime.'	Hird 2002; Smith and Kimmel 2005
Unusual	Cases involving female offenders who perpetrate violent or sexual crimes are often depicted as 'unusual.' Female criminals are treated as an 'anomaly.' This code will be used in cases whereby female perpetrators of child sexual offenses are deemed to be unusual due to the fact they are <i>women</i> sexually offending against children.	Cheit 2003; Nelson 1994; Pritchard and Hughes 1997; Shaw 1995
The Good Mother	Research shows that female offenders' crimes are justified due to the fact that they are 'good mothers.' For example, if they carry out stereotypical domestic duties such as child care, literature states that they are less often punished as they do not step outside of their sexual scripts in other areas of their life. This code was used when analyzing statements related to the female sexual offenders' motherly duties, and expected behaviour as a result (such as being passive and caring).	Allen 1987; Comack and Balfour 2004

Prior Victimization	Research suggests lawyers find female offender cases are easier to defend. This is because they rely on previous incidences of victimization to mitigate the female's culpability. This code will be used in cases whereby a reliance on the perpetrator's past history of abuse and victimization is used to justify her crimes	Comack and Balfour 2004
Non-sexual	Literature points to the fact that female sexual offenders are not perceived to have a sexual interest in the abuse of children. Their offenses are not deemed to be based on the existence of, for example, pedophilia. This code was used in instances whereby offenses were not attributed to a sexual interest.	Hird 2002; Denov 2004; Fromuth and Conn 1997; Lambert and O'Halloran 2008; Nelson 1994

Plan of Analysis

We move next to the analysis of transcripts and news articles. Chapter Five details the background to each case for: *Wisconsin vs. Anne Knopf*, and *Wisconsin vs. Marnie Staehly*. I outline the offender and victim details, charges, and the results of the case (case outcomes and sentences). Wisconsin law relating to child sexual offenses is also described in considerable detail. For each of these cases, themes and patterns that emerge are discussed in depth, building upon the codes identified in the literature. In addition, new themes that were not uncovered in past research literature are discussed through the analysis of court transcripts and news articles.

Chapter 5

Analysis of the Anne Knopf and Marnie Staehly Cases

Introduction

This discourse analysis reveals several themes found in the court proceedings and news articles of female sexual offender cases involving Anne Knopf and Marnie Staehly. To begin this analysis, I specify charges laid, details on the case background, and the sentence granted. Next, I outline themes discovered within the court transcripts and news articles. This chapter examines the case *State of Wisconsin vs. Anne Knopf* and *State of Wisconsin vs. Marnie Staehly*. These cases are analyzed together in the same chapter due to the fact that the perpetrators committed their offenses within the context of a ‘relationships.’ Therefore, these cases share similarities which will be discussed in Chapter 5.

USA vs. Anne Knopf Case Background

Anne M. Knopf (born September 15th, 1968) was charged in Pierce County, Wisconsin. At the time of her arrest, she was married to her husband and had two children aged 9 and 14. Her occupation was acting as a substitute teacher in Prescott County, Wisconsin.

Anne Knopf was charged with the second degree sexual assault of a child in 2007. This is considered a class C felony within the *Wisconsin Statutes Law* (section 948.02(2)). State law specifies this felony applies to “[w]hoever has sexual contact or sexual intercourse with a person who has not attained the age of 16 years” (Wisconsin

Legislature 2009a). A class C felony means that the penalties associated with convictions of second degree sexual assault of a child may be a fine not exceeding \$100, 000 and/or a maximum of 40 years imprisonment.

The *Pierce County Sheriff's Department Narrative, Supplemental Report and Investigative Report* (2007) describe the events leading to charges against Anne Knopf. The victim, 'David',¹² was born in 1993 and was age 13 at the time of the charges. David had dated Anne Knopf's eldest daughter 'Michelle' in the years previous to the charges being laid against Anne. However, David had not dated Michelle within the year prior to the charges being laid. David's parents shared custody of him and therefore David resided with his mother and his father equally.

It had come to David's parents' attention that there were rumors circulating at school surrounding the 'friendship' between Anne Knopf and David. This caused them to question David's behaviour and communication with an individual with whom they believed he was having a romantic relationship. For example, Anne Knopf had phoned David one evening at approximately 1:00 a.m. and had a lengthy conversation with him.

David's mother had met with the school principal to convey concern that there might be something going on between Anne Knopf and David based on the circulating rumours. She was advised to provide concrete proof in order to proceed further. This caused David's father to install spy ware on the computer David accessed regularly, in order to monitor online chat and e-mails. David's father found out David was having a romantic relationship with an individual with an Internet name of "Mara" or "Island Girl."

¹² The names of the victim and witnesses involved in the case have been changed in order to protect their identities.

On May 17, 2007 David's mother discovered her vehicle and David were missing. David's father found the car parked near Anne Knopf's house and went to her door. She answered and stated she did not know where David had been. David's father then called the police as he suspected something was going on between Anne Knopf and David, and felt that his son was in fact at the Knopf household. David was found a few moments later by police in the vicinity of the Knopf residence.

Upon interviewing David, it was revealed that he and Anne Knopf were involved in a sexual relationship. Anne would invite David over late at night when her husband and children were asleep. Anne and David would meet in the basement level of the Knopf home where they engaged in sexual intercourse. To get to the Knopf residence, David would take his mother's vehicle and drive it over to her house. This had been occurring during a period of approximately a month before Anne Knopf was arrested. Furthermore, it was revealed that while David had in the past dated Anne Knopf's daughter and knew the Knopf family as a result, Anne had also been a substitute teacher at David's school. Charges were therefore laid against Knopf.

Anne Knopf initially pleaded not guilty during the *Waiver of the Preliminary Hearing*. She then amended the plea to guilty during the *Plea Hearing & Sentencing*. In response to this plea, Anne Knopf was sentenced to a nine-month jail term with a period of five years probation following her release.

The following section looks at the legal discourse in the case *State of Wisconsin vs. Anne Knopf*. Statements within the court transcripts are first analyzed for themes, followed by an analysis of news articles associated with the case.

Legal Discourse

Case Unusualness

A number of themes were discovered within the *Plea Hearing & Sentencing* document. The first theme identified was the admission by both Crown and Defence lawyers about the *unusualness* of the case as it involves a female sexual perpetrator. This is demonstrated through a number of statements made during the plea hearing and sentencing. From the outset, the Crown lawyer John O'Boyle states:

Well, Judge, you know, looking at the facts of this case, it's an unusual case, I think, to say the least because most – probably most, if not all of the sexual assault cases that have come through the district attorney's office it's been pretty much the other way around with an older male and a younger female. And this case is unusual, I think, from that standpoint (*State of Wisconsin vs. Anne Knopf* 2008: 8).

This unusualness is also reinforced by the Defence lawyer and the Judge. In reference to his client, Defence lawyer Frederic Bruno states:

I think Mr. O'Boyle is correct that this is an anomalous case, not only because of the gender and age disparity, but because we have someone here with no badges or indications of this type of sociopathic behavior admittedly (*State of Wisconsin vs. Anne Knopf* 2008: 14).

Finally, the Judge points out the unusualness of the case during his reading of the sentence, regarding both the gender and age of the perpetrator:

In this case, the boy – the other aggravating factor, of course, has to be that this was a 13-year-old boy when she was 38. This isn't a situation where we've got a 22-year-old woman and a 17-year-old student, for example. That's a different story entirely (*State of Wisconsin vs. Anne Knopf* 2008: 22).

Based on these statements, it is clear the gender and age of the perpetrator are the factors that make this an unusual case according to the parties involved in the legal proceedings. Recall from the theoretical perspectives chapter (Goffman 1976; Shaw 1995) and research in the literature review chapter (Cheit 2003; Nelson 1994; Pritchard and Hughes 1997) that individuals who behave contrary to their sexual scripts are deemed unusual for not appropriately displaying their gender. This is especially the case when it comes to females who commit crimes uncharacteristic to their expected gender scripts.

Harmless

The second theme identified is the overall absence of terms such as “offender” or “perpetrator” relating to the charges that were laid against Anne Knopf. After pleading guilty to the charge of second degree sexual assault of a child during the *Plea & Sentencing Hearing*, the Crown lawyer John O’Boyle stated a recommended sentence for Anne Knopf given the nature of the case:

I’ve indicated to Mr. Bruno that I was going to recommend probation, probably in the range of five years. He’s free to argue for a lower time. Conditions of probation would involve no contact with the *victim* in this case or any other underage males in particular, a *sex offender* assessment, follow through with any treatment recommendations. She’s going to have to register and be in compliance with Wisconsin’s registration law, provide a DNA sample and surcharge (*State of Wisconsin vs. Anne Knopf* 2008: 3) [my emphases].

Following this, John O’Boyle made a statement as to his recommendations for a fair sentence. While the Crown lawyer did allude to the charges laid against a sexual offender when stating the conditions and compliance orders of being registered as a

sexual offender within the state of Wisconsin, there was no mention in the dialogue from the lawyers which would constitute Anne Knopf as a sexual ‘abuser,’ ‘offender’ or perpetrator of ‘assault’ in which she was charged. Here are some statements put forth by the Crown lawyer, John O’Boyle (*State of Wisconsin vs. Anne Knopf* 2008: 8-9):

I think the concerning thing here is how serious this is, given her age as, you know, close to 40 – close to 40 years old, having this *type of relationship* with essentially a peer or child about the age of her daughter [my emphasis].

And so to see this *type of relationship* and the seriousness of engaging in this *kind of relationship* essentially with a child – now, realistically kids these days are much different at younger ages, the things that they engage in; but it doesn’t take away from the seriousness of it. And the law says that this is – this is serious behavior with an adult *engaging in intercourse* with a child [my emphases].

Not only is it clear that the sexual activity has been constituted by the Crown lawyer as being a ‘relationship,’ but, the suggestion that “kids these days are much different at younger ages, the things that they engage in” (p. 8-9) places responsibility on the victim of the case for ‘his actions.’ By constituting the ‘relationship’ as an activity kids partake in or “engage” in, the legal actors discursively remove the focus from the defendant to the victim. This in turn removes agency from Anne Knopf. It was not her, but a ‘growing trend’ among children and teenagers to be involved in this type of sexual ‘relationship.’

Crown lawyer John O’Boyle does refer to the incident as a sexual assault when he discusses how the ‘relationship’ was discovered:

We believe it happened on the night that the young boy was found in the vicinity of her residence. The DNA evidence that came back on clothing belonging to him was DNA that belonged to Ms. Knopf; and I think that

really sort of, you know, frankly cemented the case in terms of the proof issue on the *sexual assault* (*State of Wisconsin vs. Anne Knopf* 2008: 9) [my emphasis].

However, throughout the remaining statements the sexual assault is not referred to as such. Statements such as “We believe *it* happened...” (p. 9), “Ms. Knopf has never for one minute denied the occurrence of *this event*...” (p. 13) are common among the lawyers’ statements. This discursively removes the seriousness of the sexual assault with which Anne Knopf was charged with. Furthermore, Defence lawyer Frederic Bruno attempts to justify the ‘relationship’ as being non-manipulatory in nature through the following statements:

My client – The facts of *the event* are as Mr. O’Boyle stated. There was some e-mail correspondence. There was a period of grooming, shall we say, and Ms. Knopf did a *bad thing*. There was no – no alcohol involved, no use of chemicals, no physical overpowering (*State of Wisconsin vs. Anne Knopf* 2008: 14) [my emphases].

This statement trivializes the significance of the sexual assault. Interestingly, the statements move to the issue of a size difference between the victim and Anne Knopf. Defence Lawyer Frederic Bruno states: “In fact, there’s a significant physical size difference between the two parties, as I understand it, in favor of the victim; and it was sympathetic behavior...” (*State of Wisconsin vs. Anne Knopf* 2008: 14). Therefore, the height of the victim compared to the defendant played a factor which mitigated the defendant’s culpability, according to the Defence lawyer. Furthermore, Anne Knopf is constituted as being caring because the ‘relationship’ involved “sympathetic behavior.”

This previous statement relating to comparable size of Anne Knopf and the victim was one of the few instances where the Defence lawyer referred to the victim as a *victim*.

In previous statements, the victim in question was referred to as the “young man,” “young boy,” (i.e., p. 9) or as one of the “parties” involved (p. 14). The absence of terms relating to sexual ‘offender’ or ‘victim’ paints a picture in which the criminal roles are missing as well – culpability is alleviated, as the perpetrator and victim discursively do not exist.

In the following statements by Defence lawyer Frederic Bruno, Anne Knopf is not portrayed as a sex offender for which she pleaded guilty and faces sentencing:

But I ask this Court to consider these extremely unusual circumstances. If Ms. Knopf were a sex offender, Judge, there would be others coming – coming forth...In almost every sex offender case I have done, other people come forward. Where there’s smoke, there’s fire. That’s been absent in this case, and my client has been compliant. No temptation, no reoccurrences, nothing (*State of Wisconsin vs. Anne Knopf* 2008: 18).

The statement: “If Ms. Knopf were a sex offender...” prompts an expectation that there *should* be others coming forth and complaining about sexual abuse if Anne Knopf is a genuine sexual offender. We see a discursive maneuvering in which the mere possibility that Anne Knopf could be a sexual offender is questioned, despite the criminal charges to which she already pleaded guilty.

Interestingly, David’s mother had the opportunity to read aloud a victim impact statement, in which she expressed how the actions of Anne Knopf have affected her son and her family. Some of the statements are presented below (*State of Wisconsin vs. Anne Knopf* 2008: 12-13):

She has not – she is not hurt – She is not the one who’s been victimized or hurt by this. She knew full well that what she was doing was wrong. My son relied on her to say, stop, this is wrong. He is not – he is blameless.

She is not. She is 38, and he was 13. No 13-year-old should have to carry a burden like this.

She took away so many things from [David] that he will never get back; not only that, but she knowingly put him in danger as well as anyone else that might have been on the road that night by encouraging him to drive to her house to see her. Ms. Knopf manipulated [David] both physically and mentally. Nobody can say what long-term effect this will have on him. Ms. Knopf needs to be held accountable for her actions and hopefully think twice before she chooses to victimize another child.

Therefore, while the mother of the victim discursively portrays Anne Knopf as an individual who sought to victimize David, harming him psychologically in the process, and endangering others on the street with a 13 year old driving a car, the picture painted by the legal parties involved was quite different. The legal parties did not even discuss how Anne Knopf encouraged David to steal his mother's car in order for David to see her. Therefore, Anne Knopf's agency and responsibility for both the sexual and theft crimes were discursively removed. Hird (2002) states that the trivialization of female sexual offenses, and the denial that the perpetrator's actions were potentially harmful is done in order to understand women's offending. Sexual offenses are considered a man's crime based on expected gender scripts, and therefore when a woman perpetrates sex crimes her responsibility is removed and her actions justified based on factors specific to expected female gender scripts. These scripts embody the harmless, caring, non-sexual woman, and therefore the crimes are described consistent to these scripts. The removal of Knopf's agency for the crimes is further demonstrated in the following section which addresses the psychological portrayal that took place in justifying Knopf's charges.

Mentally Ill

During the Plea Hearing when Anne Knopf entered a plea of ‘guilty,’ the Judge had to establish the defendant was not under duress or coerced into entering the plea. The Judge also had to establish Knopf understood the nature of the charges and that the defendant was waiving her right to a trial. There were a number of steps the Judge took, including reviewing prior to the court appearance the defendant’s consumption of alcohol and/or drugs. Relating to Anne Knopf’s mental fitness, the judge asked the following questions (*State of Wisconsin vs. Anne Knopf* 2008: 5-7):

The Court:¹³ Have you taken medications today?

The Defendant: No, not until this evening.

The Court: Okay. Did you take any last night?

The Defendant: Yes, every evening.

The Court: And what medications do you take then?

The Defendant: I take 75 milligrams of Nortripyline. I take 50 milligrams of Zoloft, one milligram of Clonazepam, and 900 milligrams of Lithium.

The Court: Okay. If you could – In the order that you told me what those medications are, if you could describe what those medications are for?

The Defendant: The Nortriptyline and the Zoloft in combination work together for bipolar. They initially were treating for depression, but the two combined made a better – I guess made a better fit for the bipolar as well as adding the Lithium. The Lithium is a mood stabilizer; and we discovered, after having some problems with certain things, that that added to it brought everything full circle and a much clearer head. I feel much better.

Clonazepam is for anxiety.

The Court: And how long have you been taking those medications?

The Defendant: The whole dose of that would be started more like January, February of last year; however, I’ve been on Nortriptyline probably closer to five years.

The Court: Okay. And it sounds like you’ve had some recent adjustments so that they work better?

The Defendant: Uh-huh

The Court: Is that correct?

The Defendant: That is correct, Your Honor.

The Court: And do you feel that they’re working –

The Defendant: Much –

The Court: -- better for you now than they have in the past?

¹³ The Judge is referred to as ‘The Court’ in the transcribed legal proceedings.

The Defendant: Much better, Your Honor.

The Court: So you have no difficulty discussing the case, understanding what this case is about with your attorney; is that right?

The Defendant: Absolutely. Yes, you're correct.

The Court: So you have no question about what these proceedings are about and the consequences that you're looking at?

The Defendant: No. That's correct, Your Honor.

The Court: Have you had any alcohol to drink today?

The Defendant: No, Your Honor.

The Court: Are the facts in the complaint, are those facts accurate?

The Defendant: Yes, they are, Your Honor.

The Court: The Court at this time will find the defendant has freely, intelligently, understandably, and knowingly waived her constitutional rights, entered a plea of guilty to the amended information; find a factual basis for the charge, adjudicate her guilty of that offense.

This dialogue between the Judge and the Anne Knopf demonstrates that while she has been taking medication for her mental illness, this does not interfere with the court proceedings. Essentially, Anne Knopf is considered mentally fit to undergo the court proceedings and take responsibility for the offense to which she pleaded guilty.

The Crown lawyer, John O'Boyle, takes Anne Knopf's mental fitness into account when recommending a sentence to the Judge (*State of Wisconsin vs. Anne Knopf* 2008: 10):

To her credit, and the State has to take this into account, she did come in and she has pled guilty to a 4-year felony. She's, you know, not put the State through the – through the burden of trying the case and putting the young – the young boy through the rigors of a jury trial. She could have very easily done that. Notwithstanding the existence of the DNA evidence, she still could have, you know, exercised her right to a trial and did not do that.

The information that Mr. Bruno has provided to me, she has at least availed herself to a psychiatrist in Minnesota and sought some level of treatment. She's certainly made a step in terms of the medication that she seems to be on, which seems to cover a great deal of medications. She still has to deal with the issue of the sexual relationship that took place and that she allowed to take place and that she encouraged to take place. She's the

one that's the adult here, and she's the one that clearly should have known better and clearly should have not engaged in a relationship with this young man in any sense at all.

The Crown discursively portrays Anne Knopf as an adult of sound mind. Despite the existence of a mental illness, Knopf is seeking treatment and should be held responsible for the sexual offense. In stating: "She still has to deal with the issue of the sexual relationship that took place and that she allowed to take place and that she encouraged to take place" (p. 10), the sexual assault and Knopf's mental illness are separated from each other. The Crown does not portray the offense as part of her mental illness.

However, the Defence lawyer Frederic Bruno paints a considerably different picture of Anne Knopf, in which the responsibility for committing the offense was due to her cognitive impairment. This is exemplified by the following statements (*State of Wisconsin vs. Anne Knopf* 2008: 15-16):

But what I can tell the Court – and this is specified in Dr. Stagner's report – is that Ms. Knopf has a history of psychiatric disability. And that's not just a figment of an attorney's imagination. It's the reality. She was hospitalized five years ago inpatient at Fairview Riverside with suicidal ideations and massive depression, headaches, et cetera.

Now, what's happened in the past five years – and maybe this thing brought it to a head – is that she never really got what she needed; and, Your Honor, I have significant history in dealing with professionals who suffer from a mental disorder. And this is a classic case of the professionals not knowing how to treat a person with a biomechanical electrolytic brain disorder, and often we call it bipolar disorder, manic depression; and my experience with my clients is that it's always an experiment. They're a walking Petri dish. They try this combination of medications, they try another one, and they see what works; and it's a matter of throwing everything you can at the wall and finding what sticks, and Nortriptyline, the rest of it, wasn't working. This thing came to a

head. It needed to be looked at seriously; and we credit Dr. Stagner with solving the riddle.

Now, Dr. Stagner, I can tell the Court, was not selected by me. I've never heard of him before. He was found by my client doing due diligence and medical research on which person might be more capable of helping her, and she found him on her own. Dr. Stagner is a medical doctor, an adjunct professor of adult and child psychology at the University of Minnesota and comes with very impressive credentials, I think unassailable. His history is with not only medicine, psychiatry, federal and state correctional facilities, military, the U.S. Naval base, and I've met with him personally and he is no bleeding heart; and Dr. Stagner did say he was willing to testify if necessary, but I think this report, which we just had completed last night, speaks volumes.

This portrays Anne Knopf as being able to recognize the mental illness and seek out medical attention to help treat the bipolar disorder through self-directed "medical research." The defendant is capable of seeking help to treat her mental illness and takes responsibility for committing the sexual assault through her guilty plea. However, the Defence lawyer discursively portrays her as an individual whose illness caused her to commit the offenses outside her capacity to control (*State of Wisconsin vs. Anne Knopf* 2008: 16-17):

The most – two – I think the two most important paragraphs in the report are found on page 2, the first full paragraph at the top, which states that in talking with my client's family member, namely her mother, is that there was some apparent age regression going on in the first part of 2007 where Ms. Knopf was acting silly and neglected to eat, lost 25 pounds, kept the company of children; and it's during that window that this event occurred. The magic bullet appears to be the addition – the diagnosis of bipolar II, which I'm not terribly familiar with, but Dr. Stagner describes how it works in the letter. And while this is not – And, again, the magic bullet is the Lithium, I think; and that seems to have completely been the correct formula to get Ms. Knopf back in – back into the social contract. But I think the important thing is that Dr. Stagner states that he believes that people with bipolar disorder II, while they don't lose contact completely with reality, their thinking and judgment can be significantly affected and impaired. Behavior that would never be considered can occur

because of impaired brain functioning, and insight into the appropriateness of behaviors can be significantly limited or completely absent.

Two significant issues emerge here. The wording by the Defence lawyer paints a picture in which Anne Knopf is rendered a child-like individual during the time the ‘event’ occurred: “there was some apparent age regression going on in the first part of 2007 where Ms. Knopf was acting silly and neglected to eat, lost 25 pounds, kept the company of children...” It is as if Anne Knopf is a child herself – and only with the treatment of her illness from psychiatrist Dr. Stagner was she able to get “back into the social contract” (p. 17). In addition, it was the absence of Lithium which caused her to commit the sexual assault: “Behavior that would never be considered can occur because of impaired brain functioning, and insight into the appropriateness of behaviors can be significantly limited or completely absent” (p. 17). This shows the psychological characterization of the offense that took place, in which Knopf’s agency in committing the offense was removed and the presence of a mental illness was the causal factor which led to the offenses. This psychological characterization is in-line with previous research (Allen 1987; Comack and Balfour 2004; Hird 2002) that shows women’s offending is justified based on the presence of cognitive impairment. Women criminals who overtly act contrary to their gender scripts are deemed as “unnatural” (Shaw 1995) and therefore suffering mental impairment.

The Good Mother

Despite the fact that Anne Knopf had significant brain impairment, acted child-like and committed a sexual crime against a child, she is still portrayed as a ‘good

mother.’ This further mitigated her culpability. This theme is portrayed by the Defence as follows (*State of Wisconsin vs. Anne Knopf* 2008: 18-19):

Yet, Ms. Knopf, not for one minute, blames her behavior on her mental illness, and she looks in her heart and blames herself...I’m asking that this Court consider a stayed sentence, possibly the use of some electronic home monitoring where she’s confined to her home. She’s a full-time homemaker. She’s taking care of her 9-year-old and her 14-year-old children. She has no employment outside the home and probably will find it difficult to be employed after this. Her husband is the rainmaker, the full-time worker.

While at the time Anne Knopf was too impaired to have been thinking clearly and committed the sexual assault, she is responsible enough to own up to the offense and is also responsible to take care of her family. Knopf’s responsibility does not exist when it comes to the criminal sexual activity that occurred and resulted in the charges being laid. Her responsibility as an individual lies in the parenting of her children at home. This discursively maneuvers Anne Knopf back into the script of being a maternal, caring, and domestic woman. Literature emphasizes women are often maneuvered into their “place” in society by calling attention to their duties as mothers and caretakers of children, which ultimately maintains the patriarchal social order (Allen 1987). The theoretical perspectives chapter describes emphasized femininity, in which women are expected to be excellent care takers in charge of domestic duties (Connell 1987). This is a form of ‘compliance’ in relation to hegemonic masculinity, which sustains patriarchy and women remain within the realm of the home.

The following section examines themes that emerged during the analysis of news articles associated with the *State of Wisconsin vs. Anne Knopf* case.

News Media Discourse

Harmless

The first theme that emerges after analyzing the articles pertaining to this case is the overall absence of constituting the offender as an ‘abuser’ or ‘perpetrator of assault.’ The following offer some examples of statements used in which Anne Knopf is not portrayed as a sexual offender despite the charges she faced:

- She had sex with a seventh grade boy several times over a four-month span in 2007, according to court records. The two would exchange emails or instant messages arranging their meetings (Huang 2008: ¶ 3).
- A judge has ordered a former substitute teacher to stand trial for an alleged sexual relationship with a middle-school student (Pioneer Press 2007: ¶ 1).
- A former substitute teacher at Prescott Middle School faces nine months in jail for her sexual relationship with a 13-year-old student (The Associated Press 2008c: ¶ 1).
- An alleged tryst with a teen has resulted in criminal charges against a former Prescott substitute teacher (Harter 2007: ¶ 1).

It is important to note that the majority of these above statements were taken from the first opening lines of each article. Not only is there an obvious absence of a ‘sexual assault’ due to these statements, certain terms used seem to glamorize or trivialize the incidents which led to Anne Knopf being charged with second degree sexual assault. For example, the use of the word “tryst” (Harter 2007: ¶ 1) when referring to the sexual activity between Anne Knopf and the victim in this case romanticizes the occurrences as merely late-night rendez-vous between consenting adults. They would simply “arrange their meetings” (Huang 2008: ¶ 3) and ‘have sex.’ As such, there is a discursive

maneuvering in which the accused in this case is not portrayed as a sexual offender or abuser.

Similar to the legal proceedings, there is also an absence of the victim being portrayed as a victim. The victim is referred to as a “teen” (i.e., Harter 2007 ¶ 1), “student” (i.e., The Associated Press 2007: ¶ 1; 2008a: ¶ 1), or “boy” (i.e., Huang 2008: ¶ 3; The Associated Press 2007: ¶ 2; 2008a: ¶ 2). While some articles did refer to the male teen as a “child” (i.e., Huang 2008: ¶ 1; The Associated Press 2007: ¶ 2, 2008a: ¶ 3), this was done only when indicating the charges laid against Anne Knopf. For example, one article refers to the victim in the following statement: “She also is prohibited from having any contact with the victim and she must register as a sex offender” (The Associated Press 2008c: ¶ 4). Overall, the depiction of David as a victim was missing from most of the articles.

Interestingly, the only article that depicted the seriousness of the case and portrayed the accused as a ‘perpetrator’ involved a quote from the Superintendent (Roger Hulne) of the Prescott School District in which Anne Knopf worked as a substitute teacher:

While the alleged *abuse* took place off school property, it is still of concern to the district, Hulne said. “This is very disturbing to us. We do everything we can to ensure student *safety*,” he said (Harter 2007: ¶ 10-11) [my emphases].

While the headline of the article does not reveal the sex of the offender or the seriousness of the ‘abuse’ (“Prescott teacher accused of having sex with 13-year-old” (Harter 2007)), the article does include statements that denote the sexual assault by using words such as ‘abuse’ and ‘safety.’ However, these statements were found at the very end

of the 324 word news article. This is significant as past research shows individuals are most likely to absorb information found within the headlines of news articles and skim the text (Franiuk et al. 2008). Based on this research it is questionable whether the majority of readers would have read the line relating to Knopf's potential dangerousness versus absorbing statements trivializing the sexual crime that occurred.

Case Unusualness

It is important to examine the headlines of the news articles used in the analysis of this case because they held such strong initial impact to the readers. Interestingly, in the Anne Knopf case, the headlines do not indicate the unusualness of the fact that the sexual offender is a female. They are gender-neutral in depicting the story. The following are a few of the headlines:

- Prescott teacher accused of having sex with 13-year-old (Harter 2007).
- Substitute teacher to stand trial in student sex assault (Pioneer Press 2007a).
- Jail term for ex-teacher in sex case (The Associated Press 2008c).
- Former substitute at Prescott faces charges (The Associated Press 2007).
- Former Prescott teacher pleads to affair with student (Huang 2008).

The headlines unusualness emphasizes the fact that a *teacher* is caught up in a sexual crime involving a student. However, upon reading the articles it is revealed that the sex of the perpetrator in this case is a female.

The Anne Knopf case provides many themes that are revealed during the analysis of court transcripts and news articles associated with the case. These themes centre

around the case unusualness, the harmlessness of the offender, the presence of a mental illness, and the portrayal of Anne Knopf as a good mother.

Research in the literature review demonstrated that the law and media share a close relationship (Best 2008; Crenshaw 1996; Ericson et al. 1991). This is corroborated based on the analysis of the Anne Knopf case. The legal proceedings and news articles related to the case discursively positioned Anne Knopf to be a harmless offender. This was achieved through the use of statements and words that glorified the offenses. In both the legal proceedings and news articles, the sexual offense was minimized and trivialized as consensual activity in the context of a relationship.

The legal proceedings discussed the unusualness of the fact Knopf was an older female offending against a younger male. However, the size of the victim relative to the offender, the fact that Knopf was constituted as a ‘good mother,’ and the psychological interpretation for her offenses helped position Knopf within female sexual scripts, in which the unusualness of the offenses became less apparent. While the news articles did not portray the case as ‘unusual,’ this was in line with the legal proceedings, in which the ‘unusualness’ was mitigated as Knopf discursively remained within her sexual scripts as a woman.

Similar themes are found during the analysis of the Marnie Staehly case. The following section looks at the statements and emerging themes of court transcripts and electronic news articles pertaining to the case of *State of Wisconsin vs. Marnie Staehly*.

State of Wisconsin vs. Marnie Staehly Case Background

Marnie Staehly was born November 22, 1977. She was 19 and 20 years of age when the offenses occurred. Marnie had attended and graduated from Southwest High School in Green Bay. At the time of the charges, Marnie was an assistant coach of the girls' basketball program at Southwest High.

Marnie Staehly was charged with two offenses: sexual assault of a student by a school instructional staff person (Class D felony), and second degree sexual assault (Class B/C felony).¹⁴ Sexual assault of a student by a school instructional staff person is defined in the Wisconsin statute law as follows (Wisconsin Legislature 2009b: 948.095 (3a)):

A person who has attained the age of 21 years and who engages in an occupation or participates in a volunteer position that requires him or her to work or interact directly with children may not have sexual contact or sexual intercourse with a child who has attained the age of 16 years, who is not the person's spouse, and with whom the person works or interacts through that occupation or volunteer position.

This violation applies to all of the following occupational posts: teaching children, child care, youth counseling, youth organization, coaching children, parks or playground recreation, and/or school bus driving. Furthermore, the sentencing hearing states Marnie Staehly is liable of a 'Class D' felony, which involves a maximum of five years imprisonment and/or a fine of \$10,000.

¹⁴ The felonies are based on sentencing classifications of offenses in the state of Wisconsin. A Class B penalty holds a sentence of twenty-five years imprisonment or more; a Class C felony holds a sentence of less than twenty-five years imprisonment but more than ten years; and a Class D felony holds a sentence of less than ten years in prison but more than five years (Cornell University U.S. Code Collection 2009c).

Second degree sexual assault of a child applies to (Wisconsin Legislature 2009b: 948.02(2)): “[w]hoever has sexual contact or sexual intercourse with a person who has not attained the age of 16 years is guilty of a Class C felony.”

It is important to note the definitions of sexual “contact” and “intercourse” in understanding these charges, according to Wisconsin statute law. “Sexual contact” refers to (Wisconsin Legislature 2009c: 948.01(5)):

(a) Any of the following types of intentional touching, whether direct or through clothing, if that intentional touching is either for the purpose of sexually degrading or sexually humiliating the complainant or sexually arousing or gratifying the defendant:

1. Intentional touching by the defendant or, upon the defendant’s instruction, by another person, by the use of any body part or object, of the complainant’s intimate parts.
2. Intentional touching by the complainant, by the use of any body part or object, of the defendant’s intimate parts or, if done upon the defendant’s instructions, the intimate parts of another person.

(b) Intentional penile ejaculation of ejaculate or intentional emission of urine or feces by the defendant or, upon the defendant’s instruction, by another person upon any part of the body clothed or unclothed of the complainant if that ejaculation or emission is either for the purpose of sexually degrading or sexually humiliating the complainant or for the purpose of sexually arousing or gratifying the defendant.

(c) For the purpose of sexually degrading or humiliating the complainant or sexually arousing or gratifying the defendant, intentionally causing the complainant to ejaculate or emit urine or feces on any part of the defendant’s body, whether clothed or unclothed.

“Sexual intercourse” is defined as (Wisconsin Legislature 2009b: 948.01(6)):

[V]ulvar penetration as well as cunnilingus, fellatio or anal intercourse between persons or any other intrusion, however slight, of any part of a person’s body or of any object into the genital or anal opening either by the defendant or upon the defendant’s instruction. The emission of semen is not required.

Violation of second degree sexual assault carries a maximum penalty of 20 years imprisonment and/or a \$10,000 fine, as it is considered a Class B/C felony.

Within the *Criminal Complaint*, background facts that brought Marnie Staehly to be charged for sexual offenses are outlined. For the purpose of this thesis, the victim will be referred to as 'Kristy.'¹⁵ Marnie was Kristy's basketball coach at Southwest High School in Green Bay. They became friends as a result of Marnie coaching the team and they would sometimes watch movies together. Kristy was born on November 18, 1981 and was 16 and 17 years of age when the offenses occurred.

In December of 1997, Kristy and Marnie planned to go see a movie together after a basketball game. When they were driving to the movie, Kristy fell asleep. She awoke to find Staehly holding her hand. During the movie, Staehly continued to hold Kristy's hand and used her jacket to conceal what she was doing. Staehly also held her hand when she gave Kristy a ride home following the movie, and asked Kristy if she could come inside Kristy's home. Kristy declined as she claimed she did not feel well. However, she revealed to police she did not feel well because Staehly was an adult and a coach and should not have held Kristy's hand. Staehly later called Kristy to apologize for holding her hand. However, over the course of the 1997-1998 school year, Marnie Staehly would continue to make sexual advances toward Kristy. The behaviour escalated to rubbing Kristy on the back and stomach.

In February 1998 to May 1999, Staehly continued her advances to the point where she touched Kristy's breasts, kissed her, and penetrated Kristy's vagina with her fingers. Kristy indicated to police she did not enjoy what was going on but was confused about

¹⁵ 'Kristy' is a pseudonym and is used to protect the identity of the victim involved.

the role Marnie as a coach played in her life. Kristy found out that Staehly was having the same sort of relationships with her friend, Beth.¹⁶

Beth, born January 29, 1984 was aged 15 at the time charges were laid against Staehly. Similar to Kristy, Beth had indicated to police she spent time socially with Staehly, and Staehly made sexual advances toward her such as hand-holding. Furthermore, Beth looked to Staehly as a role model because she was a coach at her high school. The sexual advances eventually progressed to digital penetration. Beth told Staehly the activity had to stop as she felt it was wrong. In the fall of 1998, Staehly became Beth's basketball coach and the activity stopped.

Marnie Staehly pleaded guilty to the charges. Judge William Griesbach sentenced Staehly to a total of 5 years probation,¹⁷ 500 hours of community service, and compliance with registering as a sexual offender.

The following sections analyze the discourse within the court transcripts and news articles of the Marnie Staehly case. I begin with an exploration of the themes revealed in the analysis of the legal proceedings.

Legal Discourse

Case Unusualness

Similar to the Anne Knopf case, there were discussions within the court transcripts surrounding the unusualness of the case. However, it was not indicated that gender of the perpetrator was unusual. The unusualness was based on other factors such as age of the offender and that Marnie was being charged with serious offenses despite

¹⁶ The name of the victim has been changed to Beth to protect the true identity of the victim involved.

¹⁷ The 5 years probation is a stayed sentence of three years incarceration.

her commendable character. For example, the Defence lawyer Tim Pedretti in recommending Staehly's sentence, states (*State of Wisconsin vs. Marnie Staehly* 1999: 19-20):

This case is unusual in a number of aspects. One thing is that I've had a lot of cases where I get letters from people, and a lot of letters from people. I don't believe I've seen a case before where there are a good many letters that have that paragraph in there that say, but she really didn't do it or we can't believe she did it or there's no way she could have done it. I didn't receive a letter like that in this case. The reason I didn't receive a letter like that in this case is because Marie Staehly has told everyone she did it... The other thing about Marnie that I think is unusual is that a lot of people, while their case is pending, perform community service and do all of these things. This is a person who, in her young life, has been doing it most of her life.

Therefore, the unusualness is not based on the fact Staehly is a woman who sexually offended. However, behaviours stereotypical to femininity are factors that contribute to Staehly's upstanding character. For example, a significant theme that emerged during the analysis was that Staehly is less deserving of a harsh penalty because of the fact she is a caring and compassionate individual. For example (*State of Wisconsin vs. Marnie Staehly* 1999: 15-16):

Another letter that I received is from one of the students that she coached, and in the letter she states, "If I were to choose one word that I thought could best describe Marnie Staehly, it would be compassionate. She goes forth in everything she does with more than 100 percent. Marnie's always there if you need an ear to talk to, is a shoulder to cry on, or just a friend to lean on." Compassion is definitely a strong point of Marnie Staehly's and it's also her greatest weakness.

Both of the girls in this case conveyed their inner feelings to Marnie and it got too close. The bottom line is, however, that Marnie let it happen, and she is responsible and they are not. That's the bottom line and that is what Marnie Staehly, the position Marnie Staehly stands in today and she understands that. Marnie Staehly is responsible morally, that's how

Marnie Staehly feels, and I think that's the heaviest burden of all that she carries. She struggled with the morality of it. And yet she did not defeat it.

Throughout the legal proceedings, the case is presented as a 'tragedy.' In recommending the sentence the Defence lawyer Kevin Rathburn states (*State of Wisconsin vs. Marnie Staehly* 1999: 4):

The tragedy of that is that this incident, the incidents which occurred here and bring us to the court today, are the aberrations, but the occurrences which are very serious, and it's that seriousness of the offense and the need to protect the public as it exists in this case that I think have to be addressed more thoroughly, at least by the state.

I think the impact of this ordeal on the victims has been substantial. It is hard to separate to what degree the impact is the result of the offenses committed by Ms. Staehly and to what degree the impact that they are suffering from, and their letters from their parents do indicate they are suffering, but that it's due to the attention that has been focused on Ms. Staehly and on them as a result of this horrible, horrible crime.

It is clear that all legal parties involved in the case do not deny the defendant's character.

There are numerous references to Marnie Staehly's excellent reputation (*State of Wisconsin vs. Marnie Staehly* 1999: 4-6):

I think it's pretty clear that the character of the defendant is not an issue. If anything, frankly, are, I believe, that our prisons would be substantially less crowded if more defendants had that sort of character.

I have a fairly strong sense that based upon the life that Ms. Staehly had led to this point and what her life has been like since then, the steps that she's taken and I think, frankly, what will be accomplished which she's proceeding through the sentence in this case, that it's very unlikely that she will reoffend.

[A]nd there's – there is no dispute in this case that Marnie Staehly has what would be characterized as a sterling character. Never before have I seen such an outpouring of support from family and friends or such letters

of tribute for the accomplishments and achievements of such a young person who is in this position. It is remarkable, and it is a strong testament to what, in all respects, other than for these offenses, has been an exemplary life.

Again, the offenses perpetrated by Marnie Staehly are portrayed as a *tragedy* as they contradict her character (*State of Wisconsin vs. Marnie Staehly* 1999: 4-5):

I suppose the tragedy in this case is reflected in that very fact, that we have someone who, in all other aspects of their life, both I believe before and it appears after this incident, have really reflected some of the best qualities that we would expect in a person.

These statements reflect the fact that the unusualness of the case is due to an individual with an excellent reputation brought before the courts for serious sexual offenses. The statements did not overtly reflect the unusualness of the case due to the fact the offenses were perpetrated by a woman. However, on closer analysis factors stereotypical to femininity were used by the legal officials as reasoning behind the unusualness of the case. In addition, to explain the offenses, a degree of psychological interpretation takes place, which is demonstrated in the following section.

Mental Impairment

A significant theme within the Marnie Staehly hearings was that her actions were justified based on a low maturity level. Staehly's offenses were due to the fact she was not unlike a high school student herself and lacked maturity and emotional development (*State of Wisconsin vs. Marnie Staehly* 1999: 6-7).

I think what the court probably can see from some of the letters, as I certainly can see, and I note on page – it would be page 14 and then onto 15, the agent indicates that she felt that Ms. Staehly was troubled and attempted to overachieve in some areas to fill that void, and that there on page 15, it referred to as this unusual tie to her high school and then eventually filling what would be an appropriate role as a big sister or someone who worked with young people, not only for the benefit of their athletic skills, but socially and spent time with them, and this is one of those situations where it appears what at that time was, I think, even Ms. Staehly indicates her immaturity, really kind of hit that slippery slope and became a much more involved relationship that ended up bringing us to the offenses which are here before the court, than what we would have obviously intended, and obviously had these people been of a different age, it might be different.

The state looks at the nature of the offense and it looks at the imbalance in the roles that existed here. Not only in terms of age, because I think at that point, although Ms. Staehly appears to be mature in how she presents herself, there was a certain level of immaturity emotionally that existed and it appears pretty clear that's part of what got her into this trouble.

This is further reinforced by the emphasis of Staehly's age made by the Defence lawyer

Tim Pedretti (*State of Wisconsin vs. Marnie Staehly* 1999: 11-12):

Relative to the victims, Marnie is older, but I would also ask this court to consider the fact that she herself is a young person. In terms of her chronological age, she was 19 and 20 years of age at the time these offenses occurred. She was a sophomore and junior at the University of Wisconsin at Green Bay. She is and was a young person who had accomplished a lot. She had performed very well in a lot of areas, certainly scholastically, certainly in sports, certainly in terms of volunteering to do work at nursing homes, Special Olympics, working, employment outside of school, and all of that, but I think she's a young person who, in a lot of ways, left not very much time for herself or not very much time to do what most other kids do, and she was a young person and is a young person who is very driven to perform.

Emotionally, I don't believe she is her stated age. I don't believe she has developed emotionally for a number of reasons. She has had, in the past, few friends who were the same age as her. I think it is somewhat true that she identified with and related to high school age, younger people. The comments of some of the teachers at Southwest, the coaches at Southwest, I think were along those lines, that it was rather extraordinary to see a

young person in college who obviously spent so much time associating with high school students and a huge amount of time she spent doing her assistant coaching and other work with the students at Southwest High School. These students were her peers, I think, in her mind.

The Judge reiterates the notion that Staehly was young and immature. However, Judge Griesbach emphasizes Staehly was simply confused and did not understand the consequences when the sexual assaults occurred (*State of Wisconsin vs. Marnie Staehly* 1999: 25):

The need to protect the public also does not seem severe or at least great in this case, and the reason I say that is I'm convinced also that Ms. Staehly has learned a very difficult lesson from this experience, one that I'm convinced she wasn't fully aware of at the time that these offenses occurred. It is sad that young people in this community and this culture who are inundated with sexual messages from the popular media are totally unaware of the criminal law, the law as it applies to sex, even between consenting parties, and I think it adds to some of the conclusion that they have, and in part, I think it explains some of the horrible cases and some of the very tragic cases we see come before us.

While at the time of the offense, Staehly is portrayed as someone who was confused, was young, and did not understand the gravity of her actions, the Judge acknowledges that she does now at the time of court appearance understand the seriousness of the assaults (*State of Wisconsin vs. Marnie Staehly* 1999: 25-27):

Sex with children has consequences far beyond unwanted pregnancy or disease, although those consequences are serious enough. The emotional tragedy, the emotional assault to young people that results from having sex before they're ready and without the commitment, without the kind of safeguards, I think, that make it wholesome and something good in life are far too often visited upon children without any awareness of the seriousness of it. I think Ms. Staehly now understands that, however, and based on all the other matters or the rest of her entire life, I'm satisfied she does not impose a substantial risk.

This also is a very young person, sadly, a confused person who has failed to understand or appreciate the boundaries that traditionally we have placed between teachers and students, but that all too often we want to erase in the hopes that close relationship will somehow further other goods and other interests.

While there was no indication that Staehly suffered from a mental illness, psychological analysis took place in that a causal factor leading Staehly to the offenses was her low maturity level. This portrayal is related to the ‘child-like’ theme, in which Staehly was constituted as a child as she possessed low maturity and related to her basketball team players as her peers. We see, consistent with the literature (Allen 1987; Comack and Balfour 2004; Heidensohn 1981; Hird 2002; Smart 1977; Viki et al. 2005; Wilczynski 1997), a level of psychological interpretation that takes place in understanding why Staehly committed the sexual offenses.

Child-like

Staehly is portrayed as someone who was similar to the high school students she coached – she did not act as a person in a position of power, but as one of the students’ peers. This is demonstrated by a number of statements throughout the Sentencing Hearing (*State of Wisconsin vs. Marnie Staehly* 1999: 12-13):

I think a major issue in this case is a difference in perception. What I mean by that is, I certainly have no reason to challenge the perception of the victims in this case that Marnie was old or was the coach, was a person who they looked up to. I certainly have no reason to question that that was their perception. I don’t believe that was Marnie’s view. I don’t believe she viewed herself as someone who was powerful, who had control or dominion over these people. I think she viewed kids she coached as her peers or as her friends in a lot of ways. And I think certainly that is a significant factor in this case.

This is significant as Staehly's power and authority are removed. Not only is she powerless as an individual of authority outside of the sexual crimes, but during the commission of the offenses her power and control over the victims in this case are removed. Along the same lines, while Staehly was charged with sexual assault of a student by a school instructional staff person, the defence discursively portrays her as someone who is not deserving of the charge, based on Staehly's perception of her role as a coach (*State of Wisconsin vs. Marnie Staehly* 1999: 13-15):

One of the charges, Count number 1, in this case involves a charge that relates to the issue of schoolteacher/student relationship, and I think in some ways, it's a bit of a misnomer in this case. I'm not sure that this is precisely the case the legislature had in mind with regard to the statute. Marnie Staehly was a teacher and wasn't a teacher. Probably 90 percent plus of the work she did was as a volunteer coach. She did receive pay as an assistant gym and soccer coach for two months in the spring of 1997 and the spring of 1998 at UWGB, she's a business major, she had had no training as far as teaching, as far as coaching is concerned.

These people, teachers and coaches, receive training with regard to maintaining boundaries with your students, with regard to maintaining boundaries with your students, with regard to situations to avoid, fraternization with students. More importantly, people who are teachers and coaches generally are older, and most importantly, more experienced in life and have a maturity that comes with all of that. This is certainly no excuse; what Marnie did was wrong. But she was in a situation that, for her, was a very dangerous one. She was recruited to the position because she was someone who could relate to kids. She was recruited because she could connect with the kids, and as some of the coaches in there say, because she could be a sort of a big sister or a closer relationship with the children who were coached. It went wrong. It obviously went wrong, and we have to ask the question why, and I think the answer is relatively simple, the answer is that Marnie is not the mature person she was presumed to be. Because she happened to be very competent in school, in sports, in a lot of other things, because of her achievements, she was presumed to be mature, and I think that the presentence and all the information before the court reflects that that was not necessarily the case.

I've handled cases somewhat like this in the past, several cases that come to mind, and those cases involved, like Marnie, young people who

achieved a lot and achieved a lot in a lot of different areas. Young people who did volunteer work. Young people who were perfect, and yet, ended up acting out sexually. I don't know the relationship there, but I've seen it happen before. There's a lot of pressure that goes with being perfect. I have, as the court has noted, received a lot of letters in regard to this case, and there's a couple of letters that I'd like to refer to because I think they point out things that are interesting and say something about Marnie and about this case.

One of those letters comes from the parent of one of the young girls that Marnie coached, not the victims in this case, but one of the other girls that she coached. She states in the letter, "I'm sad that Marnie has to struggle in life because she has given so much stability and confidence to my daughter and I wish the same thing back to her. There are very few people in life that will bring out the best in my daughter as Marnie has." It strikes me when I read things like that in these letters how ironic it is that she's able to, in most of the cases, the other perhaps 100 girls she coached, besides the two girls in this case, in most of those cases, she created something very positive and she instilled in most of these young people a confidence in their self and a belief in their self, when at the same time, underneath it all, she wasn't very secure herself, and it's rather amazing that she could convey all of that at the same time, dealing with the issues that she was dealing with inside.

A significant finding within these previous statements is that Staehly is portrayed as not even worthy of a charge despite the victims coming forth regarding the sexual offenses. The sexual charges against Staehly were described as being a "misnomer" (p. 13). Furthermore, Staehly's insecurity and immaturity are constituted as the causal factors which led her to commit the sexual offenses in which she was charged. This portrays Staehly as harmless, as she is not discursively portrayed as being involved in a sexual offense. I develop this idea further.

Harmless

The offense is rarely referred to as abusive. Similar to the Anne Knopf case, the legal professionals involved in the proceedings use words such as “this incident.” For example (*State of Wisconsin vs. Marnie Staehly* 1999: 16-17):

Another thing about the situation which I guess is ironic is that at the time *this matter* was reported, Marnie had managed to distance herself from the two victims involved, I think there’s several references in the presentence to the fact that she had driven them away, and at the time of the report, had actually attempted to deal with *it*, had actually attempted to put *it* behind her, had actually attempted to establish adult relationships with several other adults in her life [my emphases].

The legal officials discursively remove the possibility that Staehly is a sexual offender, by not referring to the offenses as sexual abuse, and by not referring to Staehly as a perpetrator of sexual crimes. It is difficult to fathom a female sexual abuser who has an upstanding moral character, and was simply immature and confused which led to the offenses. This is in line with previous research that demonstrates individuals emphasize the female offender’s stereotypical femininity despite the sexual offenses that they have committed (Denov 2004). The purpose is to keep women within their expected gender roles (Allen 1987) and to better understand that women may commit crimes stereotypical to men – but in doing so they still acted as ‘women’ due to these expected roles (Denov 2004).

Non-sexual

Another theme identified is that Marnie Staehly, while she was guilty of committing a sexual offense, is somehow not a *sexual* offender. Defence lawyer Kevin

Rathburn, in support of this contradiction, states the following (*State of Wisconsin vs. Marnie Staehly* 1999: 16):

...I think it's clear from the presentence and all the information the court has that Marnie Staehly entered into none of these relationships with the intent to have sexual activity.

Rathburn's statements continue along the same lines (*State of Wisconsin vs. Marnie Staehly* 1999: 18):

I was surprised last week when I saw Marnie because what I saw last week was someone who was very, very close to breaking. It was the first time I saw that in Marnie, someone who was ready to give up. Someone, I think, who was tired of being cast as a teacher who intentionally sought to victimize students and who intentionally sought to hurt people, and I think she was tired of being another in a series of news stories, rather than a person, a young person who made a serious mistake and who, at this point, wants to do whatever she can about it.

Finally, the judge supports this point (*State of Wisconsin vs. Marnie Staehly* 1999: 27-28):

...I look at the shame, the humiliation, and the damage to her future plans that has already befallen Marnie Staehly as a result of her conduct, and as a result of this conduct not only has she endured the embarrassment she has, but she will be required to register as a sex offender with the state of Wisconsin. She will be required to submit a DNA sample. She will be barred from the very employment that she has excelled in or thought of, wanted throughout her life. She will, in all likelihood, never be employed as a teacher, a coach, in public or private schools. To someone with her background and interests, that is a severe punishment.

The Judge discursively positions Marnie Staehly into an individual who has not 'seduced' others by committing the sexual assaults (*State of Wisconsin vs. Marnie Staehly* 1999: 26-27):

Mr. Rathburn rightly talked about a more general kind of protection of the public, and that is the need for what he called general deterrence, the need to send a message to others, not so much to Ms. Staehly, because unfortunately, she has received this message like a ton of bricks, but there are others in the community that must know that this conduct cannot be tolerated, the people in this community are entitled to send their children to school without worrying that they will be sexually seduced or taken advantage of by a teacher or another person.

As I read the presentence, as I read the accounts in the presentence, this is not a story of someone who has gone about attempting to seduce children. This is not a case about a teacher that has used the authority of their position intentionally in a way to take advantage of children.

While the above statements call for a protection of the public, it is difficult to picture society needing protection from Staehly. She was discursively portrayed as not having committed the sexual offenses on her own accord but due to a low maturity level and insecurity. She had an excellent reputation and did not seek to manipulate or overpower her victims. Recall that ‘appropriate’ gender displays (Goffman 1976) embody women as non-sexual, powerless, and non-perpetrators of crime. Justifications for Staehly’s offenses and the lack of discussion surrounding the potential for a sexual interest in her victims can be theoretically understood as an attempt by the legal officials to keep Staehly within her appropriate gender role as a woman, and therefore maintaining her ‘female gender display.’

The next section of the analysis involves an examination of themes from the news articles associated with the case.

News Media Discourse

Case Unusualness

The fact that Marnie is a female sexual offender was not presented as unusual, similar to the legal proceedings and discourse within the Anne Knopf case. This is evidenced by the headlines, which do not reveal the fact the accused is a woman:

- Ex-coach enters innocent plea (Hoeft 1999b)
- Ex-coach gets five years probation (Hoeft 1999c)
- Coach accused of assaulting two girls (Hoeft 1999d)
- Ex-coach accused of sexual assault (The Associated Press 1999)
- Ex-coach enters plea in sex case (Hoeft 1999a)

Similar to the court transcripts, Marnie Staehly's upstanding character was emphasized in the news articles. This lends support to findings within the court transcripts in which the unusualness of the case involves an individual with an excellent reputation who faces serious charges of sexual assault. This is exemplified within statements from several of the news articles:

- She graduated with highest honors from Southwest in 1996 and was named Southwest's female athlete of the year. She is a senior honor student at the University of Wisconsin-Green Bay (Hoeft 1999a: ¶ 12).

She ended her coaching involvement this spring, said Hack Washington, Southwest's associate principal. He recalled Staehly as an outstanding student athlete. "Academically, she had done a fine job at our school," Washington said...

- Staehly graduated with highest honors from Southwest High School in 1996 and was first in her class of 360. She was named Southwest's female athlete of the year. Staehly now is a senior honor student at the University of Wisconsin-Green Bay (Hoeft 1999b: ¶ 4-6).

- An accomplished student athlete won't go to jail for fondling two girls while she was an assistant high school coach.

Marnie Staehly, 22, already has suffered greatly, Brown County Judge William Griesback said Wednesday.

“She must register as a sex offender. She is barred from the very employment she sought. That is severe punishment,” Griesbach said (Hoeft 1999c: ¶ 1-3).

Harmless

There are two different portrayals of Staehly within some of the statements in the news articles. One discursively removes any domination and power over her victims. For example, one of the articles states (referring to the Judge's statements): “He said Staehly did not use her position to seduce girls and didn't view herself as having power over them” (Hoeft 1999c: ¶ 14). On the other hand, one of the articles reiterates statements made by Crown lawyer Kevin Rathburn:

Rathburn said the law is clear that students are unable to consent. “There's simply an imbalance of power between a student and an adult who's in an authority position,” he said (Hoeft 1999a: ¶ 8).

The power Staehly held over her victims is unclear. Similar to the court transcripts, the news articles recognize the importance of protecting the public from individuals who commit child sexual offenses. However, Marnie Staehly as a sexual offender is denied due to the emphasis of her moral character, her powerlessness, and her harmlessness.

Similar to the case involving Anne Knopf, the relationship between the law and media is salient upon analysis of themes within the Marnie Staehly case. The news articles focused on Staehly's commendable character, which corroborated statements

made during the legal proceedings. Furthermore, both the legal proceedings and news articles discursively removed any indication of power or authority Staehly held as an individual. This relationship is in line with research that has shown the law and media to work together to maintain a social ordering (Best 2008; Crenshaw 1996; Ericson, Baranek and Chan 1991).

Conclusion

Anne Knopf and Marnie Staehly were both discursively re-positioned into their socially appropriate sexual scripts. For example, Knopf was positioned into her role as a non-sexual, harmless and domestic mother. Staehly was positioned into a non-sexual, harmless, caring, and compassionate individual.

Messerschmidt's (1993) theory of structuration is useful for contextualizing these scripts as they operate through the law and media. Recall that Messerschmidt contends that ways in which we respond to crime are based on social expectations of gender, which is upheld in a dualist structure involving social institutions and individuals who reproduce these gender expectations (1993). Both Knopf and Staehly were discursively positioned back into their expected female scripts. These scripts were upheld at the broader institutional macro-level by legal proceedings ('the law') and news reporting ('the media'). In addition, the individuals involved in the legal proceedings (lawyers, judge) and media reporting (news journalists) upheld these expected gender scripts. Therefore, this dualist structure was apparent upon the analysis of themes. The relationship between the law and media is also useful in identifying this dualist structure, in which expected gender scripts are upheld.

In the next chapter, I offer the second part of the court and media analysis. Chapter 6 reveals the themes that emerged in the analysis of the Carrie Wheaton and Roger Smith case. This case provides an interesting analysis of a co-offending male and female pair. Carrie Wheaton is portrayed as being non-sexual, for example, similar to Anne Knopf and Carrie Wheaton. However, she is also portrayed as being non-maternal, which is different from these first two cases studied here in Chapter 5. We turn next to this second stage of analysis.

Chapter 6

Analysis of the Carrie Wheaton and Roger Smith Case

Introduction

The Carrie Wheaton and Roger Smith case is analyzed within this chapter. Anne Knopf and Marnie Staehly (Chapter 5) shared similarities in terms of their offenses. Both committed their sexual offenses within the context of relationships. Furthermore, the discursive positioning that occurred positioned Anne Knopf and Marnie Staehly into sexual scripts consistent with their expected femininity, such as being caring, maternal, and non-sexual. In contrast, the Carrie Wheaton and Roger Smith case is considerably different. Carrie Wheaton and Roger Smith committed incestuous abuse against Wheaton's young children. This chapter provides a comparative analysis of the way in which the discursive positioning of Wheaton and Smith contrasted. This chapter demonstrates that because Wheaton offended outside characteristics of her expected sexual script of being a 'good-mother,' she was positioned as a woman who is non-maternal. The following section begins with background details on the *USA vs. Carrie Wheaton and Roger Smith* case.

USA vs. Carrie Wheaton and Roger Smith Case Background

At the time of the offense Carrie Wheaton was 30 years old. Her partner, Roger Smith, was 37 years of age. During the *Plea & Sentencing Hearings*, it was indicated that Carrie Wheaton held an Associate's degree from Carl Sandburg College (Galesburg, Illinois) and earned average grades. Furthermore, at the time of her Plea Hearing, it was

revealed that Carrie Wheaton was pregnant and had previously two twin 6-year-old daughters. Carrie Wheaton had recently divorced her ex-husband (the father of the twins).

Roger Smith and Carrie Wheaton were charged with violating *Title 18, section 2251 of the United States Code (USC)*. *Title 18* of the USC deals with the “sexual exploitation and other abuse of children” (Cornell University U.S. Code Collection 2009b). Within Section 2251, the USC states:

Sec. 2251. Sexual exploitation of children

(a) Any person who employs, uses, persuades, induces, entices, or coerces any minor to engage in, or who has a minor assist any other person to engage in, or who transports any minor in interstate or foreign commerce, or in any Territory or Possession of the United States, with the intent that such minor engage in, any sexually explicit conduct for the purpose of producing any visual depiction of such conduct, shall be punished as provided under subsection (e),¹⁸ if such person knows or has reason to know that such visual depiction will be transported in interstate or foreign commerce or mailed, if that visual depiction was produced using materials that have been mailed, shipped, or transported in interstate or foreign commerce by any means, including by computer, or if such visual depiction has actually been transported in interstate or foreign commerce or mailed.

In addition, Carrie Wheaton was charged alone with violating *subsection B of Title 18 USC Section 2251*. This law is specifically directed at “[a]ny parent, legal guardian, or person having custody or control of a minor who knowingly permits such minor to engage in, or to assist any other person to engage in, sexually explicit conduct for the purpose of producing any visual depiction of such conduct” (Cornell University U.S. Code Collection 2009b). These violations elicit maximum penalties of 30 years imprisonment, a \$250,000 fine, at least 5 years of supervised release (to a maximum of

¹⁸ Subsection ‘e’ refers to the penalties associated with the violation, as explained in the subsequent paragraph.

life supervised release) in addition to a \$100 assessment penalty. Both defendants, Carrie Wheaton and Roger Smith, pleaded guilty to the charges.

During the *Plea & Sentencing Hearing*, the facts of the case were revealed. Crown Prosecutor Timothy O'Shea explained that Roger Smith came under investigation in Illinois due to "his attempted exposure of a child to sexual activity over the Internet" (p. 12). This involved Mr. Roger Smith sharing sexually explicit photos of himself to undercover police officers posing as minors. A search warrant was executed on February 28, 2008, in which child pornography was discovered on numerous cameras and memory cards within Carrie Wheaton's residence. Child pornography, or as it is referred to in USC section 2251 as "sexually explicit conduct" is defined as the following (Cornell University U.S. Code Collection 2009a):

- (i) graphic sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex, or lascivious simulated sexual intercourse where the genitals, breast, or pubic area of any person is exhibited;
- (ii) graphic or lascivious simulated;
 - (I) bestiality;
 - (II) masturbation; or
 - (III) sadistic or masochistic abuse; or
- (iii) graphic or simulated lascivious exhibition of the genitals or pubic area of any person.

Further to the investigation and interviewing of Carrie Wheaton, it was revealed that the female victims in the case were Wheaton's twin daughters. The children were 6 years of age when the pictures were taken. The Crown lawyer explained that Carrie Wheaton admitted to taking the pictures of Roger Smith sexually abusing her children in order to create child pornography. Roger Smith and Carrie Wheaton also administered cough syrup to the twin daughters so that they could be sexually abused without being

coherent and responsive. While the pictures were taken in Illinois, they were moved to Wheaton's residence in Wisconsin. This explains why the case was prosecuted at the federal level in the state of Wisconsin.

Legal Discourse

Case Unusualness

A number of themes were revealed through the analysis of court transcripts. A common overall theme throughout the court transcripts involving Carrie Wheaton was the acknowledgement that the crime Wheaton was charged with was 'beyond understanding' and was portrayed as being 'unfathomable.' This is obvious in the statements by Judge Crabb who presided over the case: "I couldn't pretend to know and I don't think anybody else could really understand it..." (*USA vs. Carrie Wheaton* 2008: 14). Judge Crabb also later states: "when it involves your own children, it's just impossible to understand how someone could have done that" (p. 15).

During the Sentencing Hearing, Carrie Wheaton was given the opportunity to address the court. She made a statement apologizing to her children involved (*USA vs. Carrie Wheaton* 2008: 4-5):

I'm sorry. I'm truly and deeply sorry. No matter how many times I say it, it doesn't change anything. My girls still got hurt by my actions. I have to live with the guilt and the pain every day for the rest of my life. My girls have to live without their mom for the rest of theirs.

I will ask myself why for the rest of my life. It happened and I can't change that. I love my children with all my heart and soul and I hope that one day they will be able to forgive me.

I know that my actions – I know that by my actions, I have affected my children in more ways than one. I hope that I can get some help to help me understand exactly why I did this.

I know what I did has changed my kids' life forever. They lost their mom and I lost them. I pray that my children don't remember what happened to them. My kids won't be able to see me for a long time. I don't want my kids to remember so they don't have to go through a lot of pain and heartbreak.

I know my kids won't have their mom there to give them advice when they need it. I won't be able to see my kids graduate from high school. I might not be able to see my kids when they get married. I will miss the big and little events in my children's lives. For that I will punish myself.

My children will miss seeing me at all those events. They will miss me giving them love, advice and encouragement. I want to close by saying that I am not a bad person. I just got into a bad situation. I punish myself every day for what I let happen.

Wheaton's statements reinforce this notion that the crime is 'beyond understanding.' For example, Carrie Wheaton herself states "I will ask myself why for the rest of my life" (p. 4). Wheaton acknowledges that what she did was "bad," and appeals for help understanding why she committed the acts she did with regards to her children.

Mental Illness/Coercion

The Defence lawyer Erika Bierma, following the statement given by Carrie Wheaton, offers an explanation for the offenses. The Defence lawyer portrays the commission of the crimes was beyond Wheaton's control due to psychiatric impairment (*USA vs. Carrie Wheaton* 2008: 5-6):

Ms. Wheaton acknowledges that this is a horrible, horrible offense. However, Ms. Wheaton was a depressed newly-divorced mother of two and she was just trying to be a better mother to her daughters.

She was in a parenting chatroom and that's where she met Roger Smith. Roger Smith was predatory being in a chatroom when he had no children of his own.

Looking at Ms. Wheaton, she is very low functioning. She is easily manipulated, as evidenced by the report attached to the sentencing memo. She wants to please the person that she is with. She never would have become involved in this situation if it weren't for Roger Smith. She was manipulated into participating in the offense.

She has no prior criminal history. She will never reoffend. Roger Smith will continue to be a predator. Ms. Wheaton has lost her children and she will never be permitted to be around children again.

The statements by the Defence constitute Carrie Wheaton as someone whose offenses were beyond her control. The true bearer of responsibility in this case is portrayed as Roger Smith, who deliberately sought out Carrie to access her children and offend against them. Furthermore, the Defence lawyer discursively places blame on the mental impairment of Carrie Wheaton: she was “a depressed newly-divorced mother of two...very low functioning...” (p. 5). Later on in the statement, Erika Bierma states (*USA vs. Carrie Wheaton* 2008: 6):

She has accepted responsibility for her actions and now she obviously needs help to deal with the emotional consequences of her actions. Ms. Wheaton desperately needs counseling and psychiatric care and I would respectfully submit that a sentence of 20 years would be appropriate but not greater than necessary in this matter.

A recommendation of 10 years less than the maximum penalty of 30 years imprisonment in this case is due to the fact that Carrie Wheaton is suffering from mental impairment and “desperately needs counseling and psychiatric care.”

In response to the recommendation by Erika Bierma, the Crown lawyer, Timothy O'Shea, disagrees with the statements regarding a 20-year sentence which is 10 years less

than the maximum penalty. This has to do with the fact that Carrie Wheaton is of average intelligence (as shown by her post-secondary grades) and has taken full responsibility for the charges that were laid against her. In addition, O'Shea emphasizes Wheaton's psychiatric impairment was not a factor in the case, according to the Crown (*USA vs. Carrie Wheaton* 2008: 7):

We see in paragraph 99 that her daughters were born in 2002 and she did experience postpartum depression. She was, however, treated successfully with Zoloft from 2002 until she divorced her husband in September of 2007.

While it was as if Carrie Wheaton committed the crimes based on circumstances out of her control (mental unfitness, manipulated, and coerced into producing child pornography); the Crown lawyers present Carrie Wheaton as someone entirely different. This is further exemplified during testimony from the Crown that reveals Wheaton had molested her children in the past under no force or coercion (*USA vs. Carrie Wheaton* 2008: 7-13):

Ms. Wheaton told the police when she was interviewed, when she was arrested, that she touched her daughters while bathing them when the girls were four years old.

Now, the girls were born in 2002. With the idea of fitting this in a timeline chronology here, the girls were born in 2002. That means that the girls were – that means the girls were four in 2006, a year before meeting the defendant online.

Now, parents bathe their children and bathing of course involves touching the privates of their children being bathed. I'm going to read from the report to show that it's more than just bathing these kids.

Ms. Wheaton was asked, and I'm now going to read from it, Wheaton was asked if she had ever touched her daughters in a private area or areas prior

to meeting Smith online. Wheaton stated that she did touch her girls a couple of times while bathing and believed that when she did that, her daughters at the time were four years old.

When asked what Wheaton touched when her daughters were in the bathtub, Wheaton said that she touched the outside of their; and I apologize, but this is the language Ms. Wheaton used; outside of their “pussies,” and that’s in quote marks. Wheaton said that when she did that, her daughters never complained that they did not like it.

I submit that the defendant is talking about fondling her girls, for two reasons; number one, she was questioned about this in the context of a criminal investigation; and then the second thing is, there was something different about the way she touched the girls in the bathtub that made those events stand out to her as different.

And of course every parent, any parent, who is asked, have you ever touched your child’s privates, if one is involved with the care of those children, would have to say yes, of course, because, of course, every time one has to change a child’s diapers, one has to wipe the child or when the child is in the tub, you have to clean the child. So every parent would honestly say, hey, yeah, I touched the child many times.

There was something about what happened in the tub that made Ms. Wheaton isolate those out as being different, and I respectfully submit it was her intent and the fact of the truth is she fondled those girls.

Getting back to the chronology; in Spring 2007, Ms. Wheaton met Smith online, and that’s in paragraph 30, and the next thing is ultimately found within paragraph 30. She indicates that she met Smith in person in May 2000. She divorced her husband in September 2000. Also in paragraph 30, the defendant’s ex-husband was given primary placement of the girls and Ms. Wheaton had visitation rights every other weekend.

Now, in Ms. Bierma’s memoranda, she suggested she met – that Ms. Wheaton met Smith in January of 2000 and that they met and began to date in early 2000. Either way, it is clear that when Ms. Wheaton – I’m sorry, when Ms. Wheaton met Smith in the chatroom, she was not a single mother trying to cope with raising girls alone.

When she met Mr. Smith, she was not, as Ms. Bierma just said, a newly-divorced mother, and she never had to deal with these children alone. She only had these girls on weekends at her parents’ home, so her parents were there.

Paragraph 29, Mr. Smith indicates that he began touching the girls in the middle of [2007] while he and Carrie slept with the girls...so that's June or July, a month or two after Mr. Smith and Ms. Wheaton met in person. It escalated to touching the girl's genitals.

In paragraphs 34 through 36, Ms. Wheaton describes what happened, from her perspective, and it really talked about the same course of events. And it's clear that Ms. Wheaton took an active role in what happened, according to the way she described it herself.

She wiped up Mr. Smith's ejaculate from the girls and she indicates that the acts aroused both Ms. Wheaton and Mr. Smith. She said that he took pictures and she also says that she took pictures. She says he touched them and she says that she touched these girls, too.

And she also indicates that she gave the girls cough syrup, which of course had the effect of insuring that there would not be a memory, also that there would not be resistance. So the words out of Ms. Wheaton's mouth show that she was not a passive, but an active participant.

I respectfully submit that the chronology and an honest, perhaps stark, look at Ms. Wheaton's life and the conduct here shows a couple things; number one, that she is able to function. She functioned in high school. She functioned in community college. She functioned at work and she, it is also clear, she made choices independent from any dominant man in her life.

She met up with Mr. Smith and began dating him while she was still married, so clearly she was not trying to please her husband, the dominant man in her life, when she began her relationship with Mr. Smith.

I think a stark analysis also shows that the defendant's conduct here is rooted not just in Mr. Smith's desires; and this does appear to be sort of a perfect storm of bad things for these two girls in terms of Smith's particular interest in the defendant, the fact that these two girls were available to him; but it was rooted in defendant's interest and the defendant clearly knew right from wrong here, she does today as she did then... The defendant here made a choice to resolve this with a plea, a plea to 30 years with a 30-year maximum. The United States still believes that's appropriate.

The Government observes that the guidelines call for a sentence of life in prison. I respectfully submit, on behalf of the United States, that the best thing to protect the community is for the defendant to be incarcerated for the full 30 years.

The discourse used by the Crown lawyer Timothy O’Shea depicts Wheaton as an entirely agentic, responsible individual who committed these crimes without coercion or manipulation. The revelation that Wheaton had previously molested her children was emphasized in corroborating this. Furthermore, the discourse constitutes Wheaton as a ‘danger’ to the community which warrants the maximum sentence in order to “protect the community” (p. 13).

This discursive positioning of Wheaton into an individual who committed sex crimes beyond her own control is also reinforced by the Judge who presided over the case. The Judge provided statements in her rationale for granting the sentence which in this case was the full 30 years. Judge Barbara Crabb states (*USA vs. Carrie Wheaton* 2008: 13-14):

You are clearly not a strong person. You are easily influenced. You are easily led astray. You are highly dependent upon having a man in your life. And those are all factors that probably did lead you to engage in this behavior with Mr. Smith, but I don’t believe that they are the only factors.

I believe that you had your own unfortunate interests in abusing your daughters. Those escalated when Mr. Smith was in the picture, but they didn’t start when Mr. Smith was in the picture. Why that’s part of your personality, I don’t – I couldn’t pretend to know and I don’t think anybody else could really understand it, but it does make you a person that I think is a danger to the community.

Unfortunately, you don’t seem to have the self-discipline, the independence, the understanding of the seriousness of your crime to let me think that you can become a different person. You may, but I can’t rely on that.

While the Crown and Judge acknowledged that Wheaton was *interested* in sexually abusing her daughters, the idea that she potentially had a sexual preference for children was never discussed or acknowledged. For example, Judge Crabb stated “Why

that's part of your personality..." (p. 14). Later, the Judge states: "you had...sexual contact with your daughters before you were involved in this offense and later you subjected your children to sexual exploitation by yourself and by Mr. Smith, and that was for your personal gratification" (p. 17). The interest in committing the crime was part of her weak personality, vulnerable to being "easily influenced" and wanting to please the men in her life. The Crown lawyer stated a crime took place because the actions were "rooted in [the] defendant's interest and the defendant clearly knew right from wrong here..." (p. 12). At the very end of the sentencing, Judge Crabb states: "Mr. Smith had images of sexual exploitation in his camera and he shared those images with [others] in the...online chatrooms. Your involvement in his activities indicates that you are a danger to the community" (p. 18). While there was an acknowledgement by the Crown and Judge that Carrie Wheaton was interested in sexually abusing her children, this was for her own gratification in pleasing her social relationship with her partner. It was not due to a sexual preference she had for children. In addition, ultimately it was Smith's actions and her cooperation with them that led her to the crime. Even though there was an effort to portray Carrie Wheaton as responsible, an individual having agency who had a history of fondling her own children; at the end of the proceedings Wheaton is discursively depicted as someone who lacks "self-discipline" and "independence" (p. 14) and participated the fulfillment of someone else's desires.

Non-maternal

Another observation can be seen in the following statement, and relates to Wheaton's identity as a mother (*USA vs. Carrie Wheaton* 2008: 6):

Ms. Wheaton will be incarcerated for a long time and she will repay society by doing her time. However, she will never be able to repay her girls for what's happened to them. She will be incarcerated beyond her child-bearing years and she will never be able to have any of her own children and there is no evidence to support that she will ever victimize any other children.

The 'true' punishment is that Wheaton will never be able to experience full motherhood. This is evidenced in Wheaton's own statements as well (*USA vs. Carrie Wheaton* 2008: 4-5):

I know my kids won't have their mom there to give them advice when they need it. I won't be able to see my kids graduate from high school. I might not be able to see my kids when they get married. I will miss the big and little events in my children's lives. For that I will punish myself. My children will miss seeing me at all those events. They will miss me giving them love, advice and encouragement.

Not only will she 'miss out' on these things in which a mother should be present for, but she will also be "incarcerated beyond her child-bearing years" (p. 6). Wheaton is paying the ultimate penalty according to her Defence lawyer. This rationale by the Defence lawyer is due to the fact that Wheaton will not be able to abuse her own future children because she will not be able to bear children if incarcerated for 20 years, and this will further serve to protect the community.

USA vs. Roger Smith

Non-Sexual

The themes identified through the analysis of Carrie Wheaton's court transcripts were further reinforced after comparing her case to that of her co-accused, male defendant, Roger Smith. For example, when it came to sentencing Roger Smith, the sexual interest in children was never called into question. Crown prosecutor Timothy O'Shea makes this clear in the reading of his recommended sentence (*USA vs. Roger Smith* 2008: 7-8):

[I]t's part of the defendant's character that he views children as sexual objects. He's an otherwise law-abiding person, and based on the statement that he gave to Mr. Jones to read today, it's clear that he is a person who feels empathy for other people. But at the same time, it's just as real that yesterday when he woke up, today when he woke up, tomorrow when he woke up – when he wakes up, he's just going to keep viewing children as sexual objects, even very small children. I think we're very lucky in this case that we caught – that this was caught before Mr. Smith's sexual assaults on these children progressed to the point where they're physically invasive or physically or mentally scarring on these children. I think we lucked out.

Similar to the recommended sentence of Carrie Wheaton, Roger Smith was given a recommended maximum sentence by the Crown prosecutor due to his active role in sexually abusing and exploiting the children online. However, Crown lawyer O'Shea states (*USA vs. Roger Smith* 2008: 7):

[T]his is not an isolated incident. The addendum shows the defendant clearly sought out young women, and in particular his correspondence would indicate he sought out young women who had small children. I can reasonably say the defendant found with Carrie Wheaton the person he was looking for. *She was pliable, she was vulnerable, and she had two small children* [my emphasis].

The responsibility now falls on the shoulders of Smith for seeking out the “vulnerable” Wheaton, despite the fact that it was established in Wheaton’s sentencing that she acted on her own accord, especially due to her previous molestation of her children. Here Roger Smith is expected to be responsible, and the fact that he has a sexual preference for children is never called into doubt. This is further evidenced in the following statements given by the Crown (*USA vs. Roger Smith* 2008: 8):

So I think it’s very important that the defendant is incarcerated for thirty years for two reasons. I think that that will give these little girls a chance to grow up, grow well into adulthood before they have to really even think about Mr. Smith. And quite frankly, I think Mr. Smith ought to be incarcerated until he’s in his 60s. With age hopefully and men’s libido decline somewhat, I think the defendant should be incarcerated until his libido goes down...

This characterization constitutes Roger Smith differently than Wheaton with regard to a sexual interest in children. First, Wheaton was described as having an interest in the abuse of her children because it was part of her “character” or “personality.” This interest was described as ‘unimaginable.’ Roger Smith’s interest in children, on the other hand, was due to a high “libido” and capacity to “view children as sexual objects.” This is corroborated by Judge Crabb with the following statements (*USA vs. Roger Smith* 2008: 8-9):

Mr. Smith, this is a sad situation for everyone involved, but I have to think primarily of the victims in this case and the potential victims in this case. For reasons that I don’t begin to understand, some people have the kind of desire that you do to have sexual activity with small children. I know or I believe very strongly that that isn’t anything that you wish you had and that you’d be much happier if you didn’t have it, but it is part of your character for whatever reason, and that makes you very dangerous because sexual activity with small children is very damaging to those children.

The desire to abuse children on Carrie Wheaton's part was to please others (she was "dependant" on males in her life); whereas, Roger Smith had a desire to please his own sexual interest in children. In addition, what was unfathomable in Carrie Wheaton's case was that as a mother she offended against her own children. In Roger Smith's case, the issue that was difficult to understand was that he has a sexual preference for children.

Smith's desire was portrayed as interests he could not control, as evidenced by the following statements by Judge Crabb: "I know that you have extraordinary regret for what happened, but I'm just not persuaded that you have the ability to control your impulses" (p. 9). On the other hand, the issue in sentencing Wheaton was that she lacked the "self-discipline" and was easily influenced by males in her life. This issue she could not control was pleasing the male influence in her life. The social relationship was the issue that was constituted as being out-of-control for Wheaton, versus sexual desire in the case of Smith.

Differential Dangerousness

Another similar observation is that the lengthy sentence of 30 years for Wheaton was due in part to her incapacity to "understand" the "seriousness" of the abuse and may re-offend. It was reasoned by Judge Crabb that the community needs to be protected from Wheaton. However, Judge Crabb states that it is Smith's *desire* that makes him dangerous to children and thus the community needs to be protected from him. The issue of dangerousness is then constituted differently – Carrie Wheaton is dangerous as she is vulnerable and may be involved in dangerous relationships; Roger Smith is dangerous as

he may seek to exploit relationships and vulnerable women in order to gain access to small children in which to abuse and satiate his sexual desires for them.

Both Carrie Wheaton and Roger Smith were given the maximum sentence of 30 years. In reading the sentences for both, Judge Crabb indicated numerous conditions relating to their sentence, such as not associating with anyone under the age of 18 and not possessing any electronic devices, for example. Interestingly, relating to Roger Smith Judge Crabb states “You have no reported drug abuse or diagnosed mental health problems. You’ve maintained stable employment since you graduated from high school” (p. 11). As a result, the Judge does not recommend any mental health conditions with Smith’s sentence. Conversely, relating to Wheaton Judge Crabb states (*USA vs. Roger Smith* 2008: 21):

[Y]ou are to cooperate with the appropriate mental health agency in the assessment and referral process for case management services as approved by the probation officer. You are to follow those recommendations which may include counseling, medication, recommendations and housing placement. You are to take any medications prescribed by a licensed medical provider.

There was no mention of any possibility for a mental illness in the case of Roger Smith – yet in the case of Wheaton, mental unfitness was one of the factors that was brought up by the Crown lawyer (she was “pliable” and “vulnerable” (p. 7)), the Defence lawyer (“she was in desperate need of psychiatric counseling and was “very low-functioning” (*USA vs. Carrie Wheaton* 2008: 5)), and finally the Judge (“you are clearly not a strong person” (*USA vs. Carrie Wheaton* 2008: 13)). Yet, it was also revealed that Wheaton was successfully treated for mental health issues. In sharp contrast, there was never mention

of mental health as an issue in the commission of the crime or for the cognitive functioning of Roger Smith.

Prior Victimization

Another theme that emerged when analyzing the Judge's statements relating to the sentencing of Carrie Wheaton and Roger Smith is that the judge commented on their past lives when considering the sentence. Regarding Roger Smith, she states (*USA vs. Roger Smith* 2008: 11):

Your parents divorced when you were young, but you spent time with both parents while growing up and they remain very supportive of you. You've been described by your family as a quiet child and kept to himself. You have no reported drug abuse or diagnosed mental health problems. You've maintained stable employment since you graduated from high school.

With regards to Carrie Wheaton, Judge Crabb indicates the following (*USA vs. Roger Smith* 2008: 16-17):

You had no relationship with your biological father from the time you were born, but you were raised by a supportive mother and stepfather. You have indicated you were sexually abused at the age of 15, but you never reported the abuse, and that may enter into your thinking. It's hard to know.

You suffered from mental health problems following the birth of your twins, but you demonstrated your ability to seek help in the past for those issues and you sought counseling and you were prescribed Zoloft.

As such, the Judge contemplates whether being sexually abused as a teenager is the reasoning behind Carrie Wheaton sexually offending as an adult against her children. However, Roger Smith's background is portrayed in more positive terms – he minds his

own business, got a steady job and an education. The reasoning that Wheaton may have offended due to her history of abuse is consistent with past research, in that the prior victimization of the female offender is used to justify why she committed the crime (Comack and Balfour 2004).

News Media Discourse

Case Unusualness

This section of the chapter examines statements within the articles associated with the case of *USA vs. Carrie Wheaton and Roger Smith*. The first theme identified is that the case was described as unusual because it involves a woman. Some of the articles pointed out that Carrie Wheaton was the first female in Wisconsin to be charged with a child pornography offense:

- Wheaton is perhaps the first female convicted in United States District Court for the Western District of Wisconsin of using minors to make and possess child pornography. When she's sentenced in late September, she faces a mandatory minimum sentence of 15 years in prison and a statutory maximum of 30 years (Wagner 2008: ¶ 2).
- Wheaton maybe the first woman prosecuted in federal court for the Western District of Wisconsin, which encompasses the western half of the state. O'Shea said he couldn't remember another case involving a female" (Murphy 2008b: ¶ 7).

Non-maternal

The unusualness of the case is also made apparent by articles that focus on the fact that Carrie Wheaton was the mother of the victims and was also pregnant at the time she was brought before the courts. This theme relates to the code 'non-maternal,' in

which Wheaton is portrayed as not acting as a mother should. This is obvious in a few of the article headlines, such as: “And She’s Pregnant Again!” (Wagner 2008) and “Mother Pleads Guilty to Child Porn Charges: Pregnant Woman took Pictures of Twin Daughters in Explicit Sexual Poses” (Treleven 2008a). The focus on the fact that Carrie Wheaton was pregnant becomes clearer in the actual text of the news articles. For example, within the article titled “And She’s Pregnant Again!” (Wagner 2008), the focus is on the fact that Carrie Wheaton is an offending mother who is about to give birth to another child. The article is provided below in its entirety to offer a rich detailed account of news discourse (Wagner 2008):

Under the law, there’s no way to make 30 year old Carrie Wheaton stop producing children. That’s too bad.

Wheaton is perhaps the first female convicted in United States District Court for the Western District of Wisconsin of using minors to make and possess child pornography. When she’s sentenced in late September, she faces a mandatory minimum sentence of 15 years in prison and a statutory maximum of 30 years.

For anyone who might think these penalties to be too harsh, consider this: the two children involved in the child pornography were her twin 6-year-old daughters. That’s right. Her own kids!

According to prosecutors, Wheaton used cough syrup to drug her daughters. She then used a digital camera to photograph her boyfriend while he performed sex acts on the children. Authorities subsequently found 23 images of the girls engaged in sexually explicit activity on a memory card from the camera. A second memory card with other sexually explicit photos was also found.

If it’s possible for this matter to be even worse – it is. You see, Wheaton is pregnant! I’m not certain whether the father is the guy who was molesting the 6-year-olds or some other loser. Regardless, that unborn child will certainly be entering the world with quite a bit of baggage.

Speaking of baggage, can you imagine how emotionally devastating this has been (and will continue to be) for Wheaton’s two daughters. I mean,

imagine going through life knowing that you were molested by mommy's boyfriend while mommy took pictures!

The only good news is that Wheaton will perhaps be spending most of her remaining child-bearing years in federal prison. Don't worry, when I last checked, they don't allow conjugal visits.

As the saying goes, you need a license to catch a fish but anybody can have a child.

A number of observations can be made after reading this article. First, the journalist opens up the article with the line "there's no way to make 30 year old Carrie Wheaton stop producing children" (Wagner 2008: ¶ 1). This portrays Carrie Wheaton as an individual who is irresponsible as a parent – one capable of "producing" her own children on her own. Later in the article the journalist mentions: "I'm not certain whether the father is the guy who was molesting the 6-year-olds or some other loser. Regardless, that unborn child will certainly be entering the world with quite a bit of baggage" (¶ 5). The journalist is not concerned with the paternity of the unborn child. Rather, his main concern is that the *mother* was implicated in the criminal offense.

Another common theme is that 'justice' served in this case relates to the fact that Carrie Wheaton will not be able to bear children due to the lengthy sentence and maximum penalties associated with the charges laid (though she was already pregnant at the time of sentencing). Statements such as the following corroborate the sense of justice relating to the fact Wheaton will be unable to have children in the future: "The only good news is that Wheaton will perhaps be spending most of her remaining child-bearing years in federal prison" (Wagner 2008: ¶ 7).

Conversely, when it comes to news articles surrounding this case, there is no mention of Roger Smith's ability to continue "producing" children. There is no mention of 'justice' that may be achieved in this case relating to his incapacitating Smith with regards to fathering his own children in the future. This is surprising given the fact that males are not limited to a child-producing timeline or that they possess "child-bearing years" based on the biology of reproduction. Males can father children, as long as they do not have any sterility factors, throughout their adult life. Yet, Smith's capacity to father children in the future is not cited as a concern. One article offered a contrasting position: "As the saying goes, you need a license to catch a fish but anybody can have a child" (Wagner 2008: ¶ 8).

The focus within both the court transcripts and some of the news articles was on the "high libido" that Roger Smith possessed. Yet, the concern still was not on the fact that Smith could potentially still get out of prison after the maximum sentence and father more potential victims – as was the concern regarding Carrie Wheaton. The main issue was simply that "With age, we can hope that his intense libido declines some" (*USA vs. Roger Smith* 2008: 8). While it is paramount to ensure Carrie Wheaton's capacity to mother any future children be completely out of the question; this concern in Roger Smith's case was a mere "hope."

This contradiction is also obvious in the following text contained in the opening lines of an article:

- It's a parent's worst nightmare to learn their young child had been sexually exploited in photographs that were shared on the Internet. But the fact that Carrie Wheaton did it her own twin 6-year-old daughters makes it imperative that she spend the next 30 years behind bars, a federal judge told Wheaton on Tuesday (Treleven 2008b: ¶ 1).

- “I think that a lot of people would agree that this crime is about as bad as it gets, short of the rape of your children,” U.S. District Judge Barbara Crabb said. “And because it involves your own children, it is impossible to understand” (Treleven 2008b: ¶ 2).
- Crabb agreed with O’Shea’s sentencing recommendation calling the harm Wheaton did to her own daughters was “incalculable” (Murphy 2008a: ¶ 11).

It is horrible when this type of offense occurs. Yet it is even worse when a *mother* does it to her *own* children. In relation to Roger Smith, there was no mention of his role in the abuse and exploitation as being difficult to understand or the actions being “incalculable.”

Existence of an Offender/Victim

Similar to the court transcripts in this case, the offenders and victims were referred to as victims in the news articles. For example, Smith was referred to as a “predator” (Treleven 2008b: ¶ 6). However, in some of the news articles, Carrie Wheaton was portrayed in-line with some of the court transcripts as someone who is vulnerable and easily manipulated: “Wheaton’s attorney, federal defender Erika Bierma, described Wheaton as a depressed and lonely mother of two” (Treleven 2008a: ¶ 6). Furthermore, as mentioned previously in this section, Wheaton’s identity as a mother was salient throughout the articles. This is evidenced by looking at the headlines of several news articles, for example:

- Mom Sentenced to 30 Years for Using 6-Year-Olds for Porn (Murphy 2008a)

- Mother Pleads Guilty to Child Porn Charges: Pregnant Woman took Pictures of Twin Daughters in Explicit Sexual Poses (Treleven 2008a)
- Mom Admits to Using Twins, 6, To Make Child Porn with Boyfriend (Murphy 2008b)
- Mother Sentenced to 30 Years; She Had Plead Guilty to Exploiting Daughters (Treleven 2008b)
- Mom sentenced in Hollandale child porn case (Treleven 2008c)
- And She’s Pregnant Again! (Wagner 2008)
- Feds Say Mom Photographed Naked Twin Daughters for Internet Porn, Wis. Man Took Part (The Associated Press 2008b)
- Woman charged with assaulting daughters (Kaufman 2008)

There were some articles surrounding the case in which Roger Smith was indicated in the headline:

- Man Gets 30 Years in Porn Case; Had Photographed 6-Year-Old Twins After Doping Them (Simms 2008)
- Man Gets 30 Years for Making Child Porn with Girlfriend’s Daughters (Murphy 2008c)
- Man, woman indicted for sexually assaulting twins (The Associated Press 2008a)
- Iowa County man sentenced to 30 years in child porn case (Murphy 2008d)

After reading the headlines, Carrie Wheaton’s identity as a mother is explicit. However, in headlines involving Roger Smith, the relationship between him and the victims is unclear.

The headlines that explicitly mention Carrie Wheaton as a mother also make the focus on her as the main perpetrator. For example, the headline: “Feds Say Mom

Photographed Naked Twin Daughters for Internet Porn, Wis. Man Took Part” (The Associated Press 2008b). It is as if Roger Smith had a small role in the offenses – Carrie Wheaton is discursively portrayed as the instigator and Smith simply “took part.” This is contrary to the actual content of the news articles. Within the article mentioning that the “Wis. Man Took Part” (The Associated Press 2008b), the journalist writes:

They are charged with two counts each of producing sexually explicit depictions of minors and shipping them between states. The indictment also charges the woman with two counts of helping Smith engage in sexual conduct with her girls for the pictures (¶ 3).

While the focus of the headline is on the “mom” who produced child pornography, the wording within the article portrays Wheaton of “helping” Roger Smith sexually abuse her daughters. This implies a lesser role in the offending than is made explicit by the headline.

The articles also discussed the emotional responses of Wheaton and Smith when they were allowed to read statements to the court. For example, the following was referenced when discussing Wheaton’s court address:

In a steady, unemotional voice, Wheaton lamented the fact that she won’t be around when her daughters graduate from high school or when they get married, and said she prays they don’t remember what happened to them. Wheaton said she hopes they will be able to forgive her (Treleven 2008b: ¶ 5).

With regards to Roger Smith, the following is mentioned when discussing the statements he prepared for the court:

- In court on Friday, Smith was emotionally unable to read a prepared statement and handed it to his attorney William Jones who said Smith was

sorry for causing co-defendant Carrie Wheaton, 30, of central Illinois, to lose her two girls and newborn son to child protection services (Murphy 2008c: ¶ 3).

- Smith, overcome by tears, had his attorney, William Jones, read Crabb a letter in which he apologized for what he'd done and begged for mercy for Wheaton (Simms 2008: ¶ 5).
- Jones asked Crabb for the 15-year minimum sentence saying federal guidelines contemplate worst conduct for the maximum punishment of 30 years then having sexual contact with sleeping girls. Jones also said Smith was cooperative with authorities and remorseful (Murphy 2008c: ¶ 6).

What is important to point out is the contrasting portrayals of the two accused in the news articles and the specific information highlighted by journalists. Carrie Wheaton was not emotional – she held a “steady, unemotional voice” (Treleven 2008b: ¶ 5), versus Smith who was “overcome by tears” (Simms 2008: ¶ 5) and was “remorseful” (Murphy 2008c: ¶ 6). Because of the fact that Carrie did not overtly display signs of emotion, she was not deemed as being able to understand the seriousness of her actions. She was not sufficiently empathetic.

Non-Sexual/Prior Victimization

Another theme emerges similar to the court transcripts, in which Carrie Wheaton's possible sexual preference for children is never an issue. One article references the Judge's reasoning in sentencing her to the maximum penalty (Murphy 2008a: ¶ 13):

Crabb based Wheaton's maximum sentence partly on Wheaton's inability to understand why she molested her own daughters but suggested it may have been linked to Wheaton being sexually abused when she was 15 years old.

However, in another portion of the same article, it quotes a statement from Crown lawyer Mr. O’Shea: “It’s clear that she took an active role in what happened and that she and Smith were aroused” (Murphy 2008a: ¶ 10). However, despite the Crown prosecutor’s statements that reveal Carrie Wheaton experienced sexual arousal during the exploitation and abuse of her daughters, the reasoning by the Judge and reinforced by the news articles was that Wheaton was a victim who suffered from past sexual victimization. It was suggested that this may be why she committed the offenses. The fact that Carrie Wheaton may have a sexual preference for children was never mentioned in any of the articles. This is contrary to discussions in the articles surrounding Roger Smith, which is exemplified below.

- Assistant U.S. Attorney Tim O’Shea asked Crabb to impose 30 years saying the photos of Smith and the girls taken in November and February weren’t isolated incidents as Smith previously sought out young women with small children.

The mother was “vulnerable, pliable” and with two small children, a person Smith could use “as sexual objects,” O’Shea told Crabb (Murphy 2008c: ¶ 7-8).

- Jones continued Smith’s statement, saying Smith regretted not getting the help he needed for his problem (Murphy 2008d: ¶ 5).

The examples above demonstrate Smith had sexual desires for small children. However, the same discourse is not used to constitute Carrie Wheaton as someone with a sexual preference who saw her victims as sexual objects.

Similar to the previous cases involving Anne Knopf and Marnie Staehly, this case shows the relationship between the law and media in upholding expected gender scripts (Best 2008; Crenshaw 1996; Ericson et al. 1991). The same themes emerged within the

analysis of both court transcripts and news articles, in which both Roger Smith's and Carrie Wheaton's offenses were positioned within sexual scripts. As a man, Smith was expected to be sexual and aggressive, and the news articles and legal proceedings did not emphasize his role as a step-father in relation to the victims. On the other hand, Wheaton was portrayed as being non-maternal, as she did not conform to her gender script. Therefore, Wheaton was especially worthy of strict punishment and her potential for future motherhood had to be taken away.

Theoretical links can be made to the Carrie Wheaton and Roger Smith case. As Wheaton did not adequately emphasize her femininity during the commission of the offenses (Connell 1987), she was portrayed as acting outside the gender scripts as a woman. Wheaton not only sexually offended against her own children; she did not show emotion during the legal proceedings. In other words, Wheaton did not appropriately display her gender (Goffman 1976), unlike Anne Knopf and Marnie Staehly who still remained within their gender scripts despite their offenses. These sexual scripts were upheld at both the macro-institutional level during the legal proceedings and media reporting as a whole. However, they were also upheld at the micro-individual level by the news journalists and legal officials who discursively upheld gender expectations and condemned Wheaton for not acting as a mother is supposed to act. This demonstrates the dualist structure that exists in maintaining hegemonic conceptions of gender (Messerschmidt 1993).

Conclusion

A number of themes were discovered in the analysis of the Carrie Wheaton and Roger Smith case. These themes involved the construction of Carrie as non-maternal, mentally ill and non-sexual, and having committed the offenses under coercion from Roger Smith. Smith was constructed as sexually active and manipulatory. The case was construed as unusual due to Wheaton's offenses against her own children.

In Chapter 7, I develop linkages between the thematic discourse analysis and prior literature. Furthermore, I suggest pathways for future research in order to advance our understanding of female sexual offending.

Chapter 7

Discussion and Concluding Comments

Introduction

Through the discourse analysis of court transcripts and news articles of each female sexual offender case, a number of themes consistent with past research emerged. New themes, not already identified in the literature, were also uncovered. The following chapter discusses each theme and draws connections to the broader literature on female sexual offending. An important aspect of this chapter is a discussion of the theoretical contributions this thesis has developed. Finally, I explore the limitations and benefits of this study.

Case Unusualness

The first theme found in the analysis of legal and news discourse was the acknowledgment that female sexual offending is an unusual occurrence. For example, in the *State of Wisconsin vs. Anne Knopf* case, all parties involved in the court proceedings (the Judge, Crown, and Defence lawyers) stated the case was unusual due to the age and gender gap between Anne Knopf and the teenage male victim. This is consistent with literature that has found female sexual offending to be a rare occurrence compared with male sexual offending (Denov 2004; Elliot 1993; Ferguson and Meehan 2005; Ford 2006; Kubik, Hecker and Righthand 2002; Vandiver and Walker 2002). Past literature also supports the findings of this study. Past research has shown female sexual offending is treated as an anomaly due to our conceptions of female criminality and sexual scripts

(Cheit 2003; Comack and Balfour 2004; Nelson 1994; Pritchard and Hughes 1997; Shaw 1995).

This pattern is especially identified within the *State of Wisconsin vs. Carrie Wheaton and Roger Smith* case. There were numerous statements made indicating the unusualness of the fact that Carrie Wheaton committed sexual abuse as a mother. Furthermore, the lawyers and the judge made statements which indicated sexual crimes against children are difficult to comprehend when the perpetrator is the mother of the children. Interestingly, her co-accused partner, Roger Smith, was not held to the same standard. The unusualness that he would commit a sexual crime against his possible step-children was not questioned. These depictions portray sexual offending against one's own children as a mother differently than when the crime is perpetrated by a male extended relative, for example.

Within the analysis of news articles, several significant issues emerged. First, past research highlights how article headlines are important as readers take in the information in the headlines rather than the actual text (Franiuk et al. 2008). Moreover, research has shown that bizarre and unusual cases are most often depicted in news stories, especially when it comes to sexual assault cases (Cheit 2003). Interestingly, the headlines in the Anne Knopf and Marnie Staehly cases did not depict the unusualness of the case. They did not reveal the perpetrator's sex as women. However, the first line of the majority of the news articles trivialized the charges that Anne Knopf faced, by using words such as "tryst" to describe the sexual offense, for example (Harter 2007: ¶ 1). It was significant that only one article used words denoting a level of dangerousness associated with to Anne Knopf (such as "safety" and "abuse") (Harter 2007: ¶ 10-11). However, this

information was at the very end of the article. In line with past research, it is unlikely readers pay attention to the ending of articles because they more often read the alluring headlines and skim or skip the actual article text.

The *State of Wisconsin vs. Marnie Staehly* case did not portray the case as ‘unusual’ due to Staehly being a female perpetrator. The unusualness was centred on the fact Staehly was of upstanding moral character and was charged with serious allegations of sexual abuse. The analysis of the case revealed issues stereotypical to femininity were presented, such as the accused’s caring and compassionate character. This helped mitigate Staehly’s culpability despite the charges.

In Chapter 3 (theoretical perspectives) it was emphasized that “we have no ways of conceptualizing violence by women except in terms of its ‘unnaturalness’” (Shaw 1995: 122). However, in order to make contributions to criminological theories and explanations for female criminality, moving beyond conceptualizations of unusualness is an important step. Messerschmidt’s (1993) theory of crime as structured action is useful for understanding social conceptions of criminality, which will enable social scientists to move beyond these gender stereotypes in theorizing crime. Messerschmidt (1993) contends that expected gender roles are upheld in a dualist structure of individuals and social institutions. These expected gender roles impact criminality. For this thesis, the ways in which female offending is justified are based on these expected gender roles, which are reinforced by the dualist structure in which they exist.

This thesis demonstrates that depictions of case unusualness have to do with the extent to which individuals adhere to their expected gender roles. Anne Knopf and Marnie Staehly were discursively portrayed as remaining within their gender roles as

being caring, compassionate and sympathetic. Carrie Wheaton on the other hand, was portrayed as a bad mother who needed to be incarcerated past her child-bearing years. The fact that Roger Smith sexually offended was not construed as being unusual.

Justifying offenses based on expected gender roles does elicit consequences. This thesis shows that cases in which the female perpetrator offends outside her scripts of being caring and maternal elicits more social and legal punishment than cases in which the offender is portrayed as remaining within her expected sexual and gender-role scripts. Consistent with past literature (Sanderson et al. 2000; Viki et al. 2005), the women who were depicted to act within their sexual scripts were treated more sympathetically by legal officials and news journalists; whereas, Carrie Wheaton who was portrayed to have contradicted her sexual script of a ‘good mother’ was treated more harshly both in terms of her sentence and news media depictions. In the cases of Anne Knopf and Marnie Staehly, the cases were not depicted as unusual and their offenses were trivialized. In these cases, victims may not be considered to be victims and the offenses may be looked at as consensual sexual activity. Therefore, necessary intervention of victims, such as psychiatric counseling for example, may not be granted to victims in cases that are not depicted as being unusual based on society’s gender stereotypes of female criminality. Future research should address depictions of case unusualness when it comes to cases of female sexual offenders.

The Harmless Offender

Research that has focused on individuals such as police officers and legal counsel, shows legal officials may perceive female offenders as incapable of committing certain

crimes (Allen 1987; Comack and Balfour 2004; Denov 2004; Nelson 1994). In certain cases, this tendency results in trivialization of the crime that has taken place.

Dangerousness is minimized as the female offender is discursively portrayed as a harmless individual. This minimization of harm and dangerousness was apparent in the second theme that emerged through the analysis of the Anne Knopf and Marnie Staehly cases.

For example, Anne Knopf in both the court proceedings and news articles covering the case was not discursively depicted as a perpetrator of a sexual crime. In addition, the victim was not depicted as being harmed as a result of the sexual abuse that took place. Instead, words other than ‘perpetrator,’ ‘abuser,’ and ‘offender’ were used to depict Knopf. Furthermore, words to describe the victim were absent. Marnie Staehly, on the other hand, was not portrayed to be a perpetrator based on her upstanding moral character. These patterns of communication portrays the perpetrators as harmless individuals who did not cause detriment to the victim. In fact, the discursive maneuvering by Crown lawyer John O’Boyle in the Anne Knopf case, in his statement that “realistically kids these days are much different at younger ages, the things that they engage in; but it doesn’t take away from the seriousness of it” (*State of Wisconsin vs, Anne Knopf* 2008: 8-9) does actually minimize the seriousness of the charges against Anne Knopf, despite the lawyers’ recognition that the ‘event’ was serious. The onus is placed on the victim – it is a social problem and something that kids ‘do’ nowadays. This removes agency from Anne Knopf as a perpetrator of abuse. This is consistent with past literature that demonstrates female sexual offending against males is often glorified and trivialized by society (Denov 2003a, b, 2004; Nelson 1994).

To help understand why this trivialization occurs, it is beneficial to link research in chapter 3 to the findings. Recall that hegemonic masculinity and traditional masculine scripts portray males as over-sexed, aggressive, and powerful. Women on the other hand, are expected to emphasize their femininity in relation to males, which involves being caring, maternal, and domestic. Women are not expected to initiate sex, but only in relation to responding to men's desire for sexual intercourse. This maintains the social hierarchy in which males are dominant and females are subordinate. Therefore, the trivialization that takes place during female sexual offender cases serves to maintain this patriarchal social order. Women are not portrayed as being sexually aggressive and capable of harming victims. Moreover, in cases of older females abusing younger males (such as the case of Anne Knopf), the case is glorified. Rather than responding to the younger male as a victim of harm by an aggressively sexual female, the case is portrayed as a sexual 'accomplishment' by the male. Cases are depicted in which the male was the sexual initiator and he is not portrayed as a victim who has been harmed as a result of the 'relationship' that has occurred. While Marnie Staehly offended against female victims, this theoretical link can also be made. Staehly was portrayed as being extremely compassionate and caring and it was difficult to fathom her capability as a sexual offender. Her offenses were trivialized as she remained within her expected gender scripts while she committed her offenses and in so doing was portrayed as emphasizing her femininity.

Research has shown significant harm may result for victims of sexual abuse even into adulthood, such as Post Traumatic Stress Disorder (Casey 2005; Filipas and Ullman 2006; Kendall-Tackett 2002). Due to the potential for harm, future research needs to be

conducted in this area. Trivialization of the sexual offenses may occur due to conceptions of women in general. However, the victims involved in these cases may be physically and/or psychologically harmed as a result. This trivialization may occur more frequently in cases whereby the offender-victim relationship is glorified by society, such as cases involving women offending against younger males. As Nelson's (1994) research shows, legal officials may trivialize offenses even if it involves young children, due to the fact that the victim is male and the perpetrator is female. Therefore, further research needs to further explore harm that may result from sexual abuse. Cases which trivialize offenses, especially in the case of female offenders, may result in the harm victims experience being ignored.

Non-Maternal

A female who has offended outside of her sexual scripts may be portrayed as particularly dangerous (Comack and Balfour 2004). In the case of Carrie Wheaton, consistent with the literature and the thematic code labeled 'non-maternal,' Wheaton was portrayed as being 'evil' and 'cold' due to the crimes that she committed. As she did not act how a mother 'should,' she was more deserving of a harsh sentence. This was demonstrated in the statements made in news articles that praised Roger Smith for showing emotion. On the other hand, Carrie Wheaton was punished for not showing emotion during the court proceedings. She was portrayed by the Judge as not understanding the seriousness of the charges that faced her. As Smith openly cried in court, the news media and Judge indicated that he did feel remorse and fully understood the consequences of his crime. As Wheaton did not show emotion, she was deemed as

worthy of punishment as her lack of emotion demonstrated she did not understand the offense.

Theoretical links can be made to the literature by analyzing the ‘non-maternal’ theme closely. Interestingly, while it can be argued Roger Smith betrayed his expected masculine scripts by showing emotion and openly crying in court, acting outside socially expected gender roles in this case granted Smith praise versus punishment. This contradicts literature used in this thesis. Smith and Kimmel (2005) indicate in their research of sexual discrimination cases that “men who are ‘not masculine enough’ will be negatively valued” (p. 1838). While the analysis showed Roger Smith was actually positively valued due to his open show of emotion, this may be due to the fact Smith still remained within his expected gender role, as he faced sex crime charges ‘typical’ to expected masculinity. As Smith already conducted himself in a manner consistent with masculine scripts of being over-sexed and aggressive in committing the sex crimes, his open show of emotion in court did not threaten his masculinity as a whole. Moreover, the depiction of Wheaton being manipulated into participating in the offenses by Smith also demonstrated his sexual and aggressive leadership when it came to the crimes.

However, Carrie Wheaton displayed behaviour that overtly contradicted her expected role as a woman and mother. Not only did she participate in the sex crimes against her own children, she did not even show emotion when facing the charges. The legal officials did not emphasize Wheaton’s potential sexual preference for children, but instead focused on her cognitive weaknesses and desire to maintain the social relationship with Smith, which ultimately led to the offenses. However, nothing about Wheaton’s own behaviour would depict her as acting within the expected gender scripts of a woman, as

she not only committed the offenses but did not show emotion when facing the sentencing. Since Wheaton did not ‘remotely’ act within the confines of her expected gender role, she did not deserve to even participate in her role as a mother. Recall from Chapter 3 (theoretical perspectives) that individuals who do not appropriately ‘display’ their gender (Goffman 1976) are considered to be unnatural (Connell 2002; Shaw 1995). Wheaton did not display traits consistent with being a mother, which should come ‘naturally’ to females based on expected gender scripts. Therefore, the courts attempted to strip Wheaton of her ability to bear children in the future. Conversely, Smith acted within his expected gender role, and therefore his punishment would not interfere with his ability to continue this role, such as having a high libido and fathering children in the future.

The Good Mother

Research has found that stereotypical femininity such as women who care for their children are used by defence lawyers to portray them as less worthy of harsh and difficult sentences (Comack and Balfour 2004). In addition, the literature has pointed to the fact that women’s place on the social hierarchy is maintained by emphasizing their excellent abilities as mothers (Allen 1987) despite being charged with offenses that may contradict this role. Conversely, women who offend outside their sexual scripts are granted harsher sentences than women who possess stereotypical attributes consistent with female sexual scripts. They are considered to be more dangerous than women who act according to social expectations of femaleness.

While Carrie Wheaton was portrayed as acting outside her designated scripts of being maternal in nature and was punished as a result, the opposite occurred in the case of Anne Knopf. The *Wisconsin vs. Anne Knopf* case showed that Knopf was portrayed as a ‘good-mother,’ consistent with the code found in the literature. In the statements made by her defence lawyer, Frederic Bruno, Knopf was praised and cast as an excellent mother, responsible for the care of the children and domestic duties while her husband was the breadwinner for the family. Because of this, Frederic Bruno asked the judge to consider a sentence that would allow her to maintain responsibility for her children.

Women’s culpability is mitigated by officials who discursively position them within their expected gender scripts. Research by Allen (1987) suggests that by portraying women as ‘good mothers’ and giving emphasis to their domestic duties such as child care serves to keep women in their social ‘place.’ Consistent with expected gender scripts, women are supposed to be in-charge of domestic labour in the home. Despite the fact that Anne Knopf committed a sexual crime against an individual of the same age as her child, the concern was that she would need to be sentenced to allow for her to continue looking after her children.

There are important links here to Goffman’s (1976) theory of social interaction. This approach contends individuals are held accountable to their appropriate gender ‘display.’ Furthermore, Connell’s (1987) notion of emphasized femininity is relevant to this theme. Knopf was portrayed as acting appropriately as a mother is expected to based on her child care and domestic duties. In relation to her husband who was the family breadwinner, Knopf’s role was clear as the domestic labourer. Therefore, as Knopf demonstrated her abilities to adhere to her appropriate gender display in which she was

held accountable (Heritage 1984), the legal officials reasoned that her place is in the home continuing these duties.

Mentally Ill

The literature which relies on psychiatric assessments of offenders reports high rates of mental illnesses within female sex offender populations (Faller 1987, 1995; Lewis and Stanley 2000; Nathan and Ward 2001; Vandiver and Walker 2002). In this thesis it was revealed that Carrie Wheaton and Anne Knopf both suffered from bipolar and depression. Furthermore, while Marnie Staehly had not been diagnosed with a mental illness, her weak cognitions were blamed as the factor that led her to commit the sexual offenses. While the research does show that there are high rates of mental illness within female sexual offender populations, the problem arises in that the existence of the illness is deemed as the causal factor which led to the abuse. Consistent with past literature was the finding that psychological interpretations of crimes justify female sex offenses based on the existence of mental illness.

Allen's (1987) research outlines how the "psychologization" of females when it comes to violent offenses is frequent and occurs more often with female offenders. Attributing female criminality to mental illness serves to normalize women who act outside of their sexual scripts as mentally ill. Furthermore, Comack and Balfour (2004) showed in their analysis of female violent offenders that mental illness is used to explain the violence as actions outside of the offender's control. The 'psychologization' that takes place discursively through court dialogue and media representations removes responsibility from the female offender to the mental illness (Hird 2002).

In the case of *State of Wisconsin vs. Anne Knopf*, Knopf's past psychiatric history with bipolar was depicted as the causal factor that led to the sexual abuse, as demonstrated by statements by Knopf's defence lawyer: "Behavior that would never be considered can occur because of impaired brain functioning, and insight into the appropriateness of behaviors can be significantly limited or completely absent" (*State of Wisconsin vs. Anne Knopf* 2008: 16-17).

An interesting comparison involved the case *USA vs. Carrie Wheaton and Roger Smith*. Similar to the case of Anne Knopf, Carrie Wheaton was portrayed as someone suffering from a mental illness. She was in "desperate" need of psychiatric care (*USA vs. Carrie Wheaton* 2008: 6). Her cognitive weakness caused her to 'give in' to the sexual desires of Roger Smith, which caused her to help him to sexually abuse her own children. However, the psychiatric impairment of Roger Smith was never called into question. He was considered of sound mind, and was never recommended psychiatric counseling as part of his treatment in prison, as there was no past history of cognitive impairment. This discursively removes agency from the actions of Carrie Wheaton – it was not her committing the offense; the mental illness was the causal factor. Contrastingly, Roger Smith committed the sexual offenses in order to satiate his sexual desire for children. This was not presented as involving any abnormalities or cognitive malfunctioning.

The case *State of Wisconsin vs. Marnie Staehly* provides another significant comparison to be made. While there was no mention of a mental illness per se, Staehly was discursively portrayed as someone who possessed cognitive impairment, which led to the commission of the offenses. Her mental incapacity was due to her low maturity level. The 'psychologization' also took place in this case, as Staehly's low maturity level

led her to associate with individuals younger than she was, and as a result, she did not act her age. Staehly's responsibility for her offenses lies in her lack of maturity.

This research contributes to the literature as it shows that psychological explanations also occur in cases involving female sexual offenders. Past research has looked at female violent offending (Allen 1987; Comack and Balfour 2004; Hird 2002). However, this discourse analysis demonstrates research in the area of psychologization of female offenders should be applied to female sexual offenders as well. Consistent with the research conducted in the theoretical perspectives chapter, women who act contrary to their sexual scripts are discursively portrayed as not behaving on their own accord. The female offenders were not the true bearers of responsibility when it came to the commission of the sexual offenses. Their actions are deemed as unnatural, and anomalies which can be explained through the existence of a mental illness.

'Psychologization' of female sexual offenses demonstrates repercussions that result from attributing criminal events to mental illnesses. Hird (2002) indicates that women whose offenses are justified based on the existence of a mental illness are stripped of their agency as they are not deemed as being responsible for their offenses. Women are more likely to be institutionalized, and are placed back in their homes to resume their domestic duties such as childcare following treatment (Hird 2002). Future research should therefore address psychological explanations of female criminality.

Due to the fact that research is largely based on clinical samples of female sexual offenders, research on non-clinical samples outside of psychiatric institutions is beneficial. This will clarify whether female sexual offenders commit their offenses based on the existence of a mental illness. The reliance on psychiatric clinical assessments may

not demonstrate whether mental illness and the sexual offenses were separate factors in the commission of the offense. In other words, female sexual offenders undergoing treatment for psychiatric issues may be perceived to have committed the offenses based on the presence of their illness(es) rather than other factors, such as sexual interest in their victims.

Size Matters

An interesting theme emerged when analyzing the court transcripts of Anne Knopf. There were statements made in which the size of the victim, relative to the accused Anne Knopf, were made to be significant factors in defending Knopf's actions by the defence lawyer, Frederic Bruno. It was emphasized in the court transcripts that the victim was of larger stature than Anne Knopf. Sexual assault literature is relevant to this theme. Research shows that in cases of sexual assault factors such as the level of resistance by the victim are used to prove that a sexual assault exists (Anderson 1998). This thesis offers a contribution to the literature, in that male victims of female sexual offenses may find it difficult to prove a sufficient level of resistance.

Links to the theoretical literature can be made in understanding why male victims' size relative to female perpetrators is a factor in determining the level of victimization. Recall that expected gender scripts depict males as sexually aggressive and powerful; whereas women are supposed to be weak, powerless, gentle, non-sexual and caring. In situations where males are sexually victimized such as in the case of Anne Knopf, their victimization may be trivialized in order to maintain the patriarchal social order. For example, society is able to maintain males' dominance over women by depicting abusive

situations perpetrated by females as situations in which the male initiated the sexual activity. The male's power is maintained by not depicting him as a harmed victim. If he wanted to get away, he would have simply overpowered the woman due to his larger size and strength. However, discussions surrounding potential manipulation and psychological control were absent in describing the Anne Knopf case.

While David, the victim in this case, may have been physically larger than Anne Knopf, Knopf's power over the victim was only discussed during the victim impact statement by David's mother. There was; therefore, an attempt to portray Knopf as powerful and manipulative. However the legal officials discursively portrayed David as the initiator of the sexual activity, which in turn keeps the male victim and female perpetrator within the realm of their expected gender roles despite the circumstances that led to the charges.

These findings call for further research. Victims of crimes may not receive the appropriate care and treatment due to depictions of victimization that are based on prevailing sexual scripts. In this case, male victims who are abused by female perpetrators may not be deemed as victims who were harmed. Furthermore, this thesis shows that more work needs to be done in the area of rape cases which are prosecuted in court. An important component in depicting victims' resistance in court is the size of the victim relative to the perpetrator (Anderson 1998). However, psychological versus physical control of victims in cases of rape may be more central in generating compliant victims. This may especially be true for cases of female sexual offenders, where physical control of male victims is more difficult due to biological size differences between men and women.

The Child

Another new theme in this study involved discursive maneuvering by the Defence lawyer, who depicted Anne Knopf as a child, with child-like behaviour that led to the commission of the offense. The Defence stated that there was “an apparent age regression” that occurred. Anne Knopf cognitively acted like a child, and engaged in child-like behaviour (such as pursuing David and engaging in sexual relations with him) (*State of Wisconsin vs. Anne Knopf* 2008: 16-17). This was also evidenced in the case *State of Wisconsin vs. Marnie Staehly*. Staehly’s low maturity level was reasoned as a factor leading to the offenses. More specifically, Staehly’s Defence lawyer states: “Emotionally, I don’t believe she is her stated age. I don’t believe she has developed emotionally...I think it is somewhat true that she identified with and related to high school age, younger people” (*State of Wisconsin vs. Marnie Staehly* 1999: 12).

Interestingly, by characterizing the perpetrator’s behaviour as child-like, the accused discursively loses responsibility for her actions. Other literature has shown that male offenders are “expected to take what’s coming to them ‘like a man’” (Comack and Balfour 2004: 61). This is significant in that my research shows the opposite may occur for female sexual offenders and are treated as children themselves.

This child-like theme is significant and lends support to research used in the theoretical perspectives chapter. Recall that women’s place in maintaining the patriarchal social order is in subordination to men’s dominance (Connell 1987). By comparing Knopf and Staehly to children, their position on the social hierarchy is lowered even further due to their child-like behaviour. In discursively positioning them comparable to children, once again their power is stripped as individuals. Similar to the discursive

alignment of the female sexual offenders in this thesis to individuals who did not harm their victims in the process of their crimes and did not psychologically control their victims, comparing them to children also removes the potential for them to have harmed their victims. Their responsibility for the offenses is also removed. They acted silly, behaved as children, and related with children. They did not use adult judgment, and were not rationally capable of the intellectual foresight to know what they were doing was wrong, due to their child-like tendencies. Therefore, Knopf and Staehly were discursively positioned to occupy the lowest rung of the social hierarchy due to the comparisons made to children's behaviour, despite their admission and acceptance of responsibility for the crimes.

Coerced

Consistent with past research is also the theme in which Wheaton's offenses were due to the social relationship between her and Smith. She was vulnerable and would do anything for Smith, including sexually abusing her own children. The concern was that she might enter into future relationships where she is taken advantage of and may be coerced into sexual abuse of children. This is in-line with past research that shows women are more often thought of as being forced and/or coerced into offending by a dominant male partner (Elliot 1993; Ford 2006). However, the Crown revealed Wheaton sexually molested her children in the past. Even with this revelation, Wheaton's sexual preference was never questioned. It was emphasized instead that her weakness was in maintaining her romantic relationship with Smith, which led to the sexual abuse.

Future research should clarify motivations for offenses. In the literature review chapter, research by Kruttschnitt and Carbone-Lopez (2006) revealed that women accused of violent offenses did not attribute their crimes to the maintenance of social relationships, for example.

Non-sexual

For all female offenders in this thesis, their crimes were not attributed to a sexual interest in their victims. Even though in some cases the offenders and/or legal officials indicated there was sexual arousal, the existence of, for example, pedophilia or a sexual preference for children/adolescents was not discussed. However, in the case of Roger Smith, his sexual preference for young children was not questioned or called into doubt. This is consistent with research on sexual scripts (Allen 1987; Banning 1989; Byers and O'Sullivan 1998; Comack and Balfour 2004; Denov 2003a, b, 2004; Hird 2002; Nelson 1994). Females are expected to be non-sexual and only participants in sexual activity in response to men's desire for intercourse. Males, on the other hand, are expected to be sexually aggressive and over-sexed.

The comparison between men's and women's sexual scripts is especially apparent in the *USA vs. Carrie Wheaton and Roger Smith* case. Carrie Wheaton had to be incarcerated long enough so that she could not have any more children. Her ultimate penalty was to surrender her duties as a mother. Wheaton did not act like a mother because she appeared emotionless confessed to sexually abusing her own children. She does not deserve to be a mother. On the other hand, this same condemnation is not made

of Roger Smith – he may still have a high libido upon release (but let’s “hope” not according to Crown lawyer Timothy O’Shea) (*USA vs. Roger Smith* 2008: 8).

This is consistent with past research that reveals the law historically has not allowed the possibility for women to be pedophiles, for example (Denov 2004; Nelson 1994). However, while the law does provide gender-neutral terms in depicting possible perpetrators of offenses, it is clear legal officials uphold conceptions of femininity. The possibility for women to have a sexual preference for children is not called into question, even when a woman is charged and convicted of sexual crimes against children. Future research should therefore investigate the role sexual interest plays in the commission of child sexual offenses. An important step is to interview and/or survey female sexual offenders to determine the prevalence of sexual interest in their victims, such as the presence of pedophilia and ephebophilia (sexual preference for adolescents). In addition, research should investigate whether power and control are factors in cases of female sexual offending. These research advances will clarify the conceptions of female sexual offending in which women are not considered to be sexually interested in their victims.

Limitations

This research study has have limitations that should be acknowledged. First, this thesis relies on three cases of sexual offending involving female perpetrators. This limited sample size impacts the study’s overall representativeness. These cases are not generalizable to all cases of sexual offending. However, due to the fact that the study is qualitative in nature, the researcher has garnered rich data valuable to the interpretive

understanding and advancing theoretical explanation. This work also lays the groundwork for similar studies to be conducted in the future with larger sample sizes.

The cases used also involve three unique instances of female child sexual offending: (1) a co-offending pair versus two female children; (2) a female coach versus two female adolescent players; and, (3) a female teacher versus a male adolescent. Future research should incorporate a diversity of cases with greater use of documents surrounding the cases (i.e., police reports, probation/parole reports, radio/television media accounts). This will allow for an in-depth analysis of the discourses as they pertain to different types of female child sexual offending. Consistent with the literature, for example, is the contention that male adolescents who 'have sex with' older female teachers are perceived as less deviant than young children victimized by female sexual offenders. Nelson (1994) highlights how even young male children who experience sexual abuse by women may be glorified. Therefore, future research should address the myriad of instances of female sexual offending. This will allow for a more complete study of the discourses that constitutes some female sexual offenders differently from offenders, based on social conceptions of offending.

Future research should also incorporate analyses of other documents pertaining to cases. For example, police and psychiatry reports would be beneficial in order to examine discourse relating to female sexual offenders. Some past research has looked at police and/or psychiatric conceptions of female sexual offending (Denov 2004; Nelson 1994). This is beneficial in demonstrating how multiple officials may be involved in discursive portrayals of femininity in female sexual offender cases.

Although this study looks specifically at whether gender inequalities exist implicit within cases of female sexual offending, future research should address the race and class as they operate through legal proceedings and news reports of sexual offender cases. Research has documented that race, and class and gender intersect (Naffine 1990; West and Fenstermaker 1995). This study lays the groundwork for similar studies to be carried out in which race and class are also investigated as discursively producing and constituting sexual offenders based on social expectations of race and class. An important contribution would be to investigate whether sexual offenders are discursively portrayed in legal and media accounts of sexual offending to adhere or contradict racial and/or class stereotypes.

Benefits

Despite the limitations described above, this research is extremely beneficial. First, literature on female sex offending is unfortunately scant. Therefore, this research has contributed to the existing body of literature regarding female offenders (Faller 1987, 1995, Ferguson and Meehan 2005; Finkelhor, Williams and Burns 1988; Lewis and Stanely 2000; Miccio-Fonesca 2000; Nathan and Ward 2001, 2002, Oliver 2007 Sandler and Freeman 2007; Vandiver, Dial and Worley 2008; Vandiver and Kercher 2004; Vandiver and Walker 2002) and also to the body of literature regarding the discursive production of gender norms and traditional sexual scripts (Allen 1987; Denov 2001, 2003a, b, 2004; Hird 2002; Nelson 1994). Furthermore, the diversity of cases used and rich qualitative research generated in the discourse analysis is beneficial to the contribution of female sexual offender studies.

Upholding gender norms when it comes to female sexual offending is problematic, as it may result in underreporting of female sexual offending and/or the trivialization of these offenses. The revelations found in this study may spark resistance to the construction of gender norms, especially related to constructions of female criminals.

This study found that ‘psychologization’ (Allen 1987) of offenders occurs in cases involving female sexual offenders. While previous literature has looked at female violent offenders and the psychologization that occurs in justifying serious crimes (Allen 1987; Comack and Balfour 2004; Hird 2002) this study found psychologization also occurs in cases involving female sexual offenders. This is an important contribution to the literature. It demonstrates the discursive maneuvering in which females’ agency in their commission of serious sexual crimes is removed. Furthermore, it shows the normalization of mental illness that occurs when it comes to female criminality (Allen 1987), especially in cases involving women who offend outside stereotypical sexual scripts (Denov 2001, 2003a, b, 2004; Hird 2002; Nelson 1994). This psychologization impacts our overall conception of women who commit crime, and therefore this revelation that it occurs within female sexual offender cases is significant.

This thesis also found new emerging themes that were not identified in the literature relating to portrayals of female offenders. First, a new theme was discovered which portrayed Anne Knopf and Marnie Staehly as children in the commission of their sexual offenses. This is significant as Knopf and Staehly were discursively portrayed as adhering to their expected female sexual scripts. This portrayal warranted less social and legal punishment because despite their offenses, Knopf and Staehly still acted as females

‘should.’ Future research would benefit from studies on female sexual scripts and whether child-like behaviours contribute to emphasized femininity (Connell 1987). The discursive portrayal of Knopf and Staehly as children contributes to the patriarchal social order, in which the offenders are deemed as being vulnerable, powerless, and not capable of harming others.

Another theme that emerged in the analysis was the finding that male victims of sexual offenses perpetrated by women may not be portrayed as victims due to their size relative to the female offender. It is assumed that women are not capable of manipulating and controlling a male victim of larger stature than the perpetrator, due to prevailing conceptions of femininity and glorification of female sexual offenses against males. However, the psychological control over a male victim may be especially important in over-powering a victim larger than the female in cases of female sexual offending. Psychological manipulation and control has been identified in literature on rape and sexual assault of male offenders against female victims (Anderson 1998; Busch, Bell, Hotaling and Monto 2002; Gelles 2003; Kimmel 2005). Therefore, this area of research warrants attention in cases involving female sexual offenders.

Important benefits are the findings that advance theory surrounding female criminality and female sexual offenders. The following section describes in detail the theoretical advancements this thesis has contributed to the literature.

Theoretical Contributions

This thesis also contributes to theory regarding female criminality. Messerschmidt’s theory of crime and structured action (1993) is useful for

conceptualizing female sexual offender cases. Conceptions of female criminality may be based on social expectations of femininity. Therefore, the ways in which we justify female offending may be based on social constructions of sexual scripts.

Messerschmidt describes how our conceptions of gender are upheld by both individuals at the micro-level and social institutions at the macro-level (1993). Furthermore, these conceptions are reproduced in a dualist structure in which individuals (such as legal officials and media reporters) and institutions (such as the law and media) maintain stereotypical gender conceptions (Messerschmidt 1993).

This can be applied to cases of female sexual offending. This thesis showed instances whereby legal officials and news reporters discursively positioned female sexual offenders, such as Anne Knopf and Marnie Staehly, into their sexual scripts of being sexually passive, maternal, and harmless individuals. This invoked a sympathetic response from the legal officials and news reporters involved, as the women were still portrayed as acting as women 'should' based on prevailing conceptions of sexual scripts. The woman appropriately displayed their gender (Goffman 1976). On the other hand, Carrie Wheaton was discursively positioned outside of her sexual script due to the sexual offenses against her own children. Therefore, she was deemed as non-maternal, and not worthy of carrying out her domestic duties as a mother. This invoked a response of condemnation from both the news reporters and legal officials involved. Offenders' actions were explained as the result of mental illnesses and the women (Anne Knopf and Marnie Staehly) were portrayed as acting child-like in the commission of their crimes. Roger Smith, the male sexual offender, was not questioned with regards to his sexual leadership in committing the crimes, and his sexual preference for children. This is

consistent with the sexual script of males being aggressive and over-sexed. While Smith did receive a 30 year sentence similar to Wheaton, the co-offender, Smith was not discursively condemned by the legal officials or media reporters. These examples show that crimes involving activity which is outside sexual scripts are more often legally and socially punished than cases whereby individuals conform to their proscribed gender role.

This research also corroborates literature which demonstrates the close relationship between the law and media, which will be further explained in the following section.

Relationship between Law and Media

The close relationship between the law and media in upholding views toward crime may significantly contribute to social constructions of female sexual offenders. Best (2008), from a social constructionist standpoint, demonstrates the media and the law mutually reinforce each other in reporting and creating law based on the social order. This is important as research has demonstrated the law and media work together in maintaining a patriarchal social order (Altheide 2003; Ericson et al. 1991; Gans 1979).

This thesis demonstrated that the law and media work together in upholding gender scripts. Messerschmidt's (1993) theory of structuration is useful in contextualizing this relationship. Messerschmidt (1993) contends that social institutions at the macro-level, along with individuals at the micro-level, operate in a dualism in upholding social norms. Therefore, it would appear that the law and media as social institutions, with the legal officials and media reporters at the micro-level, do indeed operate in a dualist structure.

The news reports reflected the sexual scripts that were upheld throughout the court proceedings, which demonstrates this dualist structure. However, this thesis is beneficial by showing this relationship between the law and media. If individuals at the micro-level, such as legal officials and media reporters, recognize the consequences of upholding sexual scripts when it comes to the justification and interpretation of female sexual offenses, these individuals may be more inclined to resist these hegemonic gender ideals. The dualist structure in which these scripts exist may be less functional as a result. Overall, this would contribute to the social status of women in that they are not perceived as committing crime based on factors stereotypical to femininity, which serves to keep women in their place in a patriarchal society.

Sexual Scripts in Female Sexual Offending Cases

There are consequences in upholding these social expectations of gender. Trivialization of crimes may occur. Research has shown that significant harm may result from child sexual abuse. Victims may not receive the psychiatric attention they may need, and/or cases of female sexual offending may not be reported due to the glorification of these cases.

In addition, women's agency as individuals is stripped as their offenses are portrayed as being based on factors stereotypical to gender scripts, versus having committed crimes based on their own volition. While this analysis of sexual scripts is related to female sexual offender cases, the relationship between agency and crime is important. The view that women are non-agentic and not responsible reflects social views towards women as a whole. Connell (1987) provides important theoretical linkages to

these social views towards women. By emphasizing women's femininity during the court and media reports, women's subordination to men's hegemonic masculinity is maintained. Women remain within the realm of their sexual scripts, whereas men's perceived aggression, power, and sexuality are maintained. This ultimately preserves the patriarchal social order, rather than perceiving women's offenses to be based on their own volition and counteracting this social order. Future research should investigate why women sexually offend. An important contribution to the literature would be to interview women in order to determine their own justifications for sexual offenses instead of depending on hegemonic gender scripts to explain offenses.

Past research has highlighted the moral panic that may occur when it comes to constructions of sexual offenders (Cheit 2003; Frei 2008). Therefore, it is important not to contribute to the moral panic suggesting female sexual offenders are as prevalent as male sexual offenders. The research tells us that female sexual offending is a very rare occurrence (Ferguson and Meehan 2005; Kubik et al. 2002; Vandiver and Walker 2002). However, it is important to acknowledge that female sexual offending does occur. This study looked at the legal and media portrayals of female sexual cases. The results demonstrate the women's offenses are discursively positioned into their expected gender scripts. The reasons why women offended in such cases may be more complicated than assumed and not based on social constructions of female criminality. Future research should clarify our assumptions on why women sexually offend against children and overtly contradict their expected gender scripts.

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