

Responding to Abuse: A Matter of Perspective

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“John’s mother spoke at a press conference at the hospital yesterday morning, appealing for anyone with information to contact police.”

The Sydney Morning Herald, Australia, 6 August 1993

“I don’t think any parent could love their children more than I do, and I would never even think about doing anything that would harm them. It’s very painful to have the finger pointed at you when it’s your children involved.”

Time Magazine, United States, 14 November 1994

“We can only hope for a miracle. We have not slept since our little girl went missing. We can only hope that someone is holding her and will let her go.”

The Daily Mail, England, 23 September 1985

The emotional pleas outlined above were made in the media by parents who, it was later found, had murdered their children.¹ In each case the parents presented themselves as normal people who were facing a trauma of immense magnitude. To illustrate this point, one mother had previously been voted the “friendliest female” in her class.² The parents’ appeals in the media had the impact of rallying massive public support.³ The complex nature of the support they received is highlighted in people’s response to a mother who had reported that her sons were abducted: even when doubt about her claims began to surface “millions watched Susan Smith’s sorrowful pleas and put suspicions aside”.⁴ To suspect a plot required “too complex a calculation”.⁵

This article attempts to highlight how people accused of the abuse of children are able to sway public opinion, just as public opinion was swayed because of media coverage in these cases. Focus is on the most common form of reports in the media where the views of those accused or suspected of abuse are portrayed; child sexual abuse dominates this category.

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1 See Wilczynski, A, *A Socio-legal Study of Parents who Kill their Children in England and Wales 1993* Unpublished PhD dissertation, University of Cambridge (1993) at 122; Report on the Susan Smith case in the United States, Gibbs, N, “Death and Deceit” (1994) 46 *Time* at 68; and *Regina v Austin Allan Hughes (and another)* Supreme Court of NSW Criminal Division (1994) at 1.

2 Susan Smith was also an honours student and from “good stock”. Gibbs, above n1 at 66.

3 See, for example, in the New South Wales case the judge commented on the impact of the parents’ claims, “this led to an intensive search for the supposed attackers, and the incident was given extensive media coverage, in the course of which both prisoners made passionate appeals to the public for assistance to find the boys’ assailants”: *Regina v Austin Allan Hughes*, above n1 at 3; national attention in the Smith case was also high: “no town in America said sadder prayers”, Gibbs, above n1 at 65.

4 Gibbs, above n1 at 66.

5 *Ibid.*

The article connects media reports about sexual abuse, false accusations of abuse (and false memory)⁶ with a countermovement to the child protection movement, commonly known as the backlash.⁷ The backlash movement began when a group called VOCAL (Victims of Child Abuse Laws)⁸ was formed in the United States in 1984 by several people who claimed to be falsely accused in a preschool sexual abuse case.⁹ While several groups of this nature now exist, VOCAL are the most active in media advocacy for those accused of sexual abuse.¹⁰

Proponents associated with the US movement have had national media coverage in Australia and have raised the alarm in this country about false claims of abuse.¹¹ The media coverage gained by the movement began the assimilation of the American backlash into the Australian culture, as promoted through the Seabeach preschool kindergarten "Mr Bubbles" case.¹²

This article begins with a brief overview of the backlash movement.¹³ The "situated perspectives" (the competing pictures of reality) of the child protection and backlash movements are then described. With this framework in place the discussion moves to factors that have an impact on how people respond to the different perspectives. This includes the reasons why people tend to "cut short any doubts"¹⁴ when they hear pleas for assistance in the media by those accused of abuse. The article concludes with suggestions about ways child advocates might respond to backlash themes in the media.

To discuss these issues the article describes the power of the media to structure the framework through which a case is viewed, and the power of certain ideas to influence how people respond to each perspective. The impact of backlash themes presented in the media is reviewed. It should be pointed out that the questions that arise in this article

- 6 For example, Guilliatt, R, "Recovered Memory: The case list grows longer" *The Sydney Morning Herald (SMH)* 13 May 1995 at 30; Guilliatt, R, "Ritualistic abuse: fact or fiction" at 1, and "This man stands accused" *SMH* 26 August 1995 at Spectrum; "You Must Remember This" *Four Corners* 29 August 1994 ABC TV; *The 7.30 Report* 15 February 1995 ABC TV; the focus in this article is on coverage about abuse claims by children.
- 7 See, for example, Finkelhor, D, in Myers, J (ed), *The Backlash: Child Protection Under Fire* (1994) for a discussion about social movements and the development of countermovements such as the backlash.
- 8 Reference to VOCAL in this article refers *only* to the American backlash group. It does not infer any connection with the Australian group VOCAL, which was formed for families and victims of crime.
- 9 See, for example, Hechler, D, *The Battle and the Backlash: The Child Sexual Abuse War* (1988) for a comprehensive review of the backlash in America, and its beginnings in Jordan, Minnesota.
- 10 See, for example, *ibid*.
- 11 See, for example, interview of R Underwager and H Wakefield "Child abuse: A comparison of cases in Australia and USA" *Couchman* ABC TV 14 June 1989; *Parliament of the Commonwealth of Australia Department of the Parliamentary Library Media Information, Current Awareness and Hansard* at 2; see also interview of Dr Underwager, Crisp, L, "When a child's word is the only evidence" *The Bulletin* 12 December 1989 at 140.
- 12 *Ibid*. Of note, the US promotion of false allegations began just prior to official proceedings for the case.
- 13 Many of the concerns raised here about the backlash stem from the debate about children's reports of sexual abuse. Of note, the child protection research indicates that the risk of false positives and the certainty of false negatives must be considered. See, for example, Saywitz, K, et al, "Children's memories of a physical examination involving genital touch: Implications for reports of child sexual abuse" (1991) 59 *Journal of Consulting and Clinical Psychology* at 682; see also, Berliner, L and Loftus, E, "Sexual Abuse Accusations: Desperately Seeking Reconciliation" (1993) December *Journal of Interpersonal Violence* at 576. This article notes that without specific questions there can be a lack of essential information forthcoming, and with specific questions there is a risk of untrue information
- 14 Lacayo, R, "Stranger in the Shadows" in *Time*, above n1 at 68.

about the backlash movement are not intended to divert attention from valid criticism about the child protection system.¹⁵

The media and child abuse education

The media is defined here as a shifting, dynamic, and volatile amalgam of institutions, technologies, interests and cultural elements that form a conduit through which information is relayed. It is established below that the backlash and the child protection movements both have the power to orchestrate or manipulate media coverage and to sway public opinion about abuse.¹⁶ However, this article focuses only on the backlash movement.¹⁷

My decision to focus on the backlash was influenced by several factors. First, there is reason for concern about the accuracy of some backlash reports and the success of the movement in denying the veracity of most claims about childhood sexual abuse.¹⁸ The second concern is the paucity of material written about the movement, and the scarcity of debate and analysis about the impact of the movement on the welfare of children.¹⁹ It is noteworthy that most people do not know that the backlash movement exists. The theory that the work of social movements is "probably the most interesting and least obvious context in which ideas might [become] powerful" in the public forum, suggests that this inequity should be addressed.²⁰

This need is further supported by the standard process of analysis that occurs in discussion about social problems, particularly when organised groups are involved. To illustrate, discussion about how to respond to the AIDS epidemic has not been restricted to the medical system. Discussion on responses to abortion is not focused solely on the legal system. When social problems are analysed there is an expanded debate about the various

- 15 For discussions about problems within the child protection system, see presentation by Dr Conte, J, Lanning, K, or Myers, J, speakers at the San Diego Conferences on Responding to Child Maltreatment (January 1994); Horwitz, M, *APSAC (American Professionals Society on the Abuse of Children) 2nd Annual Conference* (May 1994) Boston; Summit, R, "Ritualistic Child Abuse" NSW Child Protection Council Seminar, 19 September 1994; Cashmore, J, et al, "Systems Abuse: Problems and Solutions" in *A Report of the NSW Child Protection Council* (1994); Berliner, L and Loftus, E, above n13; for media coverage on problems in the child protection system, see, for example, *Sixty Minutes* 10 July 1994; Horin, A, "The Lost Children" *SMH* (25, 26, 27 September 1995); Masters, C, "Parent Abuse" 13 February 1995 *Four Corners* ABC TV.
- 16 See, for example, discussion in this article on Patterns of influence: the negative side of media reports, and Reasons for concern: backlash media promotion and lobbying.
- 17 A key concern is that research does not replicate the frequency of false accusations that the backlash movement report occurs; see, for example, Myers, J, et al, "Expert Testimony in Child Sexual Abuse Litigation" (1989) 68 *Nebraska LR* at 115: "In sum, clinical experience and systematic studies confirm that deliberately false allegations of sexual abuse are infrequent". See also above n7, above n9.
- 18 See, for example, above n7; above n9; Salter, A, *Accuracy of expert testimony in child sexual abuse cases: A case study of Ralph Underwager and Hollida Wakefield* (1991) National Center for the Prosecution of Child Abuse, Alexandria, VA; for media coverage see, for example, *Couchman*, above n11 at 6, where false child abuse reports were discussed: "... it turns out for every one person in America where the system correctly identifies that person as an abuser, you will get nine non-abusers: incorrectly identified as abusers."
- 19 See *Australian Association of Recovered Memories: Information Sheet for Therapists* May 1995; Bass, E and Davis, L, *The Courage to Heal: A Guide for Women Survivors of Child Sexual Abuse* (3rd edn, 1994) at 475; Jonker-Bakker, P and Jonker, F (family practitioners), *Belief and Backlash in the Netherlands*, Believe the Children 2nd National Conference (June 1994) Illinois, US; see also above n7 and n9.
- 20 Moore, M, "What Sort of Ideas Become Public Ideas" in Reich, R (ed), *The Power of Public Ideas* (1988) at 74.

issues associated with the problems; this includes discussion about the structure and ideas behind powerful interest groups that attempt to sway public opinion on a particular issue. It is important to know that such groups exist and to understand the goals and activities that give a group shape and direction. A key message here is that the same level of established debate is needed in the professional literature and the media about child abuse and the backlash.

The backlash movement

The themes that are described below were first voiced when the backlash developed in 1984 after the Jordan, Minnesota, preschool sexual abuse case. Summit reported that the themes to emerge in media coverage from the Jordan case condemned and scapegoated prosecutors, police and therapists, and portrayed child advocates as conspiring to entrap children and destroy families. It is instructive to note that when “[these] allegations were examined in the Federal Court of Appeals (Eighth Circuit, District of Minnesota, No. 85–5243) the justices found them groundless, endorsing both the motives and the methods of the child advocates” in the Jordan case.²¹ Notwithstanding this court finding, strategies for responding to accusations of abuse that developed after Jordan²² included the formation of a national movement with international links.²³

The fact that VOCAL’s views about the Jordan case were not changed by the Federal Court Justices’ position is illustrative of, rather than an exception to, the movement’s response to legal decisions in sex abuse cases.²⁴ Moreover, the group’s interpretation of the case as a “witch hunt” became the slogan for their response to similar cases.²⁵ VOCAL’s first newsletter also shows the impact of the Jordan case in galvanising a defence for those who claim to be falsely accused of sexual abuse.²⁶ Research into false allegations was quickly targeted. A call was made for anonymous completion of a questionnaire on “suggestions for improving the investigation process so that the innocent are not subject to the Jordan, MN form of harassment”.²⁷ As described below, while a key focus has been on therapists, the group’s targeting of the legal system through the media is also readily evident.²⁸

Reasons for concern: backlash media promotion and lobbying

The power of the backlash is noted in VOCAL’s first newsletter in 1985: “The most remarkable thing about VOCAL is the swift and unbelievable success in beginning the turn

21 Summit, R, *Too Terrible to Hear: Barriers to Perception of Child Sexual Abuse* (1987) at 6, adapted from a paper written in support of testimony before the US Attorney General’s Commission on Pornography, Miami, Florida, 20 November 1985; of note, the guilt or innocence of the accused was not established.

22 The McMartin case in Los Angeles is also linked with the group’s strong formation.

23 See, for example, *NASVO (National Association of State Vocal Organizations) News* (1993) 11 2nd qtr, at 1: “New vocals spring up in the US and Canada”.

24 See, for example, Eberle, P and Eberle, S, *The Politics of Child Abuse* (1986) at 284: “We believe that every molestation case in which there has been a conviction should be reopened and reviewed.”

25 The term was also used in the Australian press during the first preschool abuse case in NSW. See, for example, Hills, B and Hole, J, “Mr Bubbles, Where the Witch Hunt Went Wrong” *SMH* 13 January 1990 at 56. Of note, a defence expert from the Jordan case, and backlash proponent, testified in the Bubbles case.

26 The suggestions may have been made before the Federal court decision cited above, but the theme remains. See, for example, above n9. In Australia, see Underwager, R and Wakefield, H, “The Jordan Minnesota sexual abuse morass”, *Couchman*, above n11 at 2.

27 *VOCAL National Newsletter* 1 (May/June 1985) at 2. “MN” refers to Minnesota.

28 *Id* at 3.

around in the nation".²⁹ Hechler attributes much of the movement's success to VOCAL's cultivation of media links and their efforts to get journalists to write stories that reflect backlash views.³⁰ The movement's link with the media is encouraged in the group's first newsletter. For instance, in a section headed "Legislative Notes", which describes strategies to have child abuse laws changed, backlash proponents are advised to "... find a reporter who will do an article expressing VOCAL's views, or invite one to a VOCAL meeting".³¹

The media and the 1992 San Diego County Grand Jury³² appear to have been susceptible to strategies such as these.³³ This is apparent in the content of media and grand jury reports; they reflected the backlash view that condemns the operation of the legal system in cases of child sexual abuse.³⁴ Literature written by backlash proponents proposes that in the pursuit of higher justice, criminal justice professionals are dishonest, break rules, cheat and obstruct justice, in order to get a conviction in sex abuse cases.³⁵ Similar backlash arguments propose that in the zeal to prosecute "anyone" accused of sexual abuse, "... thousands of innocent citizens are being rubber-stamped as guilty regardless of the facts and evidence of the case".³⁶

Backlash themes such as these are echoed in one 1992 San Diego County Grand Jury Report. The report states that the "legal system's traditional truth-finding tools — witness confrontation, cross-examination, restrictions on hearsay and 'expert' testimony — [had] been abandoned in a rush to 'protect' [children]".³⁷ Long after this report, and other 1992 grand jury reports were released, media coverage remained critical. Two cases in particular were used to pillory the legal system, which then carried more generalised accusations about the system's inadequacies. One press report described the legal response to a case as a "glaring example of prosecutorial effort that denigrated into vigilantism".³⁸

The backlash views promoted via the 1992 grand jury and the press were, however, criticised as inaccurate and biased, particularly by two public law offices, the District Attorney's Office and the County Council.³⁹ The District Attorney described many of the grand jury criticisms as "so far removed from accuracy and fairness that they [were] inconsistent with the work of impartial fact finders".⁴⁰ Of concern to many in child protection, despite complaints of this nature,⁴¹ over "2,300 copies" of the 1992 reports were sent to,

29 Id at 7.

30 Above n9.

31 Above n27 at 3.

32 "A grand jury consists of private citizens who are selected to review cases ... members do not act as jurors on particular cases": Myers, J, *Legal Issues in Child Abuse and Neglect* (1992) at 14.

33 "Protect the Child, Preserve the Family" *San Diego County Grand Jury (SDCGJ)* (June 1993) at 14. After investigating what occurred in 1992 it was noted that adults had organised politically, given media interviews and "attempted to persuade the grand jury ... particularly those accused of sexual abuse".

34 See, for example, above n23 at 3: "Special congratulations to successful pickets and demonstrations to ... [for example] San Diego VOCAL ... All demonstrations were attended by press. Keep up the good work!".

35 See, for example, Wakefield, H and Underwager, R, *Accusations of Child Sexual Abuse* (1988) at 127-8.

36 Above n23 at 1.

37 "Child Sexual Abuse, Assault, and Molest Issues", *Report No 8 San Diego County Grand Jury* (1992) June, (SDCGJ) at 1.

38 See, for example, Schoeffler, N, "The Crucible: abuse and credibility" *San Diego Union Tribune* 28 November 1993 at G1.

39 The DA's Child Abuse Unit (CAU) has received international recognition. It is closely affiliated with the National Center for the Prosecution of Child Abuse, and is recognised in one national study as deserving of emulation. See Miller, E, (DA) *Response to 1992 San Diego County Grand Jury Report (SDCGJ) addressed to Hon. A Jones, Presiding Judge, San Diego Superior Court* 30 October 1992 at 4.

40 Id at 1. The DA acknowledged the validity of some of the criticisms that were made in the 1992 report.

41 Id at 44-5.

among many places, the news media.⁴² The 1992 reports became “the subject of network television programs as well as newspaper and magazine articles”.⁴³ Of note, institutional response to the reports was described by the 1992 grand jury as rapid and comprehensive.⁴⁴

The backlash and the False Memory Syndrome Foundation

Over the last decade backlash media promotion and networking has become international. In Australia, for example, it is reported that there has been “aggressive media activism by the Australian False Memory Association, a branch of the American group False Memory Syndrome Foundation (FMSF)”.⁴⁵ A circular distributed by the Australian Association for Recovered Memories reported “FMS gets widespread media coverage because the backlash against victims is well-organized”.⁴⁶

According to VOCAL, the FMSF “was founded to deal with the false cases involving adults”.⁴⁷ However, there is much controversy about the frequency with which false memories are induced which result in claims about child sexual abuse.⁴⁸ Reports range from claims in the United States that “more than 7,000 people”⁴⁹ to “15,000 families”⁵⁰ have been falsely accused, or are victims of “recovered memories”, to findings that, “[t]here is no reliable evidence at present that [therapist induced false memories] is a widespread phenomenon in the UK”.⁵¹ Of note, the controversy about FMS has also been reflected in legal cases and media reports.⁵²

42 Above n33 at 1.

43 Ibid.

44 See “Families In Crisis” (SDCGJ) *Report No 2 Supplement* (1992) at 1. Concern was expressed, however, that the DA’s office and the County Council were not responding.

45 Australian Association for Recovered Memories (AARM), *Information Sheet for Therapists* (24 May 1995); see also Henry, S and Halpern, N, “Contamination — Client/Therapist Concerns Regarding Potential Distortion of Traumatic Memories” *The Australian Association for Trauma and Dissociation, Fourth Annual Conference 15–17 September 1995*, Melbourne. See also, *False Memory Syndrome Foundation “Mission and Purpose” Handout*, where the intention is expressed to, among many things, “Provide and disseminate accurate information of False Memory Syndrome [FMS] to the general public”. For an indication of VOCAL’s underlying response to the adult claims of abuse, see above n23, Networking page: “a new pariah of families has arrived on the legal scene: adult survivor lawsuits”.

46 See, for example, AARM, *ibid*.

47 See the Networking page, above n23; on the same page: “We urge VOCAL chapters and other groups to network with FMS since the parallels between the false cases of both children and adults are amazingly similar”.

48 McConkey, K, “Hypnosis, Memory, and the Ethics of Uncertainty” (1995) 30 *Australian Psychologist* at 1; Lotto, D, “On Witches and Witch Hunts: Ritual and Satanic Cult Abuse” (1994) 21 *The Journal of Psychohistory* at 373; Berliner, L, Clarke-Stewart, A and Williams, L, “Abuse Memories in Children and Adults: Alternative Explanations”, San Diego Conference on Responding to Child Maltreatment, January 1994 San Diego US; Loftus, E, “The Reality of Repressed Memories” (1993) May *American Psychologist* at 518; Yapko, M, “The Seduction of Memory” (1993) September *Networker* at 31; Summit, R, above n15; Cici, S and Bruck, M, “Suggestibility of the Child Witness: A Historical Review and Synthesis” (1993) 113 *Psychological Bulletin* at 403.

49 Lotto, D, *id* at 378. Other estimates have been higher: see “HRS Child Abuse Witch Hunt, The Reign of Terror 1974 –?” *Family Rights Committee, Inc* (no date) at 1: “This year about 100,000 families in Florida will be falsely accused of child abuse. These families, people like you and I, are suffering in startling degrees” (italics added).

50 See, for example, Freyd, P, *Australian False Memory Association Newsletter*, vol 1 issue 1, (AFMA) (1994) December at 2. A letter written by the co-founder of the FMSF refers to the experience of 15 000 families.

51 *Recovered Memories: The report of the Working Party of The British Psychological Society* at 6. The review did point out the need for further research on the topic.

52 See, for example, Bass, E and Davis, L, above n19; Horwitz, M, “Legal Remedies for Adults Sexually Abused as Children”, above n15; Horwitz, M and Bulkely, J, *The APSAC Advisor* (1994) 7 at 1; For

The organised promotion of FMS is thought to have strongly influenced current arguments about reports of childhood abuse.⁵³ For example, in an inspiration letter that appears in the first newsletter of the Australian False Memory Syndrome Association, the American FMSF recognises the power of its movement and acknowledges its success in educating people about this “pervasive” problem.⁵⁴ The FMSF reports to Australians that “steady progress in public enlightenment” about claims of abuse has been achieved in the last couple of years.⁵⁵

A situated perspective

Both the child protection and the backlash movement have what I shall call a “situated perspective” that each believes to be of vital concern to society. A situated perspective is a paradigm about abuse that guides those who accept the paradigm to draw conclusions from *within* its specific framework. For example, I write this article from a child protection perspective.⁵⁶

It is possible to define a set of norms that typify positions held by the child protection and backlash movements. These norms are gleaned from three primary sources: the professional literature on child abuse; media coverage of child abuse and false allegations; and newsletters published by entities that are aligned with, or are part of the backlash.⁵⁷ The norms, set out in Table 1, describe the dominant themes for each group. The patterns that emerge are each group’s situated perspective. Table 1 shows that the focus of the child protection movement is on the abuse of children by adults, and the dynamics linked with child abuse. In contrast to these views, the focus of the backlash is on the abuse of children by the child protection system and the dynamics by which professionals wrongly intervene and falsely accuse adults.

American FMS research in the Australian media see, *Couchman* interview on sex abuse cases, where the Ingram case and Richard Ofshe’s research is discussed, *Radio National* 2 December 1994, ABC Radio. For other views about FMS research and the Ingram case, see “Comment” (1994) May *The American Psychologist* at 439. See also McGuinness, P, *SMH* September 1995: “Therapists, often not terribly expert, can by continually probing for such memories actually produce them *out of thin air* ...” (italics added).

53 See, for example, Freyd, above n50. For a review of FMS cases in the legal system, see, for example, Loftus, E and Rosenwald, L, “Buried Memories, Shattered Lives” (1993) November *ABA Journal Litigation* at 70.

54 See, for example, Freyd, above n50.

55 *Ibid*, citing Crews, F, “The Revenge Of The Repressed, Part 11” (1994) December *New York Review of Books*; for a contrasting view about false memory see Mullner, L, *The 7:30 Report* 11 September 1995 ABC TV.

56 The words “situated perspective” were used by Minow in a general discussion about law and society; Minow, M, *Making All the Difference: Inclusion, Exclusion and American Law* (1990) at 97.

57 Material was collected from reports in the print media, magazines, television and radio programs in the US (primarily in San Diego). Most of this material was collected between October 1991 and April 1994. Media reports about the American backlash in Australia were collected in June and December 1991; examples of backlash themes that appeared in the media were also collected in Australia between June 1994 to September 1995.

Table 1: Situated perspectives

CHILD PROTECTION MOVEMENT	BACKLASH MOVEMENT
<i>The central message</i>	
Children are abused.	Adults are falsely accused.
<i>Focus on accused and children</i>	
Children are abused and victimised by adults who are close to them.	Families are abused and victimised by the child protection system.
Abusers control children through coercion, manipulation or threat.	“Child savers” control children by coercion, manipulation or threat.
Some accused who claim they are innocent are guilty.	In child abuse the presumption of innocence is frequently abandoned.
Some abusers remain in denial about their abusive behaviour until they have therapy.	Some accused are forced into therapy, where, under pressure, they admit to abuse they did not commit.
Abusers are from all walks of life. Those who abuse children cannot be defined by race, class, religion or social status.	Many accused are upstanding citizens; or the accused are targeted because of vulnerability, or without reason.
<i>Focus on adult victims</i>	
Many adults who say they were abused as children are reporting true experiences.	Many adults who say they were abused as children are making false reports.
Some adults abused as children work to prevent child abuse.	Some adults abused as children have a personal agenda to fulfil.
False memory syndrome (FMS) is rare.	False memory syndrome (FMS) is pervasive.
<i>System issues</i>	
The abuse of children is out of control.	“The system” is out of control.
Take precautions to protect your child from abusers. It-could-happen-to-your-child.	Take precautions to protect your family from false accusations. It-could-happen-to-your-family.
Abuse by adults harms children and may impair their development.	Abuse by the system harms children and destroys families.
The system protects the rights of abusers to the detriment of children’s rights.	The system protects children to the detriment of the rights of the accused.

<i>Investigation issues</i>	
The investigators were fair and impartial.	The investigators were biased.
Parents asked questions to determine if their children had been abused.	Parents planted stories of abuse in their children's minds.
The person reporting abuse is credible. Or, emotional problems do not make the complaint false.	The person reporting abuse is disturbed. Emotional problems caused a false complaint.
Children make false statements to protect their abuser from being punished.	Professionals make false statements because they were abused themselves.
Children need support when they are subjected to the ordeal of an abuse investigation.	Children are coached what to say and rewarded when they repeat what investigators want to hear.
<i>Legal system issues</i>	
Legal commitment to family preservation, rules of evidence, and defendants' rights often limit children's rights.	Legal checks and balances often fail. The rights of the accused are ignored, and too many accused are denied due process.
It is too traumatic for some children to face their abuser in a court setting.	People have a constitutional right to face their accuser in court.
The court does not always see the complexities in child protection.	The court is a rubber stamp for the child protection system.
There was evidence of abuse, but key evidence was not permitted in court.	There was no evidence of abuse, but the court found abuse anyway.
Lack of medical evidence does not mean the child was not abused.	Lack of medical evidence means sexual abuse did not occur.
<i>Clinical issues</i>	
Therapeutic techniques were appropriate.	Therapeutic techniques were improper.
Many children are threatened by their abuser; they need to feel safe before they will talk about being abused.	Many children report abuse after months of therapy, isolation from parents, or leading questions.
The child recanted the disclosure: the child believed the abuser's threats.	The child admitted there was no abuse: therapy caused the child to lie.
The research was objective, and sound methodological standards were used.	The research was biased, and poor methodological standards were used.
<i>Financial issues</i>	
Not enough money is available for the services that children and families need.	Cases of abuse are "created" to bolster the money given to the child abuse industry.

<i>Social focus</i>	
The case demands an investigation. The child's report cannot be ignored.	The case is a witch hunt. The child has been brainwashed.
Listen to children who talk about being abused by people they know.	Listen to adults who talk about being abused by the system.
Abuse occurred; the abuse of children is not logical. Deception masks reality.	There was no abuse; it is just not logical. We need reason not emotion.
Denial of abuse by the accused causes people not to believe children's reports.	Social hysteria about abuse causes people to make false accusations of abuse.

Although Table 1 shows polar positions, this style of comparison is not meant to encourage or enshrine analysis by categories: the perspectives are not exclusive to either group. Positions change with the case and the people involved. In addition, the subheadings are interrelated, and the positions in each category are mobile. It should be noted that Table 1 does not address matters of accord between the movements. Both groups, for example, express concern about child abuse and false accusations; and they both advance the need for more training in how to respond to, assess and treat abuse.

Patterns of influence

With these perspectives before us it is possible to ask, what leads the general public to believe one set of norms rather than the other? The discussion now turns to two key patterns of influence on what people hear and how they respond to each perspective. The key patterns of influence pivot on the ability of the mass media to shape public views, and the control each movement has over what is reported to, or in, the media.

Patterns of influence: the negative side of media reports

The media is a forum where dominant social views about crime are exchanged and developed.⁵⁸ The media can shape public perceptions on social problems, play a role in producing public ideas and be a tool for social control.⁵⁹ Child protection groups such as The National Committee on the Prevention of Child Abuse (NCPA), and backlash groups such as VOCAL, both recognise the power of the media to influence people and advocate using the media to promote their perspectives.⁶⁰

It might be said that by utilising the media both groups are tapping into a resource known for its success in the "crafting of public morality"⁶¹ and "the production of consensus".⁶² In the representations that emerge from journalists' stories the media help to

58 See, for example, Avery, R and Eason, D (ed), *Critical Perspectives on Media and Society* (1991); Jerin, R and Fields, C, "Murder and Mayhem In US Today: A Quantitative Analysis of the National Reporting of States' News" in Barak, G (ed), *Media, Process, and the Social Construction of Crime: Studies in News-making Criminology* (1994) at 187.

59 See, for example, Linsky, M, "The Media and Public Deliberation" in Reich, above n20 at ch 9; Habermas, J, *The Theory of Communicative Action Vol. 2, Lifeworld and Systems: A Critique of Functionalist Reasoning* (1987) at 389.

60 *NCPA Fact Sheet* (1988); above n27.

61 Condit (1987) quoted in Avery and Eason, above n58 at 204.

62 Hall, in Avery and Eason, above n58 at 221.

construct the community and its sense of order.⁶³ The media does this by reporting about enduring values and evoking "among the public indignation at their violation".⁶⁴ The combined methods and power of the media can influence how society responds to a crime, including sexual offences, with positive, but also negative, effects.

To understand how sexual abuse is reported it is instructive to first examine media portrayals of sex crimes against adults. Violent crimes against women appear most frequently in two categories. The accuser tends to be portrayed as either the "wanton female" who provoked an accused man with her sexuality, or as the "pure, innocent victim" who was attacked by a monster.⁶⁵ In this latter scenario the type of crime that gains coverage is often presented in the simplistic "prey-predator paradigm".⁶⁶ In these narrow frameworks about sex crimes the vocabulary of guilt and innocence, and praise and condemnation, take centre stage.

Other research on violence against women⁶⁷ illustrates how the media tends to represent the most familiar views of society,⁶⁸ such as enduring social values and common perceptions about sex crime victims and perpetrators. In her research on the reporting of a rape trial Bumiller found that the media selectively report information, narrow the interpretive framework to understand a crime, and reinforce dominant social preconceptions. In addition, Bumiller found the media's construction of a story can polarise and intensify issues and create dominant images.⁶⁹

Similar findings about media coverage arise in the analysis of reports on child abuse. Franklin's research on media stories about abuse indicated, "[t]he issue of child abuse [had] persistently been presented and framed within the parameters prescribed by *dominant* and *traditional* social values".⁷⁰ In addition to these findings Franklin noted that official inquiries into cases of abuse "have traditionally commented disparagingly on media coverage" about the abuse cases.⁷¹

The Cleveland inquiry is a case in point.⁷² The inquiry found that press coverage involved "selective" reporting that became "one-sided distortion".⁷³ Despite this criticism it did not appear to affect the ability (or choice) of the press to shape how it presented the Cleveland case. When the Cleveland inquiry was released "[m]ost newspapers simply quoted the report selectively to endorse their previous editorial line".⁷⁴ Such findings illustrate the view that journalism is "the art of structuring reality, rather than recording

63 Ericson, R, Baranek, P and Chan, J, *Representing Order: Crime, Law, and Justice in the News Media*, (1991) referencing Williams (1961) at 11.

64 Avery and Eason, above n58 at 221.

65 Barak, above n58 at 28.

66 Id at 148.

67 See, for example, Bumiller, K, "Fallen Angels: The representation of violence against women in legal culture" in Fineman, M and Thomadsen, N (eds), *At The Boundaries of Law: Feminism and Legal Theory* (1991).

68 See, for example, Umphlett, *Mythmakers of the American Dream: The Nostalgic Vision in Popular Culture* (1983).

69 Above n67.

70 Franklin, B, "Wimps and Bullies: Press Reporting of Child Abuse" (1989) May *Social Welfare and Social Policy Year Book*, Open University Press (forthcoming, final publication not available in Australia) at 71.

71 Id at 70.

72 An inquiry into child abuse in Cleveland, England in 1987.

73 Reference from Butler-Sloss, E, *Report of the Inquiry into Child Abuse in Cleveland 1987* Cm. 412, London, HMSO (1988) at 169 in above n70 at 70.

74 See above n70 at 64. See also above n33. In San Diego the 1993 County Grand Jury reported errors were found in reports from the previous grand jury. Media coverage on these errors was scarce.

it'.⁷⁵ On this point, while "story" and "myth" are considered to be more or less synonymous, it is less recognised that news stories tend to portray social myths that reinforce dominant structures.⁷⁶

Selective reporting is not the only way the media can shape, and hence influence, how people view child abuse. In Franklin's analysis of press reporting he noted that reporting was sometimes "sensational and trivialized, biased in its judgments, simplistic, factually inaccurate, and seeking to scapegoat".⁷⁷ One example of inaccurate reporting about abuse cases was the press' uncritical advocacy of the parents' account of events as the truth.⁷⁸ Another frequent issue noted in research on media reports about abuse is the unsupported attacks on child protection workers who are either portrayed as bullies without regard for civil liberties, or as wimps, reluctant to intervene in genuine cases.⁷⁹

The existence of sensationalised and misleading reports has long been a topic of analysis. Some journalists' reports are influenced by political agendas.⁸⁰ Other factors to affect what is reported include philosophical, economic, and career goals, and professional demands.⁸¹ For example, a respected journalist and media critic suggested that reporters write about outrages and injustices. Kurtz advised journalists to write stories that: set the agenda; make people mad; tell the public things the authorities don't want them to know about; connect issues with the community; and touch readers' lives.⁸²

Competition among journalists also has an impact on what is reported. "Herd journalism" or "pack journalism", a phenomenon where many reporters have access to the same story⁸³ is the most glaring example of journalists' competition for the media spotlight. Problems associated with herd journalism, such as increases in pressure to write the "best" story, are said to be "compounded by the fact that journalists view existing news stories as their primary source of knowledge about newsworthiness".⁸⁴ This means that errors can sometimes go unchecked and that reports can take on a life of their own, without external promotion.⁸⁵

The factors detailed above all contribute to complaints about journalists. Public criticism of journalism, according to one critic, is the most intense it has ever been.⁸⁶ One concern is the "hit and run, drive by shooting quality exhibited by the press".⁸⁷ Other critics complain of journalists' arrogance and "too much careless reporting".⁸⁸ Problems such

75 Above n63 at 16, citing Smith (1978) at 168.

76 See, for example, Carey, J (ed), *Media Myths and Narrative* (1988), particularly at 67–86.

77 Above n70 at 71.

78 *Id* at 72.

79 See, for example, above n70.

80 Above n70 at 53, citing Brynin (1988), Todd (1987) and Goldsmith (1987).

81 Curran, J, "Alternative Approaches to Media Reforms" in Curran, J and Seaton, J (ed), *Power Without Responsibility: The Press and Broadcasting in Britain* (3rd edn, 1988) at 335; Katsh, *The Electronic Media and The Transformation of Law* (1989); see also above n63 and above n58.

82 Kurtz, H, *Media Circus* (1993) at 369–72.

83 See, for example, above n63; or *ibid*.

84 Above n63 at 45.

85 See, for example, above n33. Herd journalism means the national media may fail to uncover problems such as those detailed in the report. When writing about the previous grand jury's reports (which were a source of extensive coverage on abuse) the 1993 jury said: "... agencies criticized in those reports provided documentation which rendered persuasive arguments refuting many of those criticisms" at 1.

86 Hughes, J, "Current events cry for a national news council" *San Diego Union Tribune* 24 February 1992.

87 This reflects a view expressed by a candidate for the position of secretary of defense.

88 See, for example, Broder, D, "Lost: one more beacon for sensible reporting" in *San Diego Union Tribune*

as these are thought to stem from a cynicism among journalists, reliance on unnamed sources, and too much instant analysis "which all too often turns out to be instant baloney".⁸⁹ However, the surge in concern about poor quality and inaccuracy in media reports does not appear to have eliminated the power of the media to develop and sway opinion.

Patterns of influence: the media and abuse intervention

The power of the media to influence people's views is clearly evident in the impact of media reports on community and institutional responses to child abuse. Franklin's research in England indicates that journalistic viewpoints about abuse have turned public opinion against social workers,⁹⁰ modified professional willingness to intervene in abuse cases⁹¹ and stimulated new policies "as defined and structured by media discussions".⁹² The San Diego experience of the backlash confirms these findings.⁹³ Although it is not possible to conduct a case study of the complex interrelationship between the backlash, the media and child abuse in San Diego, it is informative to detail the impact of the movement in that city.⁹⁴

In 1993 the San Diego County Grand Jury investigated issues associated with abuse cases and the child protection system. The 1993 jury linked negative changes in the child protection system to the previous jury's reports and the media: "... the current [system] imbalance may be the result of the 1991 to 1992 [Grand Jury] reports and attendant news stories".⁹⁵ To illustrate this imbalance the jury noted there were "serious indicators that recent events within San Diego County [have] created an atmosphere where errors are more likely to be made in the failure to remove children than in their inappropriate removal".⁹⁶

The report went on to warn "the current state of the dependency system⁹⁷ in San Diego may endanger the health and safety of abused or neglected children".⁹⁸ One indicator to support this concern was data from the Judicial Council of California, which noted a 28 per cent decline in San Diego in court petitions for abuse cases in 1992 over the previous year.⁹⁹ The decline coincided with a most alarming indicator of problems, a jump in abuse deaths.¹⁰⁰

The 1993 Grand Jury also noted the impact of attacks against those in child protection. There had been many adverse effects of the previous grand jury's reports¹⁰¹ which were said to impugn the competence, character and motivation of professionals.¹⁰² Moreover, the 1993 jury expressed concern that the previous jury's reports against the child protection

19 January 1994; see also, above n86 and *McNeal Lear Newshour* 18 January 1994.

89 Ibid; In addition, concerns such as these are leading to reforms in media ownership and programming. This is especially so since the recent politicisation of the media as an "issue". See, for example, Curran, above n81 at ch 19 and Avery and Eason, above n58.

90 Above n70 at 53 citing Fry (1987) at 11 and Phillips (1979) at 12.

91 Id at 53, citing Parton (1981) at 392 and Geach (1982) at 15.

92 Id at 54, citing Geach (1982) at 15, Nelson (1978) at 28, and Golding and Middleton (1979) at 5.

93 The interpretations and issues raised in this article reflect my views.

94 Not all that occurred in San Diego's child protection system was a direct result of the backlash.

95 Above n33 at 15.

96 Ibid.

97 This is similar to the Australian system when children are assessed to become wards of the State.

98 Above n33 at 15.

99 In 1993 the monthly average for reports filed was 183. In 1991 the average was 277. At the same time "filings in other major counties had increased". See above n33 at 2.

100 Ibid. At the time of the report, death increases warned of worse to come.

101 The 1993 Grand Jury noted that the 1992 reports also had some beneficial effects; id at 16.

102 Id at 3.

system were “now held up as authoritative proof of a malaise in child protection services generally, and by implication, those associated with the process”.¹⁰³

The concerns raised in the 1993 grand jury report, such as those above, were not given the same prominence in media coverage that attacks on professionals and the child protection system had received.¹⁰⁴ This outcome is consistent with Franklin’s research which found that the press did not alter the overall theme of their reports to reflect the findings of an inquiry.

While new child abuse policies were stimulated “as defined and structured by media discussions”¹⁰⁵ attention is drawn to the distinction between official policy responses and unofficial interpretations of child abuse policy. In San Diego, for example, at an official level the Department of Social Services responded to media attacks by emphasising commitment to a policy of “family preservation”. There was, however, the unintended consequence of a “perceived policy”. Criticisms against professionals and “the system” created “an environment in which many front-line social workers had the perception that they must carry out a ‘family reunification at all costs’ policy, with the result that a child’s welfare could be subordinated to that perceived policy”.¹⁰⁶

Patterns of influence: the power of ideas

The way in which the public and institutions responded to abuse reports in San Diego, as in other locations,¹⁰⁷ is not only affected by how the media present abuse reports. This section of the article explores the ideas that each movement represents, and the power of ideas to sway people’s views. It is argued that the ideas child protection advocates represent lose some of their power when they are forced to compete against backlash ideas in the media; and as a result, the backlash has an edge in the false accusations debate. To understand this edge it is helpful to review the themes that the backlash promote and the advantages these ideas hold.

Backlash proponents advance the need to resist intrusive government actions, protect rights and care for families.¹⁰⁸ In short, to express their ideas about abuse intervention the backlash uses symbolic language that embodies both anti-government and pro-family sentiments.¹⁰⁹ Ideas captured by sentiments such as these reinforce commonsense views and enduring values about how society works. Backlash messages, for example, appear to reflect

103 The impact of morale being “seriously affected”, and the “unneeded difficulty in performing their jobs” was also identified in the report; id at 16.

104 It should be noted that media reports about abuse in San Diego were not collected after April 1994.

105 Above n70.

106 Above n33 at 3.

107 See, for example, above n70.

108 See, for example, “A Bill For An Act Concerning The Preservation of Family Rights in Regard to Child Abuse And Neglect Proceedings” VOCAL Colorado Bill (1991) (House bill 91–1311) at 2: “the family has ... privacy interests ... [and] the right to be free from arbitrary government intrusion”; see also *Family Rights Committee, Inc.*, above n49, where a family rights bill is suggested at 8; *NASVO News* 11 1st Qtr (1993): logo, “Joining Hands to Protect the Integrity of the American Family”. In Australia, see, for example, *Couchman* above n11, where two proponents often linked with the backlash movement express concern for children, families and people’s rights.

109 Anti-government themes don’t reflect the view that the State should not intervene in abuse. The backlash promotes the idea the State is out of control. See, for example, Okerblom, J, *San Diego Union Tribune* October 1991 to December 1993, series of articles over a two year period on false accusations and the child protection system, or Schoeffler, N, “Abuse: Molestation charges spin out of control” *San Diego Union Tribune* 28 November 1993 at G-1:6; see also above n25.

what Kidder calls a "vocabulary of justice",¹¹⁰ a language that makes sense and reflects social norms about what is just.¹¹¹

It might be said that when it advances highly respected social norms the backlash is "norm-using".¹¹² To illustrate this point, when advocates of backlash themes emphasise the need to value the family they represent beliefs which are consistent with historically respected social norms. Backlash ideas supporting the need to uphold due process (the epitome of institutional fairness) resonate with well established, legitimate social goals. The message that government agencies are out of control is also plausible, especially given current views about the ineptitude and unreliability of bureaucratic structures.¹¹³

A problem associated with advancing such views, however, is that backlash advocates may be successful, not because of the merit of their complaint,¹¹⁴ but rather because their messages are associated with established norms that reinforce dominant social preconceptions. This statement is supported by theories regarding the type of ideas that are most powerful in the public arena. Theorists report that if ideas *reflect* rather than attempt to *establish* social norms they are more likely to be accepted.¹¹⁵ Exemplifying this point is Minnow's suggestion that for an idea to prevail it must seem natural,¹¹⁶ and Reich's theory that normative ideas have an ability to organise and to "shape what people expect from their government".¹¹⁷

While it can be argued that the child protection movement is also norm-using, (since it is a normative idea to protect children from harm) the main issue for those in child protection is their attempt to *establish* new social norms about the need to intervene in families to prevent abuse. In short, child advocates challenge society to think in new ways. They try to *change* legal and social responses to children. These new goals require norm-setting. *Norm-setting* is a slow process where social attitudes must change; in contrast, *norm-using* taps into existing attitudes that people can readily mobilise to defend.¹¹⁸ In essence, unfamiliar ideas about abuse issues are used to develop new norms for response, which must compete with the use of familiar norms about the role of family and government.

Drawing attention to these differences and the problems associated with them is not to say that backlash advocates deliberately frame their positions for the sole purpose of winning public support. The very nature of what proponents defend demands that they use established ideas. Moreover, it is vital to keep in mind that one reason for the success of the backlash, not discussed here, is the legitimacy of some of their complaints.¹¹⁹ The concern

110 Kidder, R, *Connecting Law and Society: An Introduction to Research and Theory* (1983) at 261-71.

111 See, for example, above n25 at 61, the report questions if government departments will prevent "another monstrous perversion of process"; or see Schoeffler, above n109, "massive miscarriage of justice" at G1. Of note, the backlash often appeal for justice in the "genuine" abuse cases; see also above n63 at 343, the author partly explains "the fixation on procedural justice" in the media as "the primary means by which the news media and law join in helping to constitute the legitimacy of institutions, including their own".

112 Giandomenico, M, in Reich, above n20 at ch 7.

113 See, for example, Bryson, L, *Welfare and the State* (1992).

114 A current defence tactic is to attack the interviewer; see, for example, above n32 at ch 2. For details on how this theme has been carried to the media, and the public, see above n9.

115 Above n20 at ch 3.

116 Above n56.

117 Reich, above n20.

118 Giandomenico, above n20 at ch 7.

119 See, for example, above n15

among child advocates, however, is that while using these respected norms some backlash reports are exaggerated, misrepresent the facts, or are not true.¹²⁰

When backlash criticisms receive extensive coverage a complex process of social change becomes more difficult.¹²¹ Backlash themes can take the focus off messages that are difficult to believe, that loved ones abuse children, and place the blame on what is easier to accept, that “the system” is the abuser.¹²² The system is seen as the abuser when therapists are blamed for inducing children to make false reports, or when social workers are blamed for either intervening where there is no abuse, or not intervening where there is abuse.¹²³

When backlash proponents make such criticisms, whether the complaint is valid or not, they place the blame for a problem on targets that are easy to attack — State-run organisations and employees.¹²⁴ In an analysis of the power of public ideas, Reich describes the benefit of placing the blame on easy targets.¹²⁵ Backlash messages also reinforce the cherished social myth that only the believable is true. The concern is that these combined dynamics may have the negative effect of leaving intact well-entrenched beliefs about the values and behaviour of others, and as a result, complaints about trusted family members who abuse children may be ignored.

Patterns of influence: strategy

The benefit of promoting established ideas versus developing new ideas is just one factor that may give the backlash an edge in the media. The strategies groups use to *frame* their own message, and likewise, the strategies groups use to *reframe* how their opponents ideas are heard, can also affect how people respond to each perspective.¹²⁶

The Advocacy Institute is a Virginia based think-tank that advises groups how to promote ideas. The Institute suggests that groups associate themselves with affirmative public values, such as freedom from State social control, the family and caring; and to link their opponents with negative public values such as unfairness and harm.¹²⁷ This advice falls

120 See, for example, above n9. For a summary of why some of the research on false accusations is questioned, see Reasons for Judgment, Bradley, W W, PCJ 19 February 1993 *Ontario Court (Provincial Division) Canada*. Case name protected by s38(1) *Young Offenders Act*. For a summary on research and publications that present a broad overview of the research, see *False Allegations* (1990–1993 Publications) Clearinghouse on Child Abuse and Neglect Information, US Department of Health and Human Services, National Center on Child Abuse and Neglect, Washington DC (June 1993).

121 See, for example, Bass and Davis, above n19.

122 See, for example, above n9; above n70; Summit, R, “Uses and Abuses of Research: Cross-Currents of Community Exploitation” in Waterman, J, et al (eds), *Behind the Playground Walls: Sexual Abuse in Preschools* (1993) at ch 19 and Summit, R, “The Centrality of Victimization: Regaining the Focal Point of Recovery for Survivors of Child Sexual Abuse” (1989) June *Psychiatric Clinics of North America*. 2

123 See, for example, SDUT themes, such as “A Family Torn Apart, Allegation: Zealous county workers take children away” *SDUT* 8 November 1991 at A14, and “Kids taken from grandparents on unchecked, dubious cult claim” at A1. In Australia, see, for example, above n6 and above n11.

124 See above n70 at 50, social workers have come to negatively symbolise “state provision of services which previously were provided by the family and community”. In Australia, see, for example, Conway, *The Australian*, 27 April 1995 for the connection of social workers with false reports. For backlash literature see, for example, *Family Rights Committee*, above n49 at 5: “The child abuse industry is in the process of replacing or usurping all traditional family and community support structures”.

125 Reich, above n20.

126 See, for example, *The Advisor*, vol 3 no 4 (1990) at 8, for a discussion about inaccurate abuse reports and concern that professionals are being portrayed in the media as manufacturing the problem of abuse.

127 See, for example, *The Elements of a Successful Public Interest Advocacy Campaign* (September 1990) The

under the rubric that to best frame your message maximise the positive and minimise the negative, and do exactly the opposite to an opponent's ideas.

I reviewed media coverage to examine how each movement portrays the other in the media. The material analysed¹²⁸ revealed a major disparity. The volume of discussion that reflected backlash views about the child protection system vastly outweighed discussion by those in child protection about their views on the backlash *movement*. In over 70 instances of media coverage reviewed for this article there was scant, and only indirect mention, if any, of a backlash *movement*.¹²⁹ The lack of media discussion by child protection professionals about the backlash makes it impossible to comment on how they portray the *movement* in the media. It is possible, however, to describe how the backlash portrays the child protection system and the affect of such portrayals.

The backlash primarily associates child protection professionals with negative public values such as interference with freedom (the abuse of rights), and harm or unfairness to children and families.¹³⁰ The extent of the interference and harm thought to be caused by professionals is seen in the comments by one backlash proponent talking some years ago on national television in Australia about the US child protection system.¹³¹ Dr Underwager reported that he had not seen anyone "who even asks the question: what happens if we make a mistake".¹³² Referring to his experience in the Jordan case, he went on to say, "It was seared into my heart that when a non-abused child is treated by the system as if that child has been abused, that child is damaged, hurt, harmed."¹³³

Advocacy Institute, Washington DC 11:13.

128 See, for example, above n57.

129 See, for example, the District Attorney's interview and the media coverage after the Akiki jury decision of not guilty, 19 November 1993, San Diego local television 19-20 November 1993.

130 For example, VOCAL promoted a book written by people who were associated with a child pornography magazine. See, for example, Eberle, P and Eberle, S, *The Politics of Child Abuse* (1986) on VOCAL's *National Network (1990) membership form*. The book emphasises the role of the child protection system in destroying the lives of children and families. Of note, the Eberles' link with the magazine *Finger* and with the tabloid magazine *L.A. Star*, causes professionals to view their analysis of the child protection system with great scepticism. Moreover, VOCAL's promotion of the book provides an example of the type of literature that causes many in child protection to question the legitimacy of some backlash claims. See also, Summit (1989), above n122 at 413; Summit, R, "The Dark Tunnels of McMartin" (1994) 21 *The Journal of Psychohistory* 4 at 405:16. For backlash themes in Australia, see, for example, discussion about the abuse of parents' rights, "Call for scrutiny in child sex cases" *SMH* 8 July 1993; see also, above n6.

131 See *Couchman*, above n11 at 7. While Dr Underwager noted that he had not examined the reports, he detailed the nature of complaints he had received from Australians: "Nobody in this country listens to us. Nobody pays attention to us. Nobody let's us tell our story. Nobody listens to our side. We simply get accused and our children are taken away"; see also VOCAL mailout 8 June 1985: "Have you been falsely accused...? Is nobody listening to you?...Have you been presumed guilty...with no objective investigation? You are not alone." Indirectly related to this is the backlash response to denial of abuse by children. For example, a topic suggested for an inquiry was: "Why were the young alleged victims ignored when they said no improper touching occurred?" *SDUT* 20 January 1994 at B-12. In short, backlash themes often promote the view that adult and children's denials of abuse reflect the truth.

132 *Couchman*, above n11 at 5: "in the United States ... other than us very frankly, I have seen nobody who even asks the question ..."; Crisp, above n11 at 142: "That's what I find most puzzling about the way the passionate and committed foes of sexual abuse go about what they do. They never ask or consider if we make a mistake ...".

133 *Ibid*; see also Crisp, above n11 at 140, where the same expert makes a similar comment about the Mr Bubbles case. "Underwager commented ... the children involved would suffer disastrous consequences because of the case ... 'the effect is worse than if they had been abused.'"

Backlash advocates can present concerns such as these in official language, using the vocabulary of justice described earlier, or in moving ways; such as, for example, in terms of loss. The loss said to be experienced by the wrongly accused person or the children who are “victims of the system” further depicts the image that child protection professionals cause harm and act in unfair ways.¹³⁴ The theme of loss is clearly stated in one backlash newsletter.¹³⁵ The type of loss that is described is not only connected to the “wrongly” accused, but also to the separation of families by legal and child protection agencies.¹³⁶

The promotion of “loss” is bolstered in backlash reports by the use of two powerful mobilising forces, the traditional ideas outlined earlier, and the use of logic.¹³⁷ To illustrate, in one interview concern was expressed that families were in jeopardy of being destroyed essentially by the zealots working in child abuse. In the discussion an appeal was made to traditional values, empathy for children was expressed, and the need for rationality and balance was advanced. Dr Underwager, an expert witness for the defence in the Mr Bubbles case, presented these qualities when he discussed issues associated with sexual abuse and false reports.

[T]here has developed such a polarisation, such a level of emotion, that it’s impossible to carry out a rational discourse. I would plead for those who truly want to protect children, let’s try to talk together. We can do it better.¹³⁸

Backlash media reports also emphasise the illogical nature of child sexual abuse allegations. A by-product of this theme is the idea that professionals are responding to bizarre, and therefore false claims. The promotion of the illogical nature of abuse claims as a tool for denigration of complaints is indicated in backlash material. For example, an association is made between the fantastic nature of lurid, cruel or bizarre events, with the implausibility of such complaints.¹³⁹ Because child protection professionals investigate, and on occasion, pursue charges in such cases, they have been portrayed as extremists.¹⁴⁰ One

134 See, for example, “Family Torn Apart” theme that appeared often in the SDUT articles, above n123. In Australia, Guillatt (August), above n6. Media reports of loss for the accused, and the absence of discussion on the impact of loss for the children claiming abuse leaves the reader with only a one-sided view of loss.

135 *NASVO News 1st Qtr* (1993) at 1: “To emphasize the feeling of loss, VOCAL members also put a traditional Thanksgiving table setting in the courthouse park in memory of the families and children separated this Thanksgiving by CPS [Child Protection System]...VOCAL members also donated enough food to feed all the women staying at Trinity House...since many of these women have lost their children to CPS. The local newspaper ran an article covering this event.”

136 See also VOCAL/NASVO video *Corrupted Innocence: The Making of False Allegations* (1992). “Dedicated to the families and children who have lost their innocence to the system”.

137 See, for example, above n11 at 140. Backlash proponents also associate themselves with rational views; for example, “... Those who take the position that we [the institute] roundly criticize, see us at the enemy. Those who see us as taking a view which they accept and regard as rational, identify us as the leaders.”

138 Crisp, above n11 at 144; see also *Couchman*, above n11.

139 See, for example, Rabinowitz, D, “Deception: In the Movies, on the News” *The Wall Street Journal* 22 February 1993; Rabinowitz, D, “From the Mouths of Babes to a Jail Cell. Child Abuse and the Abuse of Justice: A Case Study” (1990) *May Harpers*. In Australia, see, for example, Guillatt (August), above n6 at 5, where a “bizarre” claim is an implicit indicator of untruth. Quoting the view: “To me it’s just incredible that people can be accused of this sort of rubbish”. In the same article at 1, it is noted that the man was sentenced (but later acquitted on appeal) despite a judge’s remark that the allegations were “bizarre”.

140 *Ibid.* The *Harpers* article (Rabinowitz), *ibid*, reported, “the hunt for child abusers has become a national pathology”. The feverish imagination of prosecutors was also criticised; see also, Finkelhor, D and Wil-

example is the assertion that "... the justice system is about to send two people to jail because their daughter had a dream".¹⁴¹ Another example is the complaint in backlash media reports and newsletters that in some instances doctors lie, or molest children by conducting medical examinations.¹⁴²

One backlash newsletter described how the presentation of claims of abuse as illogical or bizarre became a tool for the defence. For instance, a defence goal was to ensure that the bizarre aspects of abuse claims were not dropped from a case where the prosecution was trying to focus mainly on the sexual abuse allegations. While it has not been established if all cult abuse claims are fabricated, the motivations that backlash proponents attribute to professionals about such claims are worthy of note. The newsletter reads: "Sources stated that the San Diego District Attorney wished to drop the satanic cult allegations, however the defense in the case has refused . . . in that they show incredible false and malicious intent to elicit a plea bargain".¹⁴³

Documenting these views is not to deny the very real concern that some bizarre reports of abuse are false. However, many in child protection are concerned about the equation of illogical complaints with those that are false. In the *Journal of the American Medical Association* in 1989, Chadwick noted that "[t]he 'implausibility' of child sexual abuse has been its cloak for generations".¹⁴⁴

The consistency with which the "implausibility" argument is promoted and the impact of such promotion on public views also concerns those in child protection. Summit's comment about the increasingly popular image of abuse defendants, abuse investigations, and child protection professionals helps to illustrate this point:

The hapless defendants are the victims of an unhealthy alliance of prosecutors, therapists, and hysterical parents whose leading questions have subliminally cued naive children into believing they were abused. . . . In the courtrooms, talk shows and printed exposés dedicated disbelievers label as dangerous to society any professional or parent who expresses belief in a child's disclosures.¹⁴⁵

In essence, the problem of child sexual abuse is being reframed, and the reconstructed accounts often place the responsibility for harm that is done to children on the shoulders of

liams, L M, *Nursery Crimes: Sexual abuse in day care* (1988) for a review of a federally funded national study on sexual abuse in day care in the US. It is reported that almost 79 per cent of all allegations of sexual abuse in day care are not substantiated and that less than one third of the cases that are substantiated proceed to trial. See *The Advisor*, above n126 at 8.

141 See Rabinowitz, above n139.

142 See, for example, Okerblom, J and Wilkins, J, "Allegation: Zealous county workers take children away" *San Diego Union Tribune* 8 November 1991 at A-14. The article quotes a view about an abuse case, "You're talking phony medical reports... This is stuff the KGB used to do". (The possibility of error is lost in the report.) See also VOCAL's *National Office A-[annihilator:] Team promotion flyer* 9 September 1987, which links those in child protection with the Communist scare in the McCarthy era; for a similar theme where professionals' work is portrayed as "bizarre" and is linked with abusing children, see the heading "Doctor Molests Child For State", above n49 at 7; see also Coulborn Faller, K, book review of Wexler, R, *Wounded Innocence: The Real Victims of the War Against Child Abuse* (1990) in (1991) 6 *Journal of Interpersonal Violence* 4 at 535.

143 See, for example, above n23 at 1.

144 See, for example, Chadwick, D, book review of Wakefield, H and Underwager, R, *Accusations of Child Sexual Abuse* (1988) in (May 1989) 261 *The Journal of The American Medical Association* 20 at 3035.

145 Summit, R, "Hidden Victims, Hidden Pain: Societal Avoidance of Child Sexual Abuse" in Wyatt, G and Johnson Powell, G (eds), *Lasting Effects of Child Sexual Abuse* (1988) at 44.

child protection professionals. Simultaneously, public debate about the complex nature of sexual abuse, such as deception and denial in perpetrator behaviour,¹⁴⁶ is often hijacked by the stereotyping and sensationalism that pervades news reports about sexual abuse cases.

Implications for professionals

At present, backlash media stories are often presented in reports about an individual accused of abuse (which sometimes refer to the supporters of the accused) or the stories are presented as an educative approach to issues associated with abuse.¹⁴⁷ The key media reports from America and Australia identified in this article illustrate this point. Of note, at no time in the media coverage which espoused backlash views was a link made between the positions being advanced and the existence of an organised backlash movement.¹⁴⁸

The newspaper headlines in both California and New South Wales played on the polarisation between the victims (the wrongly accused) and villains (government employees), although the Australian press used this style of reporting to a much lesser degree than its American counterpart.¹⁴⁹ The nature of press reports in the United States, however, indicates the patterns now starting to emerge where FMS material dominates media stories about child sexual abuse complaints by adults.¹⁵⁰

It is important to note that in the US media reports, such as in San Diego, professionals were largely unsuccessful in their attempts to counter untrue or misleading complaints:

- 146 See, for example, Summit, R, "The Specific Vulnerability of Children" in Oates, K (ed), *Understanding and Managing Child Sexual Abuse* (1990) at 59; see also *The American Psychologist*, above n52.
- 147 See above n23 at 1. NASVO provides phone numbers for supporters of the person accused in the San Diego case where the defence refused to allow cult claims to be dropped. See also, *Couchman*, above n11; *Crisp*, above n11. In the US, see, for example, Okerblom, J, "Ritual Abuse: Psychologists look closer" *SDUT* 25 January 1992 at B5-1. Of note, the existence of a support group is mentioned, but this was not in the context of a discussion about the backlash movement.
- 148 *Ibid.* In Australia, Dr Underwager conducted a nationwide lecture series on child abuse, and before testifying for the defence in the Mr Bubbles case he gained national television coverage on issues associated with abuse, such as false allegations. His connection to the backlash is formally seen, for example, in *Barnes v Barnes* Pulaski Circuit Court, Winamac, Indiana USA, (1989) at 278:280. Dr Underwager reported that he housed and provided staff during the initial start-up period of VOCAL after the Jordan case. He has also published extensively, spoken at their conferences and supported the group in the first backlash newsletter. He was also on the first advisory board of the FMSF. In San Diego, the press published a 1 800 number for families to contact the Institute of Psychotherapies (a research and treatment facility often linked with the backlash) to report their experience of false reports and recovered memories. See Okerblom, *ibid.* Of note, Dr Underwager was a Director of the Institute of Psychotherapies, see *Barnes v Barnes* at 244. Of further note, the original membership of the FMSF was drawn from a list of families that had contacted the Institute of Psychotherapies. See, for example, *FMS Foundation Newsletter* 29 February 1992.
- 149 This may be partly explained by the existence of The Australian Press Council. For example, the council upheld a complaint about an article written by Hills and Hole, above n25. See *Adjudication No. 443 of The Australian Press Council* 28 June 1990. The Council said that the conclusions in the article expressed, for example, that there was "'hardly a shred of factual corroboration", "a police manhunt, later described as a witch-hunt, a massive but fatally flawed investigation that consumed fifteen thousand man hours" ... do not seem justified on the basis of a magisterial decision that children's evidence could not be accepted for the purpose of a trial." The Press Council said the case put by the article was "greatly overstated". See also The Australian Centre for Independent Journalism, *Working Paper No.1* October 1990 and Dean, A, "Press Council agrees with complaint against Herald" *SMH* 7 July 1990.
- 150 Reports about allegations of childhood abuse made by adults against the clergy, however, are less frequently subjected to the fabrication explanation offered by FMS.

their factual responses were either ignored, or regarded as insignificant compared to the real trauma that resulted from systemic errors. People remembered the outcome of tragic cases where people were falsely accused, and the process that influenced the systemic response was not accurately reported or was down-played.¹⁵¹

As backlash perspectives were not seriously challenged *in, or by, the media*, the position of the movement strengthened.¹⁵² Professionals were described as out of control and those advancing backlash themes were portrayed as agents of social order. Unchallenged, they became a voice of the mainstream and derided professionals as a voice of their own unresolved conflicts or unbridled need for power.¹⁵³ In this climate, factual responses from professionals were then interpreted to reflect the system's denial, and collective belief among professionals about the legitimacy of many abuse claims was called hysteria.¹⁵⁴

A massive "overhaul" of the child protection system then followed. So too did an increase in abuse deaths. In one year child deaths jumped from eight to 18.¹⁵⁵ Some professionals believe that this figure only indicated the worst cases. The number of children physically or sexually abused, or neglected, that went unreported due to professional and community reservations about responding to suspected abuse is thought to be much higher.

Responding to the backlash

The discussion outlined above suggests that a major consideration in responding to the backlash is the need to counter the lack of public discussion about the existence of the movement.¹⁵⁶ However, to develop strategies to respond to backlash complaints requires addressing how child protection professionals communicate in the media. This is a highly complex issue. The most obvious strategy is to simply tell people about the concerns that arise from backlash perspectives and media activities. But to speak publicly about such issues, especially to express concerns about some backlash proponents,¹⁵⁷ means breaching a communication pattern that is demanded in professional settings.

151 For example, a father was wrongly accused of raping his daughter; see Okerblom, J and Wilkins, J, "Victims of Rape And The System: Tragedy, errors shatter a family" *SDUT* 20 October 1991 at 1. See also "A father falsely accused reflects on his ruin by perverse system" *SDUT* 19 November 1991. For contrasting presentations about the errors that occurred in the system, see above n37, above n33 and above n39.

152 See, for example, Smith, B, *Prosecuting Child Physical Abuse Cases: A Case Study in San Diego* (June, 1995) National Institute of Justice, Office of Juvenile Justice and Delinquency Prevention, Washington DC at 11, where it is mentioned that some highly publicised cases had caused a backlash among the public.

153 The role of therapists and social workers in coercing false reports from children is a defence tactic in sex abuse cases; see, for example, Myers, above n32 at 30. The topic was not explored in this context.

154 For a discussion about the marginalising of professionals, see, for example, Summit, (1993) above n122.

155 See, for example, Sauer, M and Wilkins, J, "From Cradle to Grave: Child-abuse deaths soared in 1993 leaving authorities seeking answers" *San Diego Union Tribune* 6 March 1994 at 1.

156 The San Diego County Grand Jury wrote of the need to consider more than one perspective. "Adults can organize politically, contribute to campaigns, issue press releases, grant interviews to the media, testify before the legislature, and attempt to persuade the grand jury. In fact, adults have done so — particularly those accused of sexual abuse of their children." The grand jury asked, "[W]ho speaks for the errors made among the 64,400 [abuse reports] in which no action takes place? ... [A]s a practical matter, the child is not in a position to represent himself or herself, to report, testify, or otherwise raise the issue of unwarranted return to an abusive, dangerous home ...". See above n33 at 14.

157 See, for example, Chadwick, above n144 for comment about the scientific objectivity of the authors; for media, see above n11. Dr Underwager resigned after an interview with a Dutch journal of paedophilia, where he comments that having sex with children is a responsible choice for the individual. It is docu-

A still more complex task than challenging, for instance, the presentation of objectivity and the existence of bias, is to ask and to understand why highly respected and qualified people aligned themselves with the views espoused by authors whose work clearly misrepresented research in the field. Was it the seeds of truth about the system that such work first spoke to?

Backlash issues such as these will not be publicly explored as long as the demand to engage in professional discourse, within professional circles, remains the honoured strategy for responding to abuse. This communication pattern limits the nature of professional discussion in the public domain. Moreover, the silencing effect that arises from restraints on professional discourse in the media is at risk of being further influenced by the silencing effect that is starting to emerge from threats, implicit or actual, of law suits against those who speak out about the backlash.¹⁵⁸

A problem linked with the issues discussed above is that it is antithetical to professionals' training to present their views in a forum where carefully articulated abstracts and well-constructed articles may be replaced by slogans, jargon or sensationalism; or where the occasional fabrication or fudging of data occurs. In short, while most child advocates work with rigour to find and support the truth, those in the media are known to work with zeal to find the "scoop". The different job demands between the two professions hinders the development of strong relationships between professionals in the media and the child protection field.

Given the existence of a backlash movement, and the stated goals of the movement to cultivate media contacts and to educate the public about false claims, it may be time to assess professional relationships between child advocates and journalists. As part of this, it may also be time to assess the nature of what is reported to the media, particularly about cases of sexual abuse, institutional responses to abuse and the backlash.

Conclusion

The concerns raised in this work have not addressed the larger issue of the "underclass" position that children hold in social and legal institutions.¹⁵⁹ However, the issues in this paper should be seen in a wider cultural framework, where, unwittingly, the representations made by backlash proponents have the capacity to capitalise on the underprivileged cultural position of children.

An effective response to this situation cannot be achieved simply by being critical or by engaging in oppositional discourse.¹⁶⁰ In addition to this, to respond to the backlash,

mented in the same journal that his qualifications include being a member of The National Council For Children's Rights. See Geraci, J, "Interview: Hollidia Wakefield and Ralph Underwager" (1993) 3 *Paidika, The Journal of Paedophilia* number 1 issue 9 at 1. See also Bloom, S, "Child abuse: Does it really exist?; The issue of false memory" (1993) 19 March *Grand Rounds, Department of Psychiatry, Temple University Hospital* at 9; Bass and Davis, above n19 475 at 494. See also *Underwager and Wakefield v Salter et al*, No 93-2422 U.S. Court of Appeals, Seventh Circuit, Decided, April 25, (1994) (document before release for publication, (1994 WL 145010 (7th Circuit (Wis))). See also above n130, where a book by known child pornographers was used by VOCAL to criticise child protection efforts.

158 *Underwager and Wakefield v Salter et al*, id. For a discussion about a different matter on law suits against professionals, see Myers, J, "Lawsuits Against Professionals Working With Abused and Neglected Children" above n32 at 176; see also, above n21 at 6.

159 I am indebted to Peter Dallow, at the University of Western Sydney for his views about this matter.

160 See, for example, Barak, above n58 at 288.

professionals must first know how to identify backlash activities in the media. A note of caution is given on this point; while the "situated perspectives" detailed in Table 1 may be indicators of a campaign, they do not of themselves confirm that this is the case. Equally, media stories may well express honest concerns and reflect genuine public interest in institutional and professional responses to abuse. In addition, backlash complaints against the system or professionals may not only be valid, but a catalyst for needed change.

Only when a comprehensive analysis of the backlash is conducted will the exact impact of the movement be known. Until we shift from our own privileged adult viewpoints, however, and incorporate children's perspectives into the debate, any analysis will be incomplete.¹⁶¹ To consider children's perspectives demands that major legal, social and political changes must occur: a massive but vital undertaking. For now, the most important priority should be the development of a replacement discourse about abuse that challenges the "regimes of truth" that have recently dominated media reports about sexual abuse.

161 See, for example, Mason, J, "The Construction of Child Abuse as a Social Problem", paper presented at the Fifth Australasian Conference on Child Abuse and Neglect, 16- 19 October 1995, Melbourne.