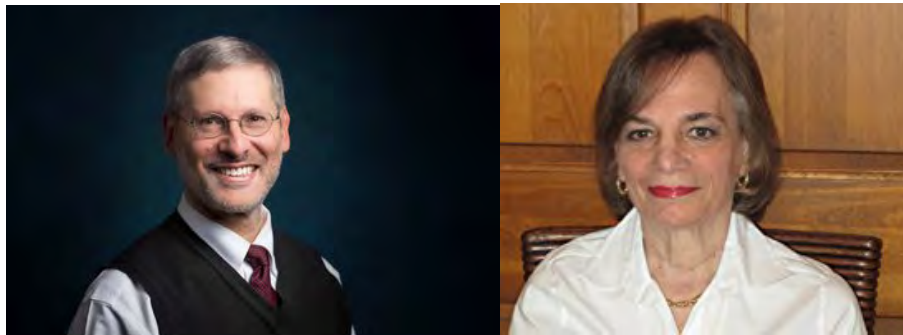


# Let's tell it like it is: Sexual abuse by a cousin is incest

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Especially in the past few months, repugnant details have emerged concerning sexual improprieties by people at the highest levels of the political and entertainment worlds. We are no longer shy about public discussions involving pedophilia, clerical abuse or rape. Still, one area of sexual abuse remains secretive, private, and unprosecuted – incest between family members other than a parent or a sibling. A number of studies regarding incest have been done.<sup>1</sup> To our knowledge, none have specifically included cousins as perpetrators or victims.

Whether on a camping trip, in their bed, under a blanket, or being babysat, an assault by a family member – an assumed primal protector – is especially traumatic. Generally, sexual relations are illegal between any person related by lineal consanguinity, or a brother, sister, uncle, aunt, nephew, or niece. In layperson's language "incest" means that sexual relations are forbidden between people

classified as being too closely related to marry each other.

Around the world, the specific relationships defined as incest vary from culture to culture; in the United States, each state has its own law. In some states, first cousins are allowed to marry each other (e.g. California,<sup>2</sup> Colorado,<sup>3</sup> New York,<sup>4</sup> New Jersey,<sup>5</sup> Florida<sup>6</sup>). In other states, marriage between first cousins is illegal (e.g. Oregon,<sup>7</sup> Pennsylvania,<sup>8</sup> Ohio,<sup>9</sup> Montana,<sup>10</sup> Nebraska<sup>11</sup>).

There is a difference between an exploitative relationship versus teenage experimentation with each other between equal aged minors. When a teenager exploits and coerces a younger child in his family such as cousins engaging in any type of sexual behavior – even what they might call experimentation – that behavior is sexual abuse. The older cousin is abusing his protective role. Such abuse at the hands of someone who is considered

family is devastating whether or not it is legally considered “incest.”

The exploited and abused cousin’s reaction is not a product of formal education or conditioning. Evolutionary signposts in our DNA signal us that incest is wrong and hurtful. All abuse is traumatic and where one is in a trusting relationship it is even more devastating.

When one stranger abuses another we focus on the trauma of abuse. When a father abuses a daughter or son we call it abuse as well as incest. We give such abuse a unique name because incest is the ultimate taboo, even where it occurs between consenting adults. From a societal perspective, it is qualitatively different. When a family member commits exploitative abusive incest, it comes with a unique trauma because the harm is coming from someone who is a presumptive protector. Just because abuse is committed by a young family member, it should not be brushed off as mere childhood indiscretion. It is still abuse and causes trauma.

Various abuses within a family where the discovery of a protector/victim is often passed off as “kissing cousins” or other non-criminal rationalization takes the blame off of the perpetrator and fails to recognize the full measure of trauma to the young victim. Sadly, individuals who learn of this type of sexual abuse often do not want to report members of their own family to law enforcement or child protective authorities. It represents a failure in upbringing and parents may feel responsible. Particularly if the relationship

is discovered across family lines neither family may want full disclosure.

Because none of the principals involved, including parents, children, juvenile authorities, prosecutors and judges, have readily available options, this crime can leave a victim without an advocate, and without future protection, and portends a future of anguish and guilt for the young victim.

While it is understandable that some adults may want to consider such ideas as child development, stages of sexual education of children, and the reality that at some point after puberty children show an interest in sex or sexual contact, there is no excuse for adults failing to acknowledge that young children simply cannot consent to a sexual relationship.

All of this raises difficult questions. Who and when do we talk with children about sex? Children are taught not to talk to strangers and that no one has the right to inappropriately touch them. Importantly, children must understand that this lesson applies to everyone, including family members, including cousins.

So many children are abused by a protector and don’t report it because they care for or even love the abuser and they may feel guilt. As alluded to earlier, while there are states that allow cousins to marry, this does not address the problem of a purported protector taking advantage of a victim. Just because two teenagers are allowed to marry, this does not neutralize the fact that a child was sexually abused.

Most attorneys do not face this kind of case. However, occasionally someone will come forward to seek redress. Assuming there is no criminal prosecution, an attorney may seek to prove abuse in a civil court, and seek damages in a civil suit, holding the parents responsible for the misdeed of their older teenage child. The issue of accountability of a parent may vary from state to state. There are difficult proofs involved as it would be fraught with all of the pitfalls of any civil litigation. Critically, the young child may have to testify and there will be need for expert testimony. Questions will need to be addressed such as video/technological evidence and medical evidence. There may be a double-edged sword as the parents of the injured minor may themselves be considered negligent and may be subject to an action against them where a young child was exposed to injury by another family member. Note also that the medical witnesses are mandated reporters, another litigation hurdle.

Abusive incest is not semantic. Sexual abuse has a nuanced language all its own and it's critical to changing behavior. Likewise, to name unspoken incest by younger persons is key to address how to deal with it. While some teenagers may engage in sex at some time, where do we draw the line between consensual sex and abuse of a protective relationship giving rise to an abuser and a victim? If it involves cousins, giving them the benefit of the doubt may really be giving them a license to abuse.

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1 Krienert, J. & Walsh, J. (2011). Sibling sexual abuse: An empirical analysis of offender, victim, and event characteristics in National Incident-Based Reporting System (NIBRS) data, 2000-2007. *Journal of Child Sex Abuse* 4, 353-372; Muratoglu, G., Celikel, A., & Karbeyaz, K. (2018). Evaluation of the incest cases in Hatay. *Medical Science*, 1-3.

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3 C.R.S. 18-6-301 C.R.S.; C.R.S. 18-6-302 (2016).

4 NY CLS Dom Rel § 5 (2016).

5 N.J. Stat. §2C:14-2 (2015).

6 Fla. Stat. § 826.04 (2017).

7 ORS 163.525 (2017).

8 18 Pa.C.S. § 4302 (2017).

9 18 ORC Ann. 3101.01 (2017).

10 Mont. Code Anno., § 40-1-401 (2017).

11 R.R.S. Neb. § 42-103 (2017).