Justice Responses to Sexual Violence: Issues Paper (2024)

Link: https://www.alrc.gov.au/publication/jrsv-issues-paper-2024/

Date: 24 May 2024

Submission authors:
Professor Blake McKimmie, BA(Hons), PhD, SFHEA, The University of Queensland
Dr Faye Nitschke, BA(Psych)(Hons), LLB, PhD, FHEA, The University of Newcastle
Dr Gianni Ribeiro, BPsySc(Hons), GCert(TAE), PhD, FHEA, The University of Southern Queensland
Amy Thompson, BPsySc(Hons), The University of Queensland

We are a team of researchers who have been working in the area of jury decision making, stereotypes and myths about gender and sexual violence, expert evidence, and interventions to challenge misperceptions, including educational judicial instructions. Our work has included simulated jury trials, community members, and actual jurors. We have been involved in training police who investigate reports of sexual violence, and have recently completed a three-year training development project in collaboration with an Australian policing agency in response to recommendations made by the Royal Commission into Institutional Responses to Child Sexual Abuse. We have also provided training to judges as part of an NJCA program and by invitation of the Judicial Commission of New South Wales, and given presentations to prosecutors and others in the criminal justice system. We have also been involved in developing and evaluating consent education for community members. We have made a number of submissions to law reform commissions about judicial impartiality, comprehension of directions, and educational directions about sexual assault.

Responses to select questions:

Question 7: *What are your ideas for improving police responses to reports of sexual violence? What can be done?*

Despite the recognition of training as a pivotal tool for enhancing police responses to sexual violence, empirical evaluation of the effectiveness of training has been limited until recent years. McQueen and Murphy-Oikonen (2023) conducted a systematic review, encompassing 12 studies conducted predominantly in the last four years, evaluating the impact of sexual assault training on police attitudes, knowledge, and behaviour. Studies included in the systematic review ranged from brief training interventions of one hour for police recruits, to 4-week training courses for specialist police investigators. All studies included in the systematic review reported on training delivered face-to-face, with the exception of one study that incorporated both face-to-face and online training.

According to the review, most studies found significant improvements in police attitudes and knowledge due to training, and all studies found significant improvements in skills (e.g., interview skills). However, within the meta-analysis there were no conclusive recommendations regarding the critical content needed given the limited number of studies and diversity in terms of target trainee population, content, training methods, and outcome measures.

Despite limited empirical evidence on which components of training are most effective in improving police investigative responses to sexual violence, many have speculated about

what may lead to successful training. From their extensive experience working with policing agencies in the United Kingdom, Stanko and Hohl (2018) highlight the importance of integrating academic research with the practical experience of police professionals. This collaborative approach ensures that training is not only grounded in practical realities but is also evidence-based and informed by current research. In this context, training could benefit from focusing on several key principles which align with the broader literature on supporting victim survivors, the effect of trauma, organisational effectiveness, and education:

1. A focus on being victim-centred and trauma-informed, to better support victim survivors (Lapsey et al., 2022)
2. Incorporating educational theory into training to complement existing compliance models with broader learning principles (Belur et al., 2023)
3. Ensuring training is adaptive and ongoing, to keep pace with evolving best practice (Gekoski et al., 2024).

One program designed broadly in line with these principles is the ISACURE (Investigating Sexual Assault – Corroborating and Understanding Relationship Evidence) course developed by the Queensland Police Service (Carr et al., 2021). Investigators' skills, knowledge, and behaviours are all a focus of this course, which is delivered over two weeks face-to-face and involves a range of facilitators including victim survivors of sexual violence, victim survivor support services, academics, practitioners, and stakeholders from other parts of the criminal justice system. The course emphasises an educational approach over compliance and focusses on critical areas such as effective interactions with victim-survivors, offender management, justice processes, and investigator confidence and wellbeing.

One of the major focusses of this training program is the understanding of the dynamics of sexual offending, which we will refer to throughout this submission as 'contextual relationship evidence.' This includes understanding how the perpetrator creates the opportunity to offend and restricts the actions and options of the victim survivor through grooming. This shifts the focus of the investigation from how the victim survivor did or did not behave, to how the perpetrator committed the offence. Contextual relationship evidence also includes understanding the importance of unique signifiers and points of confirmation in an investigation. This approach is described in the Whole Story framework (Tidmarsh et al., 2012).

Evaluation of this course has shown promising outcomes, including increased understanding of victim survivors' experiences of the criminal justice process, stronger intentions to offer ongoing support, increased understanding of the importance of establishing rapport with victim survivors and suspects, and a richer understanding of what it means to be victim centric. The course also led to a significant improvement in case outcomes for ISACURE trained investigators including an increase in solved cases and a reduction in reports withdrawn by victim survivors compared to investigators who were on a waitlist to complete ISACURE (Helton et al., 2022).

As Dowling (2024) notes, although there are efforts to ensure consistency in police training between jurisdictions, police training is largely managed at the state and territory level. It would be highly advantageous for Australian jurisdictions to enhance their collaborative efforts through increased sharing of training resources and methodologies. Such exchanges could lead to a more unified approach to police training across the country, promoting best

practices and improving the overall effectiveness of police responses to reports of sexual violence.

Belur. J et al, (2023). What do we know about blended learning to inform police education? A rapid evidence assessment. *Police Practice and Research Res, 24*(1), 32-52. https://doi.org/10.1080/15614263.2022.2073230

Carr, K., Helton, K., & Bennett, B. (2021). Transforming sexual assault investigation training: Using evidence to inform practice. *Australian Police Journal,* March, https://apjl.com.au

Dowling, C. (2024). Police training in responding to family, domestic, and sexual violence. *Trends & Issues in Crime and Criminal Justice no. 689*. Canberra: Australian Institute of Criminology. https://doi.org/10.52922/ti77390

Gekoski, A. et al., (2024). A lot of the time it's dealing with victims who don't want to know, it's all made up, or they've got mental health: Rape myths in a large English police force. *International Review of Victimology, 30*(1), 3-24. https://doi.org/10.1177/0269758022114289

Helton, K. et al., (2022). *Transforming police responses to sexual offences: Evidence to inform practice*. Presentation at the 14th Cambridge International Conference on Evidence-Based Policing.

Lapsey Jr, D.S., Campbell, B.A. & Plumlee, B.T. (2022). Focal concerns and police decision making in sexual assault cases: A systematic review and meta-analysis. *Trauma, Violence & Abuse, 23*(4), 1220-1234. https://doi.org/10.1177/152483802199128

McQueen, K. & Murphy-Oikonen, J. (2023). Responding to sexual assault: A systematic review of police training interventions and outcomes. *Crime & Delinquency,* Advance online publication. https://doi.org/10.1177/00111287231195763

Stanko, E.A. & Hohl, K. (2018). Why training is not improving the police response to sexual violence against women: A glimpse into the 'black box' of police training. In E Milne et al (Eds), *Women and the criminal justice system: Failing victims and offenders?,* 167-186, Palgrave Macmillan.

Tidmarsh, P., Powell, M., & Darwinkel, E. (2012). Whole story: A new framework for conducting investigative interviews about sexual assault. *Investigative Interviewing: Research and Practice*, *4*, 33–44.

Question 10: *Do you have ideas for improving ODPP responses to the prosecution of sexual violence?*

Much like the response to Question 9, we believe that prosecutors would benefit from similar training in adopting a victim-centred and trauma-informed approach. Our experience in delivering training to police over a number of years has also highlighted the challenges posed when a case moves from investigation to prosecution, both in terms of what information is collected during the investigation, the understanding of that information by prosecutors, and the understanding of prosecutorial needs by investigators. Greater continuity in case management would also improve the experience for victim survivors. One way to achieve some of these objectives would be through joint training involving prosecutors and investigators.

Darwinkel and colleagues (2014) conducted qualitative research with Australian prosecutors to investigate their perceptions of the utility of contextual relationship evidence in trials.

Overall, prosecutors strongly supported the idea of including this type of evidence at trial to improve judges and jurors' understanding the nature of sexual violence, the nature of the relationship between the victim-survivor and alleged offender, and contextual factors that influenced the victim-survivor's behaviour. However, they noted that this evidence is not routinely admitted at trial, with varying success in arguing its relevance both within and between jurisdictions. Therefore, training prosecutors to identify and use contextual relationship evidence may assist them in arguing why this evidence is relevant and should be admitted at trial and for arguing that its probative value outweighs the risk of prejudice.

Furthermore, the legal standards for relevance and admissibility are vague, affording judges considerable discretion in deciding whether evidence is admissible (Darwinkel et al., 2014). Therefore, there may need to be change to what is deemed be consistent with the definition of relevance. Given that a substantial component of contextual relationship evidence includes evidence of grooming that occurs over a period of time in the lead up to the offending (and may not be an offence in and of itself), it is often difficult to meet the requirement that the evidence must tend to prove a fact in issue or must go to the credibility of a witness. A greater understanding by the court of how grooming behaviours create the opportunity for the offending and can occur days, weeks, or months before the offending and that grooming can be directed at victim survivors, others, and the context, will enable prosecutors to present this evidence as relevant, as would formalised provisions in law allowing this evidence.

Darwinkel, E., Powell, M., & Tidmarsh, P. (2014). Prosecutors' perceptions of the utility of 'relationship' evidence in sexual abuse trials. *Journal of Criminology,* 47(1), 44-58. https://doi.org/10.1177/0004865813497733

Question 18: *Are you aware of the research about memory and responsive behaviour in the context of sexual violence trauma? Do you have views about that research?*

Do you have views about whether prosecutors should call expert evidence about that research (that is, about how people recall traumatic events and/ or about how victim survivors of sexual violence typically respond)?

Is that expert evidence being called in your jurisdiction? If so, how is it working? If it is not being called, do you know why not?

Expert evidence is one way to help support jurors in understanding topics that are not necessarily commonly understood, such as the effect of trauma on memory and how victim survivors typically respond. Research in the allied area of child witness evidence suggests that the effect of education is similar whether education for jurors is provided by the judge or an expert. In studies by Goodman-Delahunty and colleagues (2010, 2011), education about memory provided by either a judge or an expert witness enhanced the perceived credibility of the child witness. Earlier work by Brekke and Borgida (1988) demonstrated that expert evidence in sexual assault trials does influence interpretations of case facts and so can be beneficial.

Research by Darwinkel and colleagues (2014) with Australian prosecutors found that although prosecutors believed expert evidence would be useful in educating the judge and

jury about counterintuitive victim behaviour, none of the prosecutors in their study had successfully managed to get expert evidence admitted in court. One prosecutor in the study said:

> "The expert evidence provision would be helpful, but no judge has yet been prepared to let it in. I had 11 trials before the same judge, and I kept wanting to lead it and he kept saying 'No, not unless the defence raises it'. I kept saying 'But I'm not trying to lead "This is why the complainant acted the way he did", I'm trying to lead "This is the spectrum of the way that people can react, to try to disabuse the jury of some of those myths"'. They won't have it and I don't think that they will ever have it." (Darwinkel et al, 2014, p. 54)

It is worth noting that the presentation of expert evidence can introduce a number of additional extra-legal factors associated with the expert themselves (Cooper et al., 1996; Cooper & Neuhaus, 2000). For example, expert gender has been found to influence the credibility of the expert's testimony (e.g., McKimmie et al., 2004; Schuller et al., 2001, 2005). Although these effects were found in simulations of civil matters, similar effects have been observed in actual criminal trials in Australia (Freckelton et al., 2016).

One factor that contributes to the influence of factors about the expert other than their evidence is the complexity of testimony that they present, and dual process models of social cognition suggest that complexity is associated with less systematic or careful information processing (Petty & Cacioppo, 1986). Experts are called when jurors are not expected to have the knowledge about a topic (it is outside of common knowledge), and so often expert testimony is complex and/or difficult to understand. Whether jurors can cope with this complexity has been debated in research. Bornstein and Greene (2011) point out that interviews with jurors suggest that jurors actually do have the capacity to think about such evidence carefully, and that the jurors' deliberations reflect that diligence. Jurors also report that they thoroughly reviewed the evidence when reaching a verdict (Devine et al., 2007).

To enable jurors to make the best use of often complex expert testimony and understand what the expert is presenting, we recommend guidance for experts in how to communicate using clear and straightforward language, and appropriate preparation for trial. In work with criminal trials in multiple Australian jurisdictions, a lack of communication clarity by experts was noted as an issue by jurors, and experts noted that they were not adequately prepared for trial by lawyers in terms of what was expected of them and how to present in court (Freckelton et al., 2016, see also Horan & McKimmie, 2023).

Bornstein, B. H., & Greene, E. (2011). Jury Decision Making: Implications For and From Psychology. *Current Directions in Psychological Science, 20*(1), 63-67. https://doi.org/10.1177/0963721410397282

Brekke, N., & Borgida, E. (1988). Expert psychological testimony in rape trials: A social-cognitive analysis. *Journal of Personality and Social Psychology*, *55*(3), 372–386. https://doi.org/10.1037/0022-3514.55.3.372

Cooper, J., & Neuhaus, I. M. (2000). The "hired gun" effect: Assessing the effect of pay, frequency of testifying and credentials on the perception of expert testimony. *Law and Human Behavior*, *24*, 149–171. https://doi.org/10.1023/A:1005476618435

Cooper, J., Bennett, E. A., & Sukel, H. L. (1996). Complex scientific testimony: How do jurors make decisions? *Law and Human Behavior*, *20*(4), 379–394. https://doi.org/10.1007/BF01498976

Darwinkel, E., Powell, M., & Tidmarsh, P. (2014). Prosecutors' perceptions of the utility of 'relationship' evidence in sexual abuse trials. *Journal of Criminology, 47*(1), 44-58. https://doi.org/10.1177/0004865813497733

Devine, D. J., Buddenbaum, J., Houp, S., Studebaker, N., & Stolle, D. P. (2009). Strength of Evidence, Extraevidentiary Influence, and the Liberation Hypothesis: Data from the Field. *Law and Human Behavior, 33*(2), 136-148. https://doi.org/10.1007/S10979-008-9144-X

Freckelton, I., Goodman-Delahunty, J., Horan, J., & McKimmie, B. (2016). *Expert Evidence and Criminal Jury Trials*. Oxford University Press.

Goodman-Delahunty, J., Cossins, A., & O'Brien, K. (2011). A comparison of expert evidence and judicial directions to counter misconceptions in child sexual abuse trials. *Australian and New Zealand Journal of Criminology*, *44*(2), 196–217. https://doi.org/10.1177/0004865811405140

Goodman-Delahunty, J., Cossins, A., & O'Brien, K. (2010). Enhancing the credibility of complainants in child sexual assault trials: The effect of expert evidence and judicial directions. *Behavioral Sciences & the Law*, *28*(6), 769–783. https://doi.org/10/b8n4zt

Horan, J., & McKimmie, B. M. (2023). Comprehension problems that jurors encounter with expert evidence in online child pornography trials. *Current Issues in Criminal Justice.* https://doi.org/10.1080/10345329.2022.2163752

McKimmie, B. M., Newton, C. J., Terry, D. J., & Schuller, R. A. (2004). Jurors' responses to expert witness testimony: The effects of gender stereotypes. *Group Processes and Intergroup Relations*, *7*(2), 131–143. https://doi.org/10.1177/1368430204043724

Petty, R. E., & Cacioppo, J. T. (1986). The Elaboration Likelihood Model of Persuasion. *Advances in Experimental Social Psychology, 19*, 123-205. https://doi.org/10.1016/s0065-2601(08)60214-2

Schuller, R. A., Terry, D. J., & McKimmie, B. M. (2001). The impact of an expert's gender on jurors' decisions. *Law and Psychology Review*, *25*, 59–79.

Schuller, R. A., Terry, D. J., & McKimmie, B. M. (2005). The impact of expert testimony on jurors' decisions: Gender of the expert and testimony complexity. *Journal of Applied Social Psychology*, *35*(6), 1266–1280. https://doi.org/10.1111/j.1559-1816.2005.tb02170.x

Question 19: *What is your view about the usefulness of jury directions in countering myths and misconceptions described by the research discussed above?*

Do you have a view on whether the jury directions in your jurisdiction are sufficient? Could they be more extensive?

How are the directions in Victoria under the Jury Directions Act 2015 (Vic) working in practice? Can they be improved?

While educational jury directions seem like a logical way to intervene on jury decisions in sexual violence trials, there is very limited research that has empirically tested whether these directions can reduce the influence of myths or misconceptions in jury decision-making. Given the limited evidence, we cannot be confident that educational directions alone will be an adequate intervention to prevent jurors from relying on myths and misconceptions in their decisions.

There are a small number of studies which suggest that some types of educational judicial directions can change jurors' consideration of the evidence and decision-making in sexual violence trials. In one study, mock jurors were given educational instructions by the judge both at the start and end of the trial. These instructions aimed to warn jurors against being influenced by common misperceptions about how sexual assault occurs (e.g., that consensual sexual activity may have taken place before the assault) and how victim survivors respond to sexual violence (e.g., victim survivors may not physically resist). These instructions were found to increase the likelihood that mock jurors would convict the defendant (Lee et al., 2022).

In another study, the judge provided directions which explained why common misconceptions that mock jurors have about how victim survivors respond to sexual violence (i.e., that victims can be unemotional and not immediately report assaults) are inaccurate. These directions were found to change the way evidence around these issues were discussed by mock jurors in deliberation (Ellison & Munro, 2009).

In our own research, we have found that having the judge provide educational guidance about how to use evidence of victim survivor intoxication to make a legally relevant decision about whether the victim survivor had capacity to consent to intercourse assisted mock jurors (Nitschke et al., 2021). We found that mock jurors who received an educational direction about victim survivor intoxication evaluated a moderately intoxicated victim survivor of sexual assault as less capable of having cognitive capacity to consent compared to mock jurors who did not receive an educational direction, rather than using this evidence to inaccurately evaluate the victim survivor or draw inaccurate inferences about the assault event.

We also note that educational directions targeting common misunderstandings about sexual assault of children (e.g., continued contact with an abuser is not evidence of a fabricated complaint) have also been found to improve jurors' knowledge of how children respond to sexual violence and to make mock jurors more likely to convict the offender (Goodman-Delahunty et al., 2010; Goodman-Delahunty et al., 2011).

However, there are an equal number of studies which suggest that educational judicial directions either do not effect mock jury decisions in sexual assault cases or can have unexpected effects.

The results of two recent studies suggest that having the judge give simple warning to mock jurors about not letting myths or stereotypes about sexual violence influence their decisions may not be very effective (Carter et al., 2023; Cullen et al., 2024). For example, in one of these studies, the judge gave a warning to mock jurors about not letting the gender identity of the victim survivor influence the decisions they made about a sexual assault. This warning had no effect on the decisions that mock jurors made about the case (Carter et al., 2023). Similarly, in another study a simple warning delivered by the judge about avoiding inaccurate recollections of the case evidence in a sexual assault trial had no effect on the decisions made by mock jurors about the case (Cullen et al., 2024).

In another study, we tested the effect of an explanatory warning about victim survivor emotion while giving evidence (i.e., giving reasons for why using emotion to judge a victim survivor's credibility is not accurate; Nitschke et al., 2023). We found that this educational direction improved mock jurors' understanding of how trauma could affect a victim

survivor's behaviour when giving evidence. However, we also found that mock jurors given this direction perceived the unemotional and emotional victim survivor as equally credible, such that the victim survivor was perceived as less credible regardless of their emotional demeanour after receiving the educational direction.

Given the current state of the evidence base, we are cautious in making concrete recommendations about what might constitute effective educational judicial directions for sexual offences. We strongly support the Commission recommending that any educational instructions introduced are monitored. To be effective, monitoring should be conducted by experts with subject matter expertise. Monitoring of reforms should be informed by the experiences of participants in the criminal justice system (e.g., victim survivors, prosecutors and judges) as well as based on empirical data.

To effectively monitor whether educational judicial directions are helping jurors to make fairer decisions in sexual offence trials, the following types of data needs to be collected: basic trial facts, directions used in trial and trial outcomes. This would enable case file analysis to provide some insight into whether directions are changing case outcomes as expected. To evaluate whether educational judicial directions assist juries to make accurate decisions about victim survivors' evidence in sexual offence trials, mock-jury research needs to be commissioned as data of this type cannot be collected from real jury trials.

Carter, L. M., Goodmon, L. B., Urs, M., & Rutledge-Jukes, H. (2023). The effects of victim gender identity, juror gender, and judicial instructions on victim blaming, crime severity ratings, and verdicts in sexual assault trials. *Journal of Homosexuality*, *70*(6), 1187–1224. https://doi.org/10.1080/00918369.2021.2018877

Cullen, H. J., Dilevski, N., Nitschke, F. T., Ribeiro, G., Brind, S., & Woolley, N. (2024). The impact of misinformation presented during jury deliberation on juror memory and decision-making. *Frontiers in Psychology*, *15*. https://www.frontiersin.org/journals/psychology/articles/10.3389/fpsyg.2024.1232228

Ellison, L., & Munro, V. E. (2009). Turning mirrors into windows? Assessing the impact of (mock) juror education in rape trials. *The British Journal of Criminology*, *49*(3), 363–383.

Goodman-Delahunty, J., Cossins, A., & O'Brien, K. (2010). Enhancing the credibility of complainants in child sexual assault trials: The effect of expert evidence and judicial directions. *Behavioral Sciences & the Law*, *28*(6), 769–783. https://doi.org/10.1002/bsl.936

Goodman-Delahunty, J., Cossins, A., & O'Brien, K. (2011). A comparison of expert evidence and judicial directions to counter misconceptions in child sexual abuse trials. *Australian & New Zealand Journal of Criminology*, *44*(2), 196–217. https://doi.org/10.1177/0004865811405140

Lee, H. D. H., Masser, B. M., Tangen, J. M., & McKimmie, B. M. (2022). The effects of victim testimony order and judicial education on juror decision-making in trials for rape. *Psychology, Crime & Law*, *0*(0), 1–29. https://doi.org/10.1080/1068316X.2022.2099546

Nitschke, F. T., McKimmie, B. M., & Vanman, E. J. (2023). The effect of trauma education judicial instructions on decisions about complainant credibility in rape trials. *Psychology, Public Policy, and Law*, *29*(1), 69–92. https://doi.org/10.1037/law0000353

Nitschke, F. T., Masser, B. M., McKimmie, B. M., & Riachi, M. (2021). Intoxicated but not incapacitated: Are there effective methods to assist juries in interpreting evidence of voluntary complainant intoxication in cases of rape? *Journal of Interpersonal Violence*, *39*(9–10), 4335–4359. https://doi.org/10.1177/0886260518790601

Question 20: *Do you have a view about the other recommendations that have been made (educative videos, mixed juries, judge-alone trials, and education and training)?*

The selection of ways to support fairer outcomes in these matters should be informed by systematic evidence about the effectiveness of these methods. There is limited evidence for most of these methods in the context of sexual assault trials, although we can look to more general evidence about the relative effectiveness of judge-alone trials (noted below) and educational instructions (noted above). We would recommend systematic evaluation of methods preferably before adoption or, if that is not possible, monitoring and evaluation after adoption. Such evaluation should seek to measure the effect of the intervention on perceiver's evaluations of the victim-survivor, offence-related misconceptions, and understanding of the evidence.

Do you have other ideas for reform based on research which suggests the evidence of complainants is assessed according to myths and misconceptions about memory and responsive behaviour?

While there are a handful of mistaken beliefs people hold about victim survivors' memory of sexual assault events, there are many more myths and misconceptions held about how sexual violence is perpetrated and how victim survivors respond to sexual violence which are widely endorsed in the Australian community (Coumarelos et al., 2023). Research suggests that some of these beliefs may be particularly influential in jury decision-making in sexual violence cases.

For example, a field study of jurors experiences sitting on sexual violence trials in New Zealand indicates that the most prominent myths involved in jury decisions were mistaken beliefs about expecting victim survivors to physically resist, report the offence immediately, to have not had earlier sexual contact with the alleged perpetrator or made 'risky' lifestyle choices (e.g., drinking alcohol) and to expect victim survivors to be distressed (Tinsley et al., 2021). Review of the empirical research suggest that many of these beliefs also influence mock jurors' decisions about sexual assault cases (e.g., Dinos et al., 2015; Levine, 2020; Nitschke et al., 2019).

Regardless of the form of the intervention (e.g., educational jury directions, expert evidence, general jury education), all interventions should target the full range of misleading beliefs which are held about both how sexual violence is perpetrated and how victim survivors respond to sexual violence. This includes educating jurors about contextual relationship evidence (e.g., grooming) in addition to challenging incorrect beliefs. Challenging beliefs alone has shown to not necessarily be effective (Nitschke et al., 2023) as jurors are still left with no understanding for why a victim-survivor has acted in unexpected ways (e.g., not fighting back, not leaving). Education about contextual relationship evidence would go some way towards helping jurors not only understand that their misconceptions are incorrect, but also why the victim survivor acted the way they did, and the perpetrators role in establishing the context to enable the offending.

Coumarelos, C., Weeks, N., Bernstein, S., Roberts, N., Honey, N., Minter, K. & Carlisle, E. (2023). *Attitudes matter: The 2021 National Community Attitudes towards Violence against Women Survey (NCAS) Findings for Australia*. Australia's National Research Organisation for Women's Safety. https://www.ncas.au/ncas-2021-summary-report

Dinos, S., Burrowes, N., Hammond, K., & Cunliffe, C. (2015). A systematic review of juries' assessment of rape victims: Do rape myths impact on juror decision-making? *International Journal of Law, Crime and Justice*, *43*(1), 36–49. https://doi.org/10.1016/j.ijlcj.2014.07.001

Leverick, F. (2020). What do we know about rape myths and juror decision making? *The International Journal of Evidence & Proof*, *24*(3), 255–279. https://doi.org/10.1177/1365712720923157

Nitschke, F. T., McKimmie, B. M., & Vanman, E. J. (2019). A meta-analysis of the emotional victim effect for female adult rape complainants: Does complainant distress influence credibility? *Psychological Bulletin*, *145*(10), 953–979. https://doi.org/10.1037/bul0000206

Nitschke, F. T., McKimmie, B. M., & Vanman, E. J. (2023). The effect of trauma education judicial instructions on decisions about complainant credibility in rape trials. *Psychology, Public Policy, and Law*, *29*(1), 69–92. https://doi.org/10.1037/law0000353

Tinsley, Y., Baylis, C., & Young, W. (2021). "I think she's learnt her lesson": Juror use of cultural misconceptions in sexual violence trials. *Victoria University of Wellington Law Review*, *52*(2), Article 2. https://doi.org/10.26686/vuwlr.v52i2.7128

Question 21: *What is your view about a trial by judge alone in relation to sexual offending?*

There is a fairly common view that the legal training and experience that judges have enables more objective decision making in matters and that this might be particularly beneficial for cases where prejudicial beliefs might be influential (for example, cases with substantial media exposure or cases involving sexual violence). For example, according to Peckham: "Impartiality is a capacity of mind – a learned ability to recognize and compartmentalize the relevant from the irrelevant and to detach one's emotions from one's rational facilities. Only because we trust judges to be able to satisfy these obligations do we permit them to exercise power and oversight" (Peckham, 1985, p. 262). The recent Australian Law Reform Commission (2022) paper on Judicial impartiality, however, acknowledged a range of ways that judges' perceptions and decisions might be influenced by extra-legal factors beyond the evidence presented at trial. Many of these stem from the fact that judges perceive and make sense of the world through the same social-cognitive processes as jurors and people in general.

The view that judges are best placed to decide matters of fact in an impartial manner is also contradicted by empirical research. Landsman and Rakos' (1994) experiment is probably the best illustration of this point. In that study, participants, who were either judges or regular members of the community, were given a hypothetical case to decide. There were three conditions in this study: one where participants were given legally prejudicial and legally irrelevant information; a second where this same information was presented along with a direction to ignore that information because it was inadmissible; and a final control condition without the prejudicial information. The results of this study showed that both the judges and laypeople were negatively influenced by the inadmissible prejudicial information. The instruction to disregard the prejudicial information had little effect for both judges and laypeople as well — their verdicts in this condition were more like the verdicts in the

condition without the instruction and different from the verdicts in the control condition that did not have the prejudicial information. So, in sum, this study suggests that both judges and jurors might be susceptible to the same cognitive biases and legal training did not seem to protect against these.

One thing that favours jurors in this instance, however, is that jurors hear less inadmissible evidence and pretrial information than judges, which places jurors in a situation more like the control condition in that study compared to judges. Guthrie, Rachlinski, and Wistrich (2002) also concluded that judges were vulnerable to most of the cognitive biases that affect lay decision makers when judging legal materials. A later paper by the same authors in 2005 also found that judges, along with jurors, were not able to disregard a range of types of inadmissible evidence, but this time there were some exceptions - for example information about an inadmissible confession was disregarded by judges. In addition, there are many anecdotal reports in the media of reasons given by judges for decisions that are influenced in part by misconceptions about sexual offending. Given this, jury trials may be preferable to judge-alone trials because it is much easier to remove an apparently biased juror from a trial. Jurors do, however, need educational instructions and materials to support their decision making. However, as noted in our response to Q19, we are cautious about drawing any firm conclusions about the effectiveness of judicial instructions to reduce jurors' reliance on myths and misconceptions about sexual violence.

Australian Law Reform Commission (2022). *Without fear or favour: Judicial impartiality and the law on bias*. Retrieved from: https://www.alrc.gov.au/publication/ji-report-138/

Guthrie, C., Rachlinski, J. J., & Wistrich, A. J. (2002). Judging by heuristic-cognitive illusions in judicial decision making. *Judicature, 86*, 44.

Landsman, S., & Rakos, R. F. (1994). A preliminary inquiry into the effect of potentially biasing information on judges and jurors in civil litigation. *Behavioral Sciences & the Law, 12*(2), 113-126. doi: 10.1002/bsl.2370120203

Robert F. Peckham, *A Judicial Response to the Cost of Litigation: Case Management, Two-Stage Discovery Planning, and Alternative Dispute Resolution*, 37 Rutgers L. Rev. 253 (1985)

Wistrich, A. J., Guthrie, C., & Rachlinski, J. J. (2005). Can judges ignore inadmissible information the difficulty of deliberately disregarding. *University of Pennsylvania Law Review*, *153*(4), 1251–1346.

Question 23: *Are the legislative provisions adequate to protect complainants during cross-examination? If not, how could they be improved? Should they be harmonised?*

This response addresses the adequacy part of Question 23.

A recent analysis of trial transcripts in the NSW District Court suggests that the current legislative provisions are not adequate to protect victim survivors during cross-examination. This analysis found that cross-examination reflected many inaccurate myths about sexual violence that undermine a victim survivor's credibility. There is no reason to infer that the conclusions drawn from the analysis of these trial transcripts are unique to a single jurisdiction (Quilter & McNamara, 2023).

Unfortunately, research on how victim survivors are cross-examined in sexual assault trials suggests legislative restrictions on cross-examination are not eliminating barred questions

from cross-examination. In an analysis of historical and contemporary sexual assault trial transcripts from Australia and New Zealand, both the types of questions and strategies used in cross-examination of victim survivors remained remarkably stable (Zydervelt et al., 2017; Westera et al., 2017). Despite legislative reform removing requirements for evidence that the victim survivor physically resisted the alleged offender and to prevent evidence of the victim survivor's sexual history from being admitted, these analyses suggest that questions about these issues were regularly used in cross-examination (Zydervelt et al., 2017). This suggests that legislative protections alone may not be sufficient to protect victim survivors from being asked inappropriate questions in cross-examination.

Quilter, J., & McNamara, L. (2023). *Experience of complainants of adult sexual offences in the District Court of NSW: A trial transcript analysis* (Crime and Justice Bulletin No. 259). NSW Bureau of Statistics.

Westera, N., Zydervelt, S., Kaladelfos, A., & Zajac, R. (2017). Sexual assault complainants on the stand: A historical comparison of courtroom questioning. *Psychology, Crime & Law*, *23*(1), 15–31. https://doi.org/10.1080/1068316X.2016.1217334

Zydervelt, S., Zajac, R., Kaladelfos, A., & Westera, N. (2017). Lawyers' strategies for cross-examining rape complainants: Have we moved beyond the 1950s? *The British Journal of Criminology*, *57*(3), 551–569. https://doi.org/10.1093/bjc/azw023

Question 24 *Should cross-examination that reflects myths and misconceptions about sexual violence, such as the belief that a 'rape victim' would be expected to complain at the first reasonable opportunity be restricted on the ground that it is irrelevant or on any other ground?*

There is empirical evidence to suggest that restricting questions based on rape myths in cross-examination may reduce jurors' reliance on these myths in their decision-making. There is consistent and strong evidence that rape myths unfairly undermine the credibility of victim survivors and influence jury decision-making. Rape myths include a wide range of mistaken beliefs that the community hold about how victim survivors respond to experiences of sexual violence (e.g., genuine victims physically resist, report immediately and appear distressed), how perpetrators commit sexual violence (e.g., perpetrators are mentally ill and use physical force) and about the context of the offending behaviour (e.g., that perpetrators are strangers and assaults happen outside; Thelan & Meadows, 2021; Leverick, 2020). Most incidents of sexual violence occur in ways that are not consistent with rape myths (e.g., Cox, 2015) so jurors' use of these myths to make decisions is problematic.

Several systematic reviews of the empirical literature show that when mock jurors endorse rape myths, they are less likely to find the alleged offender guilty of sexual assault (Dinos et al., 2017) and more likely to perceive the victim survivor negatively (Gravelin et al., 2019). Another review of the empirical literature shows that rape myths are used by mock jurors during deliberation to interpret evidence and arrive at verdict decisions (Leverick, 2020). In a large field study, 121 jurors were interviewed about their experiences sitting on sexual assault trials in New Zealand (Tinsley et al., 2021). Analysis of the interviews suggests that rape myths were strongly endorsed by jurors and were used to interpret evidence and make decisions about cases. Problematically, jurors indicated that rape myths raised by defence counsel through examination had been influential on jury use and endorsement of rape myths (Tinsley et al., 2021).

The legal purpose of cross-examination is to test the probative value of a witness's evidence. Simply, cross-examination should be providing the jury with information to accurately assess the credibility and reliability of the evidence given by a witness. However, research analysing sexual assault trial transcripts indicates that questions asked in cross-examination are frequently leading and use rape myths to undermine the plausibility and/or reliability of the victim survivor's account or the victim survivor's credibility as a witness (Zydervelt et al., 2017; Westera et al., 2017; Tinsley et al., 2021). Given the weight of evidence suggesting that these myths influence jury decision-making, restricting questions in cross-examination which only serve to highlight either how the victim survivor or the alleged offending do not match rape myths, may reduce the extent to which jury decisions are influenced by these myths.

However, simply introducing restrictions may not be sufficient alone to ensure that these types of questions are no longer asked in cross-examination. Unfortunately, analyses of court transcripts suggest that legislative restrictions do not necessarily prevent barred questions from being used in the cross-examination of victim survivors. For example, in trial transcript analysis, 43% of cross-examining lawyers asked questions about a victim survivors' sexual history despite the presence of a legislative restriction barring these kinds of questions (Zydervelt et al., 2017). In addition to legislative restrictions there will need to be additional training and support provided to prosecutors and judges to ensure they can enforce legislative restrictions on questions in the trial context.

Cox, P. (2015). *Violence against women: Additional analysis of the Australian Bureau of Statistics Personal Safety Survey, 2012*. Australia's National Research Organisation for Women's Safety. https://www.anrows.org.au/publication/violence-against-women-in-australia-additional-analysis-of-the-australian-bureau-of-statistics-personal-safety-survey-2012/

Dinos, S., Burrowes, N., Hammond, K., & Cunliffe, C. (2015). A systematic review of juries' assessment of rape victims: Do rape myths impact on juror decision-making? *International Journal of Law, Crime and Justice*, *43*(1), 36–49. https://doi.org/10.1016/j.ijlcj.2014.07.001

Gravelin, C. R., Biernat, M., & Bucher, C. E. (2019). Blaming the victim of acquaintance rape: Individual, situational, and sociocultural factors. *Frontiers in Psychology*, *9*. https://doi.org/10.3389/fpsyg.2018.02422

Leverick, F. (2020). What do we know about rape myths and juror decision making? *The International Journal of Evidence & Proof*, *24*(3), 255–279. https://doi.org/10.1177/1365712720923157

Thelan, A. R., & Meadows, E. A. (2021). The Illinois Rape Myth Acceptance Scale—Subtle Version: Using an Adapted Measure to Understand the Declining Rates of Rape Myth Acceptance. *Journal of Interpersonal Violence*, 08862605211030013. https://doi.org/10.1177/08862605211030013

Tinsley, Y., Baylis, C., & Young, W. (2021). "I Think She's Learnt Her Lesson": Juror Use of Cultural Misconceptions in Sexual Violence Trials. *Victoria University of Wellington Law Review*, *52*(2), Article 2. https://doi.org/10.26686/vuwlr.v52i2.7128

Westera, N., Zydervelt, S., Kaladelfos, A., & Zajac, R. (2017). Sexual assault complainants on the stand: A historical comparison of courtroom questioning. *Psychology, Crime & Law*, *23*(1), 15–31. https://doi.org/10.1080/1068316X.2016.1217334

Zydervelt, S., Zajac, R., Kaladelfos, A., & Westera, N. (2017). Lawyers' strategies for cross-examining rape complainants: Have we moved beyond the 1950s? *The British Journal of Criminology*, *57*(3), 551–569. https://doi.org/10.1093/bjc/azw023

Question 30: *Should there be legislative reform to the admissibility and use of distress evidence?*

Is this an area which calls for legislative intervention and harmonisation? If so, how should they be harmonised? Should distress evidence be admissible at all?

There is good reason to question whether distress evidence should be admissible. First, research suggests that jurors (and other decision-makers) use the victim survivor's emotional demeanour to reach inaccurate decisions about victim survivor credibility. Two systematic reviews of the literature have shown that decision-makers (including police officers, lawyers, judges and mock jurors) consistently perceive adult female victim survivors of sexual violence who show visible distress as more credible than those who appear unemotional (Nitschke et al., 2019; van Doorn & Koster, 2019). Research also shows that even when the evidence against the defendant is strong, this stereotype of victim survivor distress persists whereas the effect of many other stereotypes tends to diminish (e.g., Nitschke et al., 2022). This demonstrates that the effect of victim survivor distress on decision-makers' evaluations of victim survivor credibility is robust. As research suggests that someone's emotional state does not reliably indicate whether they are lying or telling the truth (DePaulo et al., 2003; Bond & DePaulo, 2006; Hartwig & Bond, 2014), jurors' reliance on victim survivor emotion to make decisions about credibility is problematic.

Second, distress is not actually the most common response to a traumatic experience. Research suggests that people can have a broad range of emotional and behavioural responses to traumatic events and there is no common response (e.g., Centre for Substance Abuse Treatment, 2014). There are also trauma symptoms like dissociation and affective blunting which can make a person appear to be unemotional (Elliot et al., 2004). Some research suggests that affective flattening and blunting are commonly experienced by individuals who have experienced sexual violence, regardless of whether they have a clinical trauma diagnosis or not (e.g., Faravelli et al., 2004). Research suggests that an honest victim survivor may be distressed after an assault, but could also be angry, unemotional, withdrawn or appear dazed or confused (e.g. Elliot et al., 2004). Given this, it is not accurate to admit evidence of distress as the only indicator that a victim survivor has experienced a traumatic event.

Third, the presentation of distress evidence conflicts with recently introduced instructions about the use of the victim survivor's emotion while giving evidence. Several Australian jurisdictions, including New South Wales and Victoria, have new educational judicial directions which encourage jurors not to use a victim survivor's emotional state while giving evidence to determine their credibility (e.g., s54K, *Jury Directions Act (Vic) 2015*). This means a jury could be asked to *use* evidence of the victim survivor's distress after the assault to assess their credibility, while in that same trial being directed to *ignore* the victim survivor's emotional demeanour while giving evidence to assess their credibility. There are two issues with this. First, this may inadvertently draw attention to inconsistencies in the victim survivor's emotional state over time and undermine the victim survivor's credibility. Research has found that when a victim-survivor expresses different emotions immediately after an assault and at trial, they are perceived to be less credible than a victim survivor who consistently expressed the same emotions over time (Klippenstine & Schuller, 2012). More importantly, it may be difficult for the jury to follow the new educational directions about the

victim survivors' emotional demeanour on the stand when the stereotype about victim survivor emotion has been activated by the admission of distress evidence (i.e., it is hard for people to not be influenced by a recently activated stereotype; Kunda & Thagard, 1996).

Bond, C. F., & DePaulo, B. M. (2006). Accuracy of deception judgments. *Personality and Social Psychology Review*, *10*(3), 214–234. https://doi.org/10.1207/s15327957pspr1003_2

Center for Substance Abuse Treatment (US). (2014). Understanding the Impact of Trauma. In *Trauma-Informed Care in Behavioral Health Services*. Substance Abuse and Mental Health Services Administration (US). https://www.ncbi.nlm.nih.gov/books/NBK207191/

DePaulo, B. M., Lindsay, J. J., Malone, B. E., Muhlenbruck, L., Charlton, K., & Cooper, H. (2003). Cues to deception. *Psychological Bulletin*, *129*(1), 74–118. https://doi.org/10.1037/0033-2909.129.1.74

Elliott, D. M., Mok, D. S., & Briere, J. (2004). Adult sexual assault: Prevalence, symptomatology, and sex differences in the general population. *Journal of Traumatic Stress*, *17*(3), 203–211. https://doi.org/10.1023/B:JOTS.0000029263.11104.23

Faravelli, C., Giugni, A., Salvatori, S., & Ricca, V. (2004). Psychopathology after rape. *American Journal of Psychiatry*, *161*(8), 1483–1485. https://doi.org/10.1176/appi.ajp.161.8.1483

Hartwig, M., & Bond, C. F. (2014). Lie detection from multiple cues: A meta-analysis. *Applied Cognitive Psychology*, *28*(5), 661–676. https://doi.org/10.1002/acp.3052

Klippenstine, M. A., & Schuller, R. (2012). Perceptions of sexual assault: Expectancies regarding the emotional response of a rape victim over time. *Psychology, Crime & Law*, *18*(1), 79–94. https://doi.org/10.1080/1068316X.2011.589389

Kunda, Z., & Thagard, P. (1996). Forming impressions from stereotypes, traits, and behaviors: A parallel-constraint-satisfaction theory. *Psychological Review*, *103*(2), 284–308. https://doi.org/10.1037/0033-295X.103.2.284

Nitschke, F. T., McKimmie, B. M., & Vanman, E. J. (2019). A meta-analysis of the emotional victim effect for female adult rape complainants: Does complainant distress influence credibility? *Psychological Bulletin*, *145*(10), 953–979. https://doi.org/10.1037/bul0000206

Nitschke, F. T., McKimmie, B. M., & Vanman, E. J. (2022). The effect of heuristic cues on jurors' systematic information processing in rape trials. *Psychology of Women Quarterly*, *46*(4), 484–500. https://doi.org/10.1177/03616843221118018

van Doorn, J., & Koster, N. N. (2019). Emotional victims and the impact on credibility: A systematic review. *Aggression and Violent Behavior*, *47*, 74–89. https://doi.org/10.1016/j.avb.2019.03.007

Question 33 *Do you have views about the creation of specialist courts, sections, or lists?*

Do you support specialised training for judges who conduct sexual offence cases? What issues should that training address?

Similar to the training for members of the ODPP proposed in our response to Question 10, we support the inclusion of specialist training for judges who conduct sexual violence cases. In order to operate effectively, the specialist training programs provided to each participant in the justice system should complement each other. As previously discussed, Queensland Police Service have adopted research-based training which explores victim-centric and

trauma-informed approaches and trains its officers in effectively collecting contextual relationship evidence. This type of evidence often provides decision makers with an explanation for why a victim and perpetrator behaved in counter-stereotypic ways, eliminating the need to rely on cognitive biases about what an assault stereotypically looks like to fill these gaps in the case.

As Tidmarsh and colleagues (2012) outline, the broader effectiveness of training in contextual relationship evidence is reliant on the adoption of this evidence and practices into the courtroom, which currently only happens on rare occasion. Prosecutors have expressed that one of the largest barriers they experience when presenting contextual relationship evidence in court is the individual understanding and discretion of judges. Judges who do not understand the link between relationship evidence and the commission of offences are not likely to admit this type of evidence (Darwinkel et al., 2014). Prosecutors also identified that those judges who are more accepting of counterintuitive victim behaviour are more likely to admit contextual relationship evidence at trial, with one prosecutor stating:

> "As a general rule we as prosecutors all want to lead relationship and grooming evidence, but articulating the relevance at court, and getting the judge to understand and admit it, is the issue." (Darwinkel et al., 2014, p. 47)

There is substantial research which shows that decision-makers in the legal system view victim survivors of non-stereotypic assaults as less credible than victim survivors of stereotypic assaults and are less likely to refer non-stereotypic cases for further action (Sleath & Bull, 2017). Judges are not exempt to this; the recent Australian Law Reform Commission (2022) paper on judicial impartiality acknowledges that, similar to jurors, judges are susceptible to using their own cognitive biases in addition to the evidence presented when making decisions about case outcomes.

This effect of cognitive biases is not attenuated even when judges explicitly acknowledge the evidence as inadmissible (Wistrich et al., 2005), lending itself to the idea that instruction alone is not sufficient to overcome the impacts of misconceptions on decision-making (Nitschke et al., 2021). It is therefore prudent to conduct more empirical research into the effectiveness of specialist training for judges who conduct sexual offence cases. Whilst existing research indicates this would be an effective solution, ideally training would be evaluated before widespread implementation.

Australian Law Reform Commission (2022). *Without fear or favour: Judicial impartiality and the law on bias*.

Darwinkel, E., Powell, M., & Tidmarsh, P. (2014). Prosecutors' perceptions of the utility of 'relationship' evidence in sexual abuse trials. Journal of Criminology, 47(1), 44-58. https://doi.org/10.1177/0004865813497733

Nitschke, F. T., Masser, B. M., McKimmie, B. M., & Riachi, M. (2021). Intoxicated but not incapacitated: Are there effective methods to assist juries in interpreting evidence of voluntary complainant intoxication in cases of rape? Journal of Interpersonal Violence, 39(9–10), 4335–4359. https://doi.org/10.1177/0886260518790601

Sleath, E., & Bull, R. (2017). Police perceptions of rape victims and the impact on case decision making: A systematic review. *Aggression and Violent Behavior*, 34, 102-112. https://doi.org/10.1016/j.avb.2017.02.003

Tidmarsh, P., Powell, M., & Darwinkel, E. (2012). Whole story: A new framework for conducting investigative interviews about sexual assault. *Investigative Interviewing: Research and Practice*, *4*, 33–44.

Wistrich, A. J., Guthrie, C., & Rachlinski, J. J. (2005). Can judges ignore inadmissible information the difficulty of deliberately disregarding. University of Pennsylvania Law Review, 153(4), 1251–1346.

Question 56 *What are your ideas for ensuring victim survivors' rights are identified and respected by the criminal justice system? What can be done?*

Implementing a victim survivors' charter of rights would be an important step towards ensuring that victim survivors' rights are respected in the criminal justice system. However, a charter of rights will only benefit victim survivors if there are mechanisms to enforce the charter throughout criminal justice processes. Unfortunately, research indicates that interventions introduced to protect victim survivors' rights and dignity are not always well enforced. For example, research suggests there has been little change in inappropriate or harassing questions being used in cross-examination of victim survivors before and after the introduction legislative restrictions on these types of questions (Zydervelt et al., 2017). Throughout the criminal justice system, victim survivors are consistently in a disempowered position from the investigation stage right through to the criminal trial. Research strongly suggests that many victim survivors have a negative experience participating in criminal justice processes (e.g., Lorenz et al., 2019). One option to improve the relative power imbalance and ensure that any rights enshrined in a charter are enforced is to enable victim survivors to have advocates or legal representation throughout the criminal justice process (e.g., Braun, 2014; Murphy, 2001).

Victim legal representation could be particularly useful at the criminal trial stage. In adversarial criminal trials, harm caused to the victim survivor is treated as secondary to harm caused to public interests, such as community safety being jeopardised by offenders (Wilson, 2005). Victim survivors' interests are not directly represented at trial, disempowering them relative to the public interest. Further, prosecutors and judges are often required to action or enforce interventions designed to protect the victim survivor's rights (e.g., object to inappropriate or harassing questions posed in examination) in addition to their other important and complex roles in the criminal trial process. By providing victim survivors with their own legal representation, prosecutors and judges could focus solely on their respective roles of representing the public interest and acting as the arbiter of law. By introducing victim survivor advocates, it is possible that some existing interventions designed to protect victim survivors may be used more commonly to the benefit of victim survivors' wellbeing. Legal representation may also help to ensure victim survivors feel they have a voice in criminal trial proceedings. For example, research suggests that victim survivors who participate in sentencing proceedings via a victim impact statement are more satisfied with both the process and outcome of the sentencing procedure (Regehr et al., 2008).

Braun, K. (2014). Legal representation for sexual assault victims—Possibilities for law reform? *Current Issues in Criminal Justice*, *25*(3), 819–837. https://doi.org/10.1080/10345329.2014.12036000

Lorenz, K., Kirkner, A., & Ullman, S. E. (2019). A qualitative study of sexual assault survivors' post-assault legal system experiences. *Journal of Trauma & Dissociation*, *20*(3), 263–287. https://doi.org/10.1080/15299732.2019.1592643

Murphy, W. J. (2001). The Victim Advocacy and Research Group: serving a growing need to provide rape victims with personal legal representation to protect privacy rights and to fight gender bias in the criminal justice system. *Journal of Social Distress and the Homeless*, *10*(1), 123–138. https://doi.org/10.1023/A:1009437904083

Regehr, C., Alaggia, R., Lambert, L., & Saini, M. (2008). Victims of sexual violence in the Canadian Criminal Courts. *Victims & Offenders*, *3*(1), 99–113. https://doi.org/10.1080/15564880701783699

Wilson, L. C. (2005). Independent legal representation for victims of sexual assault: a model for delivery of legal services special issue: Perspectives on law reform. *Windsor Yearbook of Access to Justice*, *23*(2), 249–312.

Zydervelt, S., Zajac, R., Kaladelfos, A., & Westera, N. (2017). Lawyers' strategies for cross-examining rape complainants: Have we moved beyond the 1950s? *The British Journal of Criminology*, *57*(3), 551–569. https://doi.org/10.1093/bjc/azw023