



Australian Law Reform Commission
Justice Responses to Sexual Violence

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About the Victims of Crime Assistance League

Victims of Crime Assistance League (VOCAL) is an incorporated charity that supports all people, including children, throughout NSW, who are victim-survivors of violent crime. For the past 30 years, we have been providing information, guidance and support to individuals and families impacted by crime. We act in a consultative capacity to State and Federal governments on matters pertaining to victims' rights.

VOCAL's Victim Support Unit receives funding from the NSW Department of Communities and Justice (via Victims Services) to provide a free service to victims of crime, particularly in NSW's Hunter Region. Support is individualised to the specific needs of each survivor and includes physical, psychological and socioeconomic support and assistance.

Introduction

We welcome the opportunity to have a voice on the important issue of the justice responses to sexual violence. Our clients and members regularly give us feedback on this subject and we appreciate being able to advocate for an improved justice response to the sexual violence crimes.

Victim-survivors in the NSW Hunter Region currently have very limited options for psychosocial and legal support after reporting sexual violence to Police. In what can be an overwhelming and traumatic experience, many victim-survivors struggle to make an initial Police report.

Due to fear of retribution and uncertainty around legal processes, victim-survivors are often hesitant or unwilling to commit to making a formal statement with Detectives. Anecdotal evidence shows that victim-survivors are less likely to participate in the justice process if they do not feel validated and supported during their first interactions with Police. Victims of sexual assault have declined to make formal police statements due to poor Police responses at the initial reporting stage.

Police response

Victim-survivors are often reluctant to report the violence due to fear of being believed, and when they do report, they are often subjected to a legal system that victim-blames complainants. Anecdotal evidence is that some police have tried to talk the victim out of making a formal report, saying that “he said/she said” cases are “hard to prove” in court, and that it “won’t be successful because there is no physical evidence”.

ANROWS reports that assessments of the victim-survivor’s character and broader actions, such as their intoxication or inability to recount their story in unchanging details, add another layer of doubt towards the allegations.¹ How Police respond to reports of sexual violence becomes vital in ensuring victim-survivors feel that they are believed. Police have a critical role to play in ensuring appropriate, non-judgmental, respectful and culturally appropriate responses are embedded into their interactions with victim-survivors.

Addressing the barriers men face in reporting sexual assault is crucial for ensuring that all survivors receive the support and justice they deserve. Men may be less likely to seek mental health support due to stigma and the perception that they should “handle it themselves.” Shame and embarrassment are significant barriers to disclosure for male survivors of sexual assault. Addressing these feelings requires comprehensive societal, institutional, and personal support strategies. VOCAL believes that by challenging harmful norms, providing tailored services, and fostering supportive environments. VOCAL strongly advocates for significant funding to be allocated to support male victims of sexual assault enabling us to create a more understanding and responsive system for male survivors, and encouraging them to come forward and seek the help they need.²

Victim-survivors tell us that the process of walking into a Police station and reporting a traumatic and intimate assault is overwhelming and re-traumatising. To then leave, in a heightened emotional state, without support services being put in place, is not trauma informed best practice, and can set victim-survivors up for additional psychological distress. For example, a victim-survivor might feel empowered to walk into a Police station and report on a certain day. However, they are often met with Police officers that may be inexperienced, have had minimal training, and may not respond to the victim-survivor in a trauma-informed way. Victim-survivors tell us that during their initial report to Police, they felt judged and felt they were not believed.

¹ “Chuck her on a lie detector”: Investigating Australians’ mistrust in women’s reports of sexual assault - ANROWS - Australia's National Research Organisation for Women's Safety

² <https://samssa.org.au/myths-and-misconceptions-about-men-and-sexual-assault/>

"I made my statement in August 2023. I informed the Detective that I had medical evidence to show injuries I suffered. I have sent several emails, made many phone calls to get an update on the investigation and to ask if he wanted my medical evidence. I would never get a reply. As of June 2024, I lodged an online complaint because the lack of support I have received from NSW Police after reporting sexual violence is disgusting."

(V-S Hunter Region age 48)

Feedback from victim-survivors is that there is not sufficient information available from general duties police regarding support services. The experience of many victim-survivors is that once they have reported to police, they are informed *"someone will make contact with you soon"*. Unfortunately, despite NSW Police standard operation procedures requiring OIC's to maintain monthly contact with victim-survivors, the overwhelming anecdotal evidence from our service is that Police rarely provide updates to victim-survivors about investigation progression.

"I haven't had any contact from the Detectives. When I call the number I was provided with, I get transferred from one section to the other. In the end I get told I will get a phone call back, but I receive nothing..."

(V-S NSW Hunter Region age 38)

Anecdotal evidence shows that sexual assault survivors are reluctant to make a formal Police statement out of fear retribution from the alleged offender, fear of not being believed or fear that Police will not take any effective action. Victim-survivors report feeling anxious about victim-blaming and re-traumatisation through criminal justice processes. This significantly impedes a survivor's access to justice.

Unaware of legal process, victim-survivors are often scared of reporting to Police because they fear the criminal justice system. Police responses at the time of reporting do very little to help ease the victim-survivors anxiety. For example, both General Duties Officers and Detectives tell survivors that *"if the matter gets to court, it's your word against his. They will make out you are lying"*. While these facts – provided in a blunt manner - may be 'truth', the narrative places the victim-survivor on the back foot and puts the responsibility on them to decide whether or not to go ahead with their report.

Trauma-informed training for Police is critical to ensure that knowledge of trauma and how trauma affects victim-survivors is understood. Best practice ensures the victim-survivor has choice over how they wish to proceed, not to be talked out of making a formal report (as is current practice by many responding Police officers).

“When reporting crimes committed against me by the offender, I answered YES to the DVSAT Sexual Assault Question 24: Has your partner ever done things to you, of a sexual nature, that made you feel bad or physically hurt you?

*Out of all interactions with Police and the Women’s Domestic Violence Court Advocacy Service only **one officer** followed up after receiving a yes to this question, it was never mentioned again, and I was not provided any options for support or information about reporting sexual violence.*

I would go onto make a formal statement about sexual assault with support from VOCAL”

(V-S Hunter Region age 44)

It is essential Police be trained in understanding how trauma may impact victim-survivors from diverse backgrounds and how to respond appropriately to their individual needs. Crucial to addressing this issue and bridging the gaps, is building partnerships and collaborative practices with services such as VOCAL, where the knowledge, understanding and trauma-informed expertise already exists. We advocate that victims are informed of local support services that specifically address sexual violence (e.g., not a Domestic Violence service). It is important to note that many victim-survivors repeatedly tell us that the Government-funded HNEH Sexual Assault Service has extensive wait- times and are not often best suited to provide immediate psychological support.

Reporting via Sexual Assault Reporting Option (SARO)

Feedback from victim-survivors is that they find reporting via SARO beneficial. It is less confronting, less formal and the victim-survivor has more control over when and where they choose to disclose. They have full agency over the process. Some victim-survivors want to report the sexual assault to Police via the SARO, but do not want any further action taken after this. In these circumstances, victim-survivors tell us if the SARO did not exist, they would not report the sexual assault to Police at all.

VOCAL advocates that NSW Police have a specific victim-survivor card for reports of sexual violence (separate to the current victim card, which has information that is irrelevant). Police Districts in the Hunter Region are currently using this. The victim-survivor card VOCAL provides Police in the Hunter Region facilitate an easy and immediate referral pathway for trauma-informed and timely support. The survivor themselves can use the QR code on the card to self-refer to VOCAL, or alternatively the Police officer can refer the individual to VOCAL. Once the referral has been received by VOCAL the referral will be prioritised and the victim-survivor will be contacted within 24-48 hours to provide information, emotional support, and referrals for longer term counselling and practical strategies.

Since 2021, VOCAL and Police District within the Lake Macquarie, Newcastle and Hunter Region have implemented a Victim Support Program, where Police officers can refer victim-survivors at the time of reporting to received specified trauma information interventions and support. In addition to online referrals, a victim-support specialist is collocated within Police stations to provide assistance and support with reporting, statements and general victim care.

In 2023, VOCAL and Newcastle City Police District/Command have been in discussions about implanting a “Sexual Violence Intervention Program” trial. This program addresses immediate and long-term support needs, providing information and referrals that give choice, agency and empowerment to victim-survivors. Our work in this area proves that “justice” is not specific to a verdict of guilt and that feeling a personal justice can be achieved through positive interactions with Police.

Newcastle Police are facing an unprecedented volume of sexual violence reports. Early intervention ensures that victims-survivors are emotionally supported to give their best evidence to Detectives, enhancing the scope of the investigation. The high demand, coupled with lengthy court delays, mean that victim-survivors experience vulnerability and uncertainty for a significant length of time. This program walks alongside a survivor’s experience and provides practical support to address emotional wellbeing at court, media interventions, and post-court safety planning.

Adequate and appropriate funding remains a barrier for services to be able to provide timely and trauma-informed support for victim-survivors of sexual assault. VOCAL has a small team of trained specialist victim support workers with trauma-informed skills and expert knowledge of sexual assault and the criminal justice responses for this crime type. Many domestic violence services, while having specialist knowledge of risk assessments and safety planning, are not trained or experienced with sexual assault crimes and appropriate trauma-informed responses. Feedback from survivors of sexual violence include:

“When disclosing sexual assault to Police officers, the survivor should be provided with the opportunity to access support services who are specifically trained in sexual assault trauma.”

(V-S Hunter Region age 44)

Culturally and Linguistically Diverse (CALD) victim-survivors and Police responses

Victims-survivors from CALD backgrounds may be particularly vulnerable to domestic, family and sexual violence due to many reasons, and often come from cultural backgrounds that have different gender roles and religious beliefs. This will often make it even harder for people when starting to speak out about the violence they have experienced. Australia’s population includes a vast range of cultural backgrounds, each with unique needs. Tailoring services to reflect this diversity is crucial. They may come from a country that are experiencing war and civil unrest, where they may have personally already had negative experiences of violence, sexual assault by authority figures, or have reported these incidents to authorities with no positive outcomes.

There are many factors of why victim-survivors from CALD backgrounds may be at a greater risk to report sexual assault to the Police. The threat of migration and visa status, as well as the financial dependence on the perpetrator, instils a great amount of fear to speak out and seek assistance and support. CALD victim-survivors may also not know or understand the criminal justice system response to sexual assault in Australia, when they have often been told incorrect information by the perpetrators themselves.

CALD individuals needing to access interpreting services, face an additional barrier when reporting and making statements to Police. When needing to make a statement, victim-survivors tell us they were not offered interpreting services or multicultural support.

Another barrier CALD victim-survivors also face when reporting with Police is that if the perpetrator is notified by Police that they have been reported either by the serving of an Apprehended Domestic Violence Order (ADVO) or criminal charges this may increase the danger for victim-survivors if they are still living in the home.

Victim-survivors of sexual violence can also be in increased danger by both sides of their family if they are seen to ‘betray’ their partners and not handle issues within the home and family unit. Additionally this becomes complicated and extremely confusing for victim-survivors when they are reporting both domestic violence offences and sexual assault offences by the same perpetrator, requiring them to make a report to two separate Police

officers. Feedback from a victim-survivor from a Culturally and Linguistically Diverse background states:

“I was too afraid to report the sexual assault to Police and thought Police would not believe me....when I received support from VOCAL I finally got up the courage to report the sexual assault but I was told by the Detective that there was not enough evidence to make a statement.....I found it confronting and difficult to talk about and at that time.

(V-S Hunter Region age 27)

Prosecution Responses to Sexual Violence matters

For more than three decades, victim-survivors have provided feedback to VOCAL that once their matter reaches the prosecution, they feel invalidated by the lack of communication. Survivors report going for several months without contact from either the DPP or Police. We have repeatedly advocated for improvements in this space.

There is a significant gap in system responses as to whose responsibility it is to provide court updates to victim-survivors. In a number of victim-survivor experiences, after a court mention, neither the Office of the Director of Public Prosecutions (ODPP), Witness Assistance Service (WAS) nor the Police Officer in Charge (OIC) contacted the victim-survivors to provide information or updates as to what occurred. In our discussions with police about this issue, they report that once the brief has been served, the DPP has responsibility for victim-survivor communication.

For example, one experienced Detective informed VOCAL in 2022 *“Once the DPP has the matter, they have social workers that take over victim care”*. However, in practice the WAS – if one is assigned to the case – have very little contact with the victim-survivor. The WAS are limited in the support they can provide, what information they can/ cannot share and largely focused on witness support during the trial.

"I wanted the offender to be convicted of all of the charges, I didn't want him to get away with what he did to me or to do this to any other girl....Police told me the District Court processes are much easier.....I didn't know what to do and ended up feeling more confused....I felt pressured to make a decision about what charges the offender would be convicted of....that isn't my job...."

(V-S Hunter Region age 18)

Victim-survivors are told they do not need to attend mentions, however the lack of communication about a traumatic crime that they are the centre of is a significant system flaw. It is insulting to victim-survivors and is often re-traumatising.

"The lack of communication and support I received from the DPP in my sexual assault case was insulting. No one returned my calls or emails and was made to feel like I was a burden with the questions I was asking. They told me they were there to support me, but they didn't.

(V-S Hunter Region age 24)

The Trial Process

VOCAL and victim-survivors have welcomed the 2022 legislative changes that include directions to a jury include information about trauma responses to sexual violence. Section 292B of the Criminal Procedure Act 1986³ contains the Direction that:

- (a) There is no typical or normal response to non-consensual sexual activity, and
- (b) People may respond to non-consensual sexual activity in different ways, including by freezing and not saying or doing anything, and
- (c) The jury must avoid making assessments based on preconceived ideas about how people respond to non-consensual sexual activity.

Despite these changes, the trial process remains the most significant barrier to victim-survivors reporting sexual violence. Expectations that have been communicated to VOCAL through three decades of providing victim support in criminal hearings is that victim-survivors

³ <https://legislation.nsw.gov.au/view/html/inforce/current/act-1986-209#sec.292B>

firmly believe they will be called “a liar” in court and fear the additional trauma a criminal trial will provide.

Language during the trial process, specifically from Defence, continues to victim blame and remains problematic, inflammatory and not trauma informed.

Improving ODPP responses to the prosecution of sexual violence:

“During the trial I was repeatedly asked the same questions over and over again....each time I answered the questions truthfully, but they kept making me out to be a liar, the offender was lying.....I wasn’t able to tell the court about the physical assaults either...it was confusing, overwhelming and I felt let down by the whole system....the offender got away with it...”

(V-S NSW Hunter Region age 38)

Victim survivors tell us that when communicating with the ODPP about plea bargains, they would like to see more transparency and more consultation with them, regarding offenders pleading guilty to a less number of charges or charges that may be less serious. Survivors state that they feel justice has not been served when offenders are getting away with not only less charges but they get a reduction in their sentence with an early guilty plea.

“The offender was initially charged with over 25 charges including physical assault and multiple sexual assault charges.....but then the ODPP said to me the offender wanted to plead guilty to only 6 charges.....I said no I didn’t agree....eventually the offender pleaded guilty to 11 charges, the rest of the charges were withdrawn, he was sentenced to over 5 years....but now I have been told he will serve only about 12 months and will then be let out of jail...I am terrified for my safety, he is a dangerous man.....I feel there is no justice and my life is in danger when he gets let out”

(V-S Hunter Region age 19)

Sentencing

Improving the sentencing process in matters involving sexual violence offences is crucial to ensure justice, enhance the support for victims, and uphold public confidence in the criminal justice system. VOCAL advocates for trauma-informed victim support programs that assign specialised victim advocates to assist victims through the legal process, including writing victim impact statements, court support for sentencing, to ensure their needs and rights are addressed.

Victim survivor's feedback tell us that sentencing processes are not trauma-informed and often leave them feeling invalidated and let down by the justice system. VOCAL advocates for legislative reforms that address gaps or inconsistencies in the sentencing framework for sexual violence offences. This may include revising statutory guidelines or introducing new sentencing provisions.

VOCAL further advocates for innovative strategies to be implemented such as the development of community-based sentencing options that include components such as mandatory counselling, community service, and educational programs aimed at preventing reoffending. In addition the implementation of evidence-based rehabilitation programs for offenders as part of the sentencing process. Programs should address underlying issues such as substance abuse, mental health, and behavioural patterns associated with offending. Including comprehensive risk assessments to be completed that inform sentencing decisions and determine the need for ongoing supervision or intervention.

By focusing on these strategies, the sentencing process for sexual violence offences can be made more just, effective, and sensitive to the needs of victims while ensuring that offenders are held accountable in a manner that promotes rehabilitation and public safety.

Compensation Schemes

VOCAL receives feedback from victim-survivors that the evidence required for the approval of Recognition Payments is becoming more challenging, as Victims Services are seeking more evidence of disclosures of the crime.

We are seeing a higher number of claims being dismissed, where the assessors are questioning why the victim-survivor have not disclosed the sexual assault earlier. VOCAL is needing to submit a higher number of Internal Review's and in some cases submit a further review with NCAT. The Royal Commission into Institutional Responses to Child Sexual Abuse

reports that victim-survivors of child sexual abuse can take on average up to 23.9 years to disclose the abuse.⁴

"I can't believe that this claim was dismissed..... out of all of my claims this one had the most information and evidence submitted....I had to become an investigator to locate my GP from 10 years ago that I had disclosed the sexual assault to...I was just really grateful that I could find them within the time frame to appeal the decision made by the Victim Support Scheme....I then had to participate in an NCAT matter which caused me further distress and retraumatisation....I couldn't have gone through this without the support of my counsellor and VOCAL. "

(V-S Hunter Region age 35)

VOCAL strongly advocates that trauma-informed practices to be implemented into the Victim Support Scheme and for the re-instatement of funding, for medical records to be procured by Victims Services, with consent from the victim-survivor. This will help escalate the assessment time of Recognition Payments and minimise re-traumatisation for the victim-survivor.

Conclusion

Working with victims of sexual assault when navigating the justice system, we are acutely aware of the negative impacts in which the process of such matters are dealt with, witnessing time and time again the physical and psychological health and wellbeing of the victim be considered a lesser priority than that of the other parties involved in the process. The significant trauma experienced by victim-survivors of sexual violence is further entrenched by the current criminal justice response, VOCAL believes these conversations are critical in improving system responses to sexual violence.

VOCAL would like to thank the Australian Law Reform Commission for the opportunity to highlight the voices of victim-survivors of sexual violence and provide feedback on this important issue.

⁴ [https://www.aihw.gov.au/family-domestic-and-sexual-violence/types-of-violence/child-sexual-abuse#:~:text=Disclosure%20of%20child%20sexual%20abuse&text=On%20average%2C%20it%20took%20victims,to%20anyone%20\(RCIRCSA%202017b\).](https://www.aihw.gov.au/family-domestic-and-sexual-violence/types-of-violence/child-sexual-abuse#:~:text=Disclosure%20of%20child%20sexual%20abuse&text=On%20average%2C%20it%20took%20victims,to%20anyone%20(RCIRCSA%202017b).)