

JUSTICE RESPONSES TO SEXUAL VIOLENCE RESPONSE FROM DASSI ERLICH AND NICOLE MEYER

Disclosing and Reporting Safely

Growing up in a closed community, we were unaware that disclosing abuse was an option, and we feared the police. We were told the authorities would pull us away from our community. It took someone from secular society to inform us that what we experienced was abuse and should be reported.

Nicole's experience: She had no support from her family or community when she disclosed her abuse. The policewoman she spoke to was clinical and lacked cultural awareness, making the experience anxiety-inducing and unsupportive. Follow-ups were rare, and Nicole had to advocate for herself to get updates. There was no consideration for her mental or emotional health, safety, or potential repercussions.

Recommendations for Improvement:

1. **Culturally aware support workers** to engage with victims from their first interaction with the police.
2. **Gradual disclosure process** allowing victims to return when they are ready, not traumatized or triggered.
3. **Scheduled check-ins** following a disclosure, with referrals to safe mental health practitioners.
4. **Clear explanations** of all possible outcomes following a disclosure and realistic expectations about the case's progress with the OPP, including what happens if it is not picked up.
5. **Regular updates** (every six months) on the case to maintain connection and assure victims that the case is being worked on, even if there is no new information.

What Has Helped:

1. Self-advocacy.
2. A supportive police officer who revisited the case after seven years.

Prosecution Process

We were unaware that the opening statement would be public and that details of the charges would be available to the media a day before we were to testify. We didn't realize the extent of personal evidence that could be collected, including confidential medical reports, diaries, and private communications.

Recommendations for Improvement:

1. Explain to victims the implications of **overloading indictments** and the consequences of grouping charges from multiple victims.
2. Ensure **victims have more rights** throughout the process, empowering them regarding decisions about their evidence.

3. Implement **auditing of judges** and establish a reporting process for complaints against judges.
4. Maintain **regular contact with the prosecution** once the OPP decides to proceed with the case.
5. The defence should have **clear boundaries on what can be subpoenaed**, and medical records should not be included unless proved to be directly relevant and vital for the case. It should not be open to a fishing expedition.

Many victims that have been in touch with us have expressed confusion about the system, lack of communication, and frequent changes in prosecution or police personnel. For example, some victims didn't understand the purpose of a committal, what to expect, or how to prepare mentally and physically.

Trial Process

Delays were caused by the defence managing other cases and underestimating the time needed for pretrial arguments (three days turned into six weeks). The judge was assigned late, causing further delays and rescheduling.

During cross-examination, inappropriate questions brought up unrelated past trauma to trigger and unsettle us. The judge rarely intervened, and when discussions about evidence occurred, they often allowed it to continue without considering its impact on us.

We didn't know there were ground rules the prosecution could use to protect us during cross-examination. We felt at the mercy of the defence lawyer, and the prosecution seemed hesitant to intervene due to the case's high-risk nature.

Rape Myths and Misconceptions

The defence and prosecution argued for three days over jury instructions, which felt like a power struggle. There should be standard instructions for all juries in sex crime trials, including expert evidence on rape and trauma, that cannot be used by the defence as bias against the prosecution.

Specialist Approaches

Specialist training and courts are essential. Every judge handling a sexual abuse case should have mandatory trauma and mental health training. There should be a complaint system for judges.

Sentencing

1. No character references for the accused.
2. The defence should not influence victim impact statements and should not re-examine any part of it as long as the victim follows pre-set guidelines. These guidelines need to be broader and less restrictive.
3. Mandatory minimum sentencing for rape, regardless of the victim's gender.
4. Restorative justice should be available if the victim desires it, with the jail facilitating the process if the perpetrator is incarcerated.