

SUBMISSION TO JUSTICE RESPONSES TO SEXUAL VIOLENCE

ABOUT ME

My name is Annette McIntosh. I identify as a white cis-woman. I am a business owner, wife and mother of two young sons, and I am a victim-survivor of sexual violence. My experience within the Victorian Justice System was unusual, arduous and somewhat paradoxical. There were some things I was happily surprised about, such as the trauma-informed support from institutions and a specialised Magistrate who oversaw sexual assault cases. Others, however, left me utterly confused and lost in the legal processes as I navigated the Court without legal aid.

OUTLINE

My husband's best friend sexually assaulted me in October 2017. A man known to me for 20 years with whom I shared a very close-knit friendship group. As a result of the assault, I was diagnosed with Post Traumatic Stress Disorder (PTSD). It would not be until April 2021 that I would report the assault to the Police, with proceedings through the Court only finalised weeks ago in early May 2024. My case did not go to trial as the perpetrator pleaded guilty prior to Court. Instead, we went through a process called Diversion, which had very little information, and I was left with no legal assistance or contact with ODPP. I have selected nine questions to respond to the inquiry below.

Question 1:

If you are a victim survivor, did you decide to tell someone about your experience?

Accessing formal support and reporting to the Police were tasks I took upon myself. I disclosed the assault to a small group of close friends, including the mutual friendship group aforementioned. None had the know-how to share how I could access formal support. Each time I required assistance, I would turn to Google to ask for *"help for sexual assault"*, *"how to report sexual assault"*, or *"support for victims going to Court"*.

I was able to successfully find The Sexual Assault Family and Violence Centre (SAFV), which provided me with 12 free counselling sessions over six months. SAFV was phenomenal in providing me with the diagnosis of PTSD and then trauma-informed support and counselling.

Question 5:

If you are a victim survivor, did you contact the Police? If so, how? What was your experience of the police response?

I chose to report my assault to the Police after several other victims of the same perpetrator disclosed to me their assaults. I was surprised to find a police Multi-

Disciplinary Centre (MDC) housed within The SAFV Centre in Geelong. I was invited to meet with two female detectives from the SOCIT unit at the centre. Their initial response was exceptional. They assured me that they believed me, explained the investigation process thoroughly, and asked for my permission each time they needed further details about the assault. I was given the choice to proceed at every step, and they clearly explained what would happen next. The police detectives even helped me call the perpetrator to gather evidence for the case.

Later, after the perpetrator was questioned, I noticed a shift in the police detective's attitude toward me. They informed me that he showed genuine remorse, and it almost seemed like they felt sorry for him. After the charges were laid, the information I received from the police detective was either incorrect or lacking. I was not offered to make a Victim Impact Statement, false information was provided to the Police Prosecutor on my wishes, and the incorrect outcome from the Court proceedings in May 2022 was advised.

Question 8:

If you are a victim survivor, did you have contact with the ODPP? What was your experience of the ODPP response? What support, if any, was provided to you?

As the case was for Diversion, there was no trial. I had no contact with ODPP. The Police Prosecutor rang me the night before Court for a quick discussion; this was the only time I had contact with them.

By pure chance, I met someone who worked for ODPP the week before Court. She talked me through where to sit and stand in Court, how to bow when entering the courtroom, how to address the Magistrate and even suitable clothing to wear. Furthermore, she outlined to me that proceedings would start with a summary of offences, meaning I would have to listen to a recount of my assault as told by the Police Prosecutor. Suffering PTSD, hearing this account in court caused severe flashbacks, so to feel prepared this was coming was helpful for me to employ tactics to prevent a full-blown panic attack.

The professional support I received for Court was the free Victim Support service, which assigned me a case worker. Not only did they assist with writing my VIS, as mentioned above, but they also attended Court with me on the day.

Question 14:

If you are a victim survivor, was your interview (or interviews if more than one) with the Police recorded? Was your evidence recorded in Court at a pre-trial hearing?

I made a verbal statement to the police detectives, recorded in writing only. In other instances in which I spoke with the Police were recorded. As aforementioned, I later

assisted the Police by recording a phone call to my perpetrator. This would be the only audio-recorded evidence. This was not used in Court.

Question 34:

If you are a victim survivor, what were the delays you experienced? What was the impact of those delays upon you and/or your family and friends?

The timeline of my case from reporting to the Police to the final Bond hearing was three years. After charges were laid in July 2021, the case went to Court for a "Diversion hearing" in May 2022. I was in attendance to read my Victim Impact Statement. The perpetrator was given 12 months to complete a Men's Behavioural Course.

The second time in Court was in May 2023 to ascertain if he completed the course. He was ineligible for the course as I was not a former or current partner. Therefore, he sought private counselling instead. The Magistrate deemed this acceptable, and he was given 12 months for Good Behaviour. I attended this hearing via Video Link, which my Victim Support person helped me obtain.

The final time the perpetrator attended Court was in May 2024 for a Bond hearing. I did not attend. I was not formally informed of the May 2023 or May 2024 Court dates. I found these out on my own through the Electronic Filing Appearance System (EFAS).

Through EFAS website, I applied to have a letter sent to me for the outcome of the case as the victim. I received this letter regarding May 2022. I did not receive one when I applied in May 2023.

The impact of the longtime frames was frustrating for me. I received little to no information from formal channels and had to seek out all the details myself, from calling the courts to contacting the police informant. Furthermore, it felt like the experience was "dragged out", and I could not "move on." As court dates approached, it caused extreme distress and panic, triggering PTSD symptoms. I hold firm on my belief that had I had access to my own legal council, I would have been kept informed and up to date without the stress and overwhelm of having to find information out for myself, as well as having delays clearly explained.

Question 36:

If you are a victim survivor, did the offender plead guilty? Did the offender plead guilty as charged, or was there negotiation with the ODPP? We would like to hear about your experience of that process.

Yes, the perpetrator pleaded guilty once charges were laid and before Court dates. This led to the Police detective offering "Diversion". I was asked if I felt this was suitable but I disagreed. Despite this, the Police detective went ahead with Diversion. I was relieved

that the perpetrator pled guilty, but I felt overwhelmed and disconnected from the process as it seemed to move forward without respecting my input. I did not understand all available options for justice after charges were laid. Additionally, the Police's decision to proceed with Diversion exacerbated my feelings that they sympathised with the perpetrator as previously outlined.

Question 40:

If you are a victim survivor, what was your experience of the sentencing process?

What aspect(s) of the sentencing process were important to you?

Did you make a Victim Impact Statement? If so, how did you find that process?

What could be improved?

The sentencing process was confusing and overwhelming. I had no contact with any legal avenues until the night before Court when the Police Prosecutor rang me. I did not understand the legal jargon, and the flow charts on court processes I could find on Google did not include the Diversion process.

It was vital for me that the perpetrator be held accountable for his crime and that my voice be heard in the process. The police detective did not inform me that I could write a VIS, although required by law. I found this out by coincidence through my university studies. When queried the police detective about this, I was discouraged from making a Statement. Rather, I accessed a Victims Of Crime Support Service, which I learned about through Google. They were provided free of charge and assisted me in writing my VIS, which was highly beneficial to have someone else read it. Unfortunately, Victim Support had no legal training, so we could not answer any of my legal questions. I had to follow the rules on a VIS website template.

I believe my experience could have been improved if I had been able to access legal advice and support as a victim. They could have talked me through Diversion, my rights to making a VIS, and assisted on the day of Court when I didn't understand what was being said or agreed to.

Question 45:

If you are a victim survivor, how do you feel about restorative justice? Is it an important option to have? If so, what do you think should be the approach to restorative justice in responding to sexual violence?

I strongly advocated for Restorative Justice. I did not wish my perpetrator to go to jail, but I wanted him to be held accountable for his crime and acknowledge and understand the extreme pain and suffering he caused me and my family. As the perpetrator was known, we had a foundation that could have been used positively for rehabilitation. Through the Adversarial process, I felt excluded and insignificant.

Although the perpetrator pleaded guilty, he minimised my experience and never accepted full accountability. That is, he blamed his alcoholism and poor mental state. The outcome I wanted most was an apology without excuses. The Restorative Justice process would have been far more beneficial in achieving this.

Question 52: If you are a victim survivor, did you apply for compensation? If not, why not? If so, how did you find the experience of applying for compensation?

The Victim Support service assisted me in applying for compensation at Victims Of Crime Assistance Tribunal (VOCAT). The process was incredibly traumatising and invasive. They required a complete medical history, including letters from my psychologist and SAFV centre disclosing the nature of my counselling and confidential information on my mental health status. I had to provide full written accounts of why I had not reported to the Police earlier. The VOCAT lawyer I dealt with in collecting this information was not trauma-informed. Although it was clear he wanted the best outcome for me, there were many times I felt inadvertently victim-blamed.

After a thorough evaluation of my financial and health situation, I received less than half of the amount I had spent on therapy for my recovery. Some funds were allocated for future counselling, but I had to submit receipts for reimbursement. The process was not simple or explained correctly to me despite several requests. Later, my case files were transferred to another court, and I was not informed about how to continue seeking compensation. Additionally, when I changed to a different psychologist for a new type of therapy, I was informed that I was no longer eligible for coverage. In the end, I gave up trying to apply for reimbursement. Looking back, if I had to go through this entire process again, I would not.

SUMMARY

I was able to find professional support in the form of counseling and therapy, as well as victim support through Google. I was incredibly satisfied with their trauma-informed approaches. Overall, the initial experience with the Police was positive. However, once charges were laid, I felt like I was "along for the ride" with little to no contact with the legal system, and I was left to figure it out on my own. To this day, I cannot find information on Diversion unless it's from a private law firm directed to perpetrators. If I had been able to have my own legal representation, I feel this would have been hugely beneficial in navigating the Court. Had there been an option for Restorative Justice, in all likelihood I would have chosen this direction. In addition, the perpetrator was sentenced to attend a Men's Behavioural Course in which he could not participate as, although I was known to him, I was not a current or former partner. Outside of the previously mentioned information, I am baffled that a specialist sexual assault Magistrate would not be aware of this, in handing it down. I hold the belief that it

demonstrates many institutional understandings and responses of sexual violence are within an intimate partner context.

I hope that my submission will be useful to the Inquiry. Thank you for your time and the opportunity to submit.

Yours sincerely

Annette McIntosh