

**Submission in response to the Australian Law Reform Commission's Issues Paper:
Justice Responses to Sexual Violence**

24 May 2024

Question 1: Reporting My Experience of Sexual Violence Safely

Who Did I Tell?

Therapeutic Support Services

It took me over 20 years from the date of the first offence to disclose the multiple rapes perpetrated by my former husband. I first sought help from a counsellor via my workplace's Employee Assistance Program. It was she who first labelled his sexual offending as rape, which was both affirming and confronting. I subsequently engaged with 16 free counselling sessions at a Centre Against Sexual Assault (CASA) and, following that, a private psychologist who diagnosed me with anxiety, depression and PTSD. I am still attending regular counselling sessions nearly 6 years after my initial disclosure.

Police and Legal Services

I made a statement to police after my marriage ended and was encouraged to do so by my Family Lawyer due to my ex-husband's ongoing perpetration of Family and Domestic Violence (FDV). After I gave my statement to the Sexual Offences and Child Abuse Investigation Team (SOCIT), my perpetrator was arrested and interviewed. However, despite advising me verbally and in writing that they believed I had been a victim of crime, SOCIT ultimately declined to prosecute, despite my having provided written evidence in my ex-husband's own words. They stated their view that prosecution would not be in the public interest due to the limited prospects of a successful outcome but provided no basis for this view.

Community Legal Centre

I then contacted a Community Legal Centre for advice on whether I could appeal the police decision. She advised me to submit a complaint to the Police Conduct Unit, which resulted in my case being reviewed. The original decision not to prosecute was upheld. The lawyer from the Community Legal Centre told me I was entitled to apply for compensation from the Victims of Crime Assistance Tribunal (VOCAT).

VOCAT

I attended a closed hearing at the Magistrates' Court and received an Award of Assistance. I requested and was granted a closed hearing, with only the Magistrate, Court Registrar, my Barrister and myself present. This reduced the distress I experienced during the hearing, which supported my emotional safety. The Magistrate spoke directly to me, telling me that she believed I had been a victim of crime and expressed her regret for the sexual and domestic violence my ex-husband had perpetrated against me. I found this to be the most affirming and healing aspect of the disclosure process.

Was the Information and Support I Received Adequate?

I am a Social Worker by profession, so I had prior knowledge of the supports available from CASAs. I received a high level of support from my CASA counsellor, who was trauma-informed and understood the dynamics of sexual assault within the context of domestic and family violence. I had to try a number of different counsellors before I found my current psychologist, who is highly

skilled in trauma-informed therapeutic modalities such as Eye Movement Desensitisation and Reprogramming (EMDR) and Internal Family Systems therapy. Generalist counsellors and psychologists often lack the knowledge, skill and training to provide trauma-informed therapy to victim-survivors of domestic and family violence, which can compound the trauma.

Police from SOCIT did not provide adequate information about pathways for me to receive the support and compensation I was entitled to as a victim of crime. I learned about the Victims Assistance Program from a lawyer from a Community Legal Centre and was then referred to a private lawyer for support with an application for compensation from VOCAT. I don't think a lot of victims of sexual violence, particularly within the context of an intimate relationship, are aware of their entitlement to compensation. Therapeutic supports are very expensive, yet they can be essential to the recovery process. Victims of sexual violence might be missing out on vital supports because they are unaware of free services and cannot afford to pay for private services.

Question 3: Accessing the Justice System

There is an urgent need for adequate funding of specialist service support for victim-survivors to understand their options and rights; be supported to navigate systems; and to support recovery and healing. Insufficient state and federal government funding results in services not having the capacity to respond at the scale or speed required. Traumatized rape victims should not be waiting for months to access specialist counselling services.

Recommendation to ALRC: I call upon the ALRC to make recommendations that ensure sustained and sufficient funding for specialist service support at all stages of the process, thereby ensuring that all survivors no matter where they live can get the trauma-informed, culturally safe and accessible support they need.

Question 5: Police Responses to Reports of Sexual Violence

I work in the Family Violence sector in Victoria and am aware that 24-hour police stations have a Family Violence Liaison Officer (FVLO). However, when I called my local police station and requested to speak to the FVLO, I was advised that I had to come in and speak to whomever was at the front desk. Consequently, I had to make my initial disclosure about decades of sexual and other forms of Family and Domestic Violence at the front desk with other members of the public present. Only after I insisted on being interviewed in a private room was this option provided to me. This experience was highly distressing and re-traumatizing.

Recommendations to ALRC: Frontline police need to have adequate training to ensure their responses to a victim-survivor's disclosure of sexual violence are trauma-informed. Victim-survivors who report in-person to a police station should immediately be offered a private room to make their disclosures, given the option of being interviewed by a police officer of their chosen gender and allowed to have a support person with them. So that victim-survivors feel safe, police need to explain why they are asking questions in a particular way and what will happen next. Police processes need to be clearly explained so that already traumatized victim-survivors are not further disempowered.

Question 7: Improving Police Responses to Reports of Sexual Violence

The impression I gained from the outset was that police would not seek prosecution of my perpetrator because he was my then-husband and I had remained married to him after the rapes. Police lack a nuanced understanding of marital rape in the context of other forms of domestic and family violence. Like any other member of the community, police officers are susceptible to believing rape myths. My interactions with SOCIT investigators led me to believe that mine were not considered to be 'real' rapes. A commonly-held belief is that 'real' rapes are perpetrated by strangers and involve physical violence and that 'real' victims will try to fight off their attacker. People commonly disbelieve victim-survivors of domestic and sexual violence who remain in relationships with their perpetrators and will argue that, if it was really so bad, why didn't she just leave? I believe that police are also susceptible to such misconceptions that it is easy for victim-survivors to leave perpetrators.

Recommendations to ALRC: All police, from frontline uniformed officers to SOCIT detectives, should be required to undertake continuing professional development in understanding and responding to sexual violence. Such training should cover:

- the context in which sexual offending occurs (perpetrators are usually known to the victim);
- the range of normal and involuntary victim responses (including tonic immobility or freezing);
- why victims can take a long time to disclose; and
- dispelling dangerous rape myths which result in victim-survivors being disbelieved and discredited.

Police should also receive training on the impacts of trauma, which can affect behaviour, mood and memory and cause or exacerbate mental health problems and AOD misuse. There is no such thing as an 'ideal victim' of rape, yet anyone who does not fit the stereotype is less likely to be believed.

Finally, based on my own experience and the infinitesimally small number of prosecutions, I believe that police need training to understand the unique characteristics of marital and intimate partner rape. This form of sexually offending occurs within the context of other forms of domestic and family violence, including emotional, financial and physical violence and coercive control that make it extremely difficult to escape. Remaining in a relationship with a perpetrator of rape is not usually a freely-made 'choice' and it does not minimise the serious impacts of the sexual violence, repeated incidences of which often lead to complex PTSD.

The following is an extract of the statement I made to police:

"I am aware that sexual assault is commonly portrayed as the act of an armed stranger grabbing a woman off a dark street and raping her by force, resulting in physical injury. If a stranger had entered my bedroom while I was sleeping and inserted his penis into my sleeping body, nobody would be in any doubt that this was rape. There should be no different if the perpetrator was my husband. In many ways, marital rape is, I imagine, worse than stranger rape. It is a betrayal of trust by somebody who has promised to love, honour and cherish you. I was forced to share a bed with my rapist, cook his dinner, wash his clothes, and raise his children. There was no escape. I was not safe in my own house, my own bed, nor even my own body. My body and mind were violated repeatedly, and I was made to feel worthless. I was regarded as a possession by my husband to do with what he wished. This was humiliating and soul-destroying."