

Reporting the experience of sexual violence safely

Question 1: If you are a victim survivor, did you decide to tell someone about your experience? If you did tell someone, did you contact: a particular support service; the police; a health professional, a teacher, an employer; or a family member, friend, or some other person? Was there sufficient information available to you to help you decide who to tell and what to do? Where did you find that information? Was the response you received adequate? What supports did you need at that time? Were the supports adequate? How could they be improved? If you decided not to tell someone about your experience, you may wish to share with us the reason(s) why.

Yes, I told the members in my household and my close friend via phone call. I was dubious about telling members of my immediate family outside of the household, as I was deeply concerned about how they would digest it, [REDACTED]

[REDACTED]

[REDACTED]

I was also concerned about how my Grandparents would process the information, I felt in some way I had brought shame to them. I immediately felt concerned about everybody else's stress response and emotional reactions. I also feared retribution being sought and the implications that may have on any legal proceedings' if I decided to go down that path, which at that time I wasn't sure I was going to. It was a balancing act of confiding in my

loved ones to develop a desperately needed support network and feeling like I was placing an unspeakable burden upon their shoulders to carry.

I also called my health practitioner to discuss having an appointment and an examination, a GP appointment was made, and they gave me some information around the process of organising a forensic examination. I originally assumed that it could be completed by my general practitioner.

I contacted the Sexual Assault Support Service (TAS), I'm unclear about what order the next steps happened. But I was instructed to attend the Royal Hobart Hospital Forensic Examination Unit. There was a SASS worker present who met me there. We had spoken once on the phone before for the initial crisis appointment. It was quite an unusual experience, meeting someone in person for the first time in the middle of the hospital. Due to the urgency of these things, I felt there was no opportunity to establish a genuine rapport or a sense of trust, which I found difficult, but I also understood. Thankfully I had my twin sister with me, in the next room, knowing she was just through a door was helpful.

SASS provided me a one-off appointment in the interim, but the wait list to be allocated a counsellor was 8-11 weeks at the time from memory. I felt very disconcerted that the waiting time for some intensive support was so long and time operated in a different universe in those coming weeks. My nights became days, my days became nights and time was a mere construct and concept that became irrelevant to me.

It was all quite distressing and confusing, as I was thrust in to being a case worker for myself and suddenly, I had all these places to be and people to see, it was a lot to think about.

Question 2: What reforms or recommendations have been implemented in your state or territory? How are they working in practice? What is working well? What is not working well?

I believe in Tasmania there had been some reforms to changes of wording in certain legalisation and charges regarding sexual assault to better encapsulate and describe what it is. I do know that the gag orders were reviewed, but it took a long time, too long, to come to fruition. The “Let Her Speak” campaign had a lot to do with the recommendations being taken on board and the legislation finally being amended. What I am referring to here is the Evidence Act (2001), section 194k. I believe this didn’t happen until early 2020.

The Act prohibited the identification of victims in sexual offence proceedings without a court order, including when the person was an adult at the time of publication and consented to being identified. In my case, following the criminal proceedings, I signed giving my consent in writing for my name to be published. As a result, it meant that the perpetrator lost their anonymity as well. I was the first person in Tasmania to give consent from when the legislation was amended.

Question 3: How can accessing the justice system and reporting be made easier for victim survivors? What would make the process of seeking information and help, and reporting, better? You might consider the kind of information given to victim survivors, the confidentiality of the process, and the requirements of particular groups in the community.

Recently we've had the introduction of "Arch" in the South and the North of Tasmania, it's like a one stop shop, for lack of better word, it houses various services under the one roof so it's a streamlined holistic approach to try and make reporting, accessing immediate counselling support and other associated services more accessible for victims rather than them having to go to multiple separate locations. I think this is a good start, it was extremely well thought out and all of it is very intentional and practical.

Question 4: Do you have other ideas for what needs to be done to ensure that victim survivors have a safe opportunity to tell someone about their experience and get appropriate support and information?

I think more of the above, more holistic approaches, more consistency of information and opportunities to challenge bias, preconceived ideas and attitudes across the agencies and services. Some harsh reality checks wouldn't go astray.

Police responses to the reports of sexual violence

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 contacted the Police a few days following the crime taking place. Initially I called the Hobart station in the CBD, who said I would be best placed to go my local station in the area and speak with X.

I went in person to the local station to make a report, which was informal and was done over the front desk. Essentially it was a brief overview, the report would stay on file for a time and if I wanted to pursue it down the track, I could as it would be in the system. I was asked if I

wanted to make a formal report, which I agreed to, I was made aware that from that point the Police could proceed in pressing charges and if so, there was little that could be done to “pump the breaks” for lack of a better phrase.

I went back a few days later after scheduling a day to go in again and I had a male and female detective conduct a video recorded interview. This part of the process was positive for me, thankfully. I really don’t know how I would have reacted had it have not been. I know many who unfortunately did not proceed in pursuing legal action based on their initial contact with the Police. Then they came to my house (scene of the crime) and took photos following the interview. Officers came to the house on another occasion (or the same day, I can’t recall) and took statements from the members of my household.

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

I think it’s so unfortunate that these questions need to be asked in the first place. It is truly indicative of how wrong we are currently getting it. All police should be trained to deal empathically, and gently with anyone reporting such a crime. Mandated training around trauma and care would be a positive start. Some people have decades of unlearning and cultural ideologies, perceptions, and biases to let go of.

Criminal Justice responses to Sexual Violence

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?

Yes, but it was heavily varied. My experience was dependent on who I got on the other end of the phone or of the email. The assigned witness assistance officer to the case changed

several times, which led to inconsistency in information sharing and communication. Overall, I found dealing with the Department of Public Prosecutions (DPP) quite frustrating and disempowering at times.

The trial process

Question 11: If you are a victim survivor, did you experience any of the measures described above? If so, what was your experience?

No as the accused changed his plea to guilty prior to trial commencing. I was given the option to give evidence from another room with the support of the witness assistance officer allocated by the DPP. On the occasions I attended the Supreme Court to read my Victim Impact Statement (VIS) and to hear the verdict and sentencing remarks, I didn't appreciate being in such a small vicinity with the accused support people (in this instance, his parents), not for fear of safety, more for maintaining some healthy distance as I immediately wanted to confront them. I felt there should have been a separate entry and exit.

My support team and myself were ushered in to a small room at the end of the hall, but to go to the toilets I had to see the parents, which overall I felt was unnecessary.

Special measures: evidence in the form of audio-video recordings

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? What was your experience of the recording process? Did you see the recording(s) before

they were presented by the prosecution at trial? How did you feel about not giving evidence in person at the trial?

Yes, my police interview was recorded. I was given the option to pre-record evidence for the trial from a secure room, which I declined. I didn't want the accused to have the satisfaction of thinking he had instilled fear within me, thus, it was always important for me to be present in the room. That is totally a personal choice, but that was my standpoint on it. I had also seen him out and about from a distance within the community (that part wasn't safe guarded at all) whilst enduring the court processes so there was an element within me that felt I needed to be present. There was no shock factor for me.

Question 15: Has the use of recorded evidence been implemented in your jurisdiction? If so, to what extent? How is this working in practice? What is working well? What is not working well? What could be improved? Do any of the matters discussed when the recommendations were made (some of which are outlined above) need further discussion in the context of the reforms having been implemented? Are there any other issues? What do you see as the advantages and disadvantages of using recordings of the complainant's evidence at trial?

The only advantage I can see is that if it makes the victim feel safer and more comfortable to deliver their evidence that way, then that's the only important factor need be considered.

Assessment of the credibility and reliability of complainants

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?

Put simply, trauma disjoints the brain, in many ways. That is a basic psychological understanding. Memory recall on its own is complex and tedious, let alone a traumatised brain recalling a traumatic memory. Of course, experts should be called in to speak to this. I don't believe that area of reform has even conceptualised in Tasmania. In my case, when I prepared for trial, the questions the Prosecutor went through with me of what I could expect the Defence to ask made me immediately shut down and become reactive, rather than responsive, which is typical of someone that has just entered survival mode. Had I have been put on the stand and questioned about my memory recall, or responses, again, I would have shut down, becoming reactive, not responsive.

Judge alone trials

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

I think it could potentially foster a sense of a more secure environment for victims and possibly lower hyperarousal and hyperreactivity.

Cross-Examination and the law of evidence

Question 22: If you are a victim survivor, what was your experience of cross-examination?

Did the prosecution object to questions asked by defence counsel? Did the judge intervene to stop defence counsel asking questions?

I didn't experience cross examination; however, I was heavily prepped for it. I was not looking forward to it, but from what I understood there was an emphasis on how I were to appear, in terms of attitude, facial expression, language, emotions, and so on. To put it bluntly, I felt heavily that a witness must leave human emotion and expression at the door and remain matter of fact only. It didn't sit well with me and had the trial proceeded I know it would have been extremely problematic.

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

I don't believe so. I think complainants carry all the weight, they must speak, they must adhere, they have to be responsive, whilst the accused can remain silent. Yet another example of autonomy being taken from the victim. I understand the premise of 'innocent until proven guilty' and where the onus lies, but I feel this could be harmonised. Whilst prosecutors in some jurisdictions are enabled to intervene if the cross examination gets too intensive and veers off to offence and humiliation, it shouldn't be permitted to happen in the first instance. If those tactics are being used in a court of law, there is something seriously wrong. It reminds me of how military personnel would be trained to "break" an "enemy", the fear mongering, the verbal battering, the endurance – it's barbaric.

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?

Absolutely they should be restricted, or better yet, off limits. Such beliefs have no place in or out of the court room. It's simply moronic and I would expect such comments from cave men with limited brain capacity.

Personal Information

Question 27: If you are a victim survivor, were the records of your counselling or other therapeutic interventions sought prior to or during trial?

I believe they were sought in preparation for the trial.

Types of Evidence

Question 29: Have legislative reforms to the admissibility and use of complaint evidence been effective? Are there problems associated with that evidence? Is this an area in which the laws should be harmonised? If so, how should they be harmonised? Should evidence of more than one complaint be admissible? Should complaint evidence be admissible as evidence of what is asserted by the complainant and/or to assess credibility? Should complaint evidence be admissible at all? Does it perpetuate myths about responsive behaviour to sexual violence trauma (by expecting complainants of sexual violence to complain at some stage and placing weight on what was said)?

Any harmonisation efforts should be informed by evidence-based practices and take into account the complexities of sexual violence cases.

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? Do you support some form of special accreditation for lawyers who appear in sexual offence cases? Would this reduce the number of lawyers available to appear in such cases and contribute to delays in hearing such cases?

Yes, I support all of the above.

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?

Just shy of three years, from the offence date through to an outcome being handed down through the Supreme Court of Tasmania. The court process went for 2.5 years.

Question 35: What are the causes of delay in your state or territory? Do you wish to comment on the past recommendations (as outlined above) and whether they have been or should be implemented in your state or territory? What are your ideas for reducing delays? Can there be a national approach to reducing some aspects of the delay?

I was told different reasons, again, entirely dependent on who I was speaking with and from what department. Covid-19, a backlog of cases, how the trial grid works and how crimes are seen in terms of priority and severity – were a few of the reasons given.

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.

He did on the Friday, before the trial was due to start on the Monday. I was prepared for trial in the weeks leading up to when the trial was scheduled, as were the other witnesses. Then the date was rescheduled because the Chief Justice broke his leg. Then the accused changed his plea in the final hour.

I was relieved in one sense and had a strong physical reaction when I received the news, but that quickly transformed into extreme anger and a further sense of injustice. It is my firm belief that there should be limits on when one can change their plea. After enduring the system for so long, being pulled back and forth and being at the whim of a schedule beyond my control, for the accused to change his plea when he did infuriated me to the core.

I was told there could have been a possibility of negotiations, which I made clear I wasn't interested in, however, the DPP would have had the jurisdiction to negotiate regardless of my opinion or standpoint, as it wasn't my case.

Question 38: Are sentencing indication hearings (or their equivalent) effective in terms of resulting in guilty pleas? Can the process be improved? Are there other ways in which guilty pleas may be encouraged?

I think guilty pleas have little to do with hearings or systemic processes and everything to do with the individual perpetrator and how they comprehend their level of accountability (if any) and consequences of the harm caused by their actions. However, I also believe guilty pleas are made sometimes from fear of further punishment if they are found guilty in trial and maintained a stance of not guilty throughout.

Question 39: Are there aspects of sentencing practices and outcomes which may be harmonised across jurisdictions?

I think sentencing should be streamlined within a national standard framework to create uniformity, so regardless of what jurisdiction the crime is committed in, the same penalties apply.

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?

Yes, I did make a Victim Impact Statement. I felt an array of emotions surrounding this, I was eager to make one from the onset, but I did have strong moments of doubt when I found out that my statement would need to be vetted, essentially, and filtered as appropriate, due to legislation. I was shocked that a copy would be read by the defence first and foremost as well. After writing the statement, it went back and forth between myself and my witness assistance officer and the Prosecutor but after a few times I refused to edit it any further as it was beginning to feel like it was becoming watered down and losing the essence of my truth.

Question 42. Do you have ideas for improving the sentencing process in matters involving sexual violence offences?

I think the end goal should be to make it more humanistic. Perhaps the development of a specialised court to deal primarily with sexual assault matters. Allow victim impact

statements to play more of a prominent role within the process, and give people the full extent of freedom to express what they feel they need 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 feel that restorative justice would have to be based purely on an individual, case by case decision. In my experience, I would gain nothing by seeking mediation with my perpetrator. Whilst I appreciate it has its place and could very well be a transformative practice for others, I have no interest in assisting the offender gain insight and to grasp the reality of accountability in a bid to foster my own self-healing. I also hold no interest in what underpins his “why”. I think restorative justice could be quite dangerous if not handled appropriately, but I also wonder if the concept of restorative justice has much of a place in our westernised systems. I am mindful of the word restorative, it implies returning to a former or original condition, which is simply not possible after having such a crime committed against you – hence victims find themselves in such an array of internalised chaos and grief.

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?

Yes, I have applied for the State Government compensation. The experience of applying was tedious in my experience. I had a very negative experience with the front of house staff of the organisation, which led to me writing a lengthy complaint, with an extremely subpar

response given by the Manager. I ended up instructing them to not contact me further as their awareness and comprehension of the ordeal was so poorly lacking.

Question 53: What changes to compensation schemes would best promote just outcomes for victim survivors of sexual violence?

Consistency with compensation amounts. I feel very strongly about the limitations that currently exist in relation to the monetary value limits.

The current limit in Tasmania is approx. \$31,000.

I lost that plus more in expenses (moving from my home as it was now a crime scene, new car for anonymity, loss of income, medical expenses, travel expenses to appointments, etc), aside from all of that there is the issue of psychological harm. There is no realistic way to put a number on that, but the current caps are pitiful and are borderline insulting. However, had I have been raped in a school, or a Church, I would be entitled to at least 5 times the maximum limit, simply because where I was raped. I think a sense of uniformity and equity across compensation schemes, based on the crime itself, makes far more sense. It shouldn't be dependent on where a crime takes place.

Question 54. If you are a victim survivor, how do you feel about Victims' Charters? Are they important to you? If so, what do you think should be included in the Charter?

Charters are merely documents with words which are quickly rendered empty and meaningless when all facets of the system that are meant to work under them do not embody and enact the content within.

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

Ensure that victim survivors have access to clear and timely information about the criminal justice process, their rights, and available support services. Provide support workers or victim advocates to assist them throughout the process, including during investigations, court proceedings, and post-trial phases. Implement measures to ensure the physical and emotional safety of victim survivors, including restraining orders, safe housing options, and security arrangements during court appearances. Prioritise victim safety when making decisions about bail, parole, and other aspects of offender management. Provide comprehensive training for criminal justice professionals, including police officers, prosecutors, judges, and corrections staff, on victim rights, trauma-informed practices, and effective communication with victim survivors. Foster a culture of empathy, sensitivity, and accountability within the criminal justice system. Foster partnerships between criminal justice agencies, victim support organisations, community groups, and other stakeholders to coordinate services, share information, and advocate for victim rights. Involve victim survivors in the development and implementation of policies and programs that affect them.

*Please note, my identity can be published. I signed a confidentiality waiver in accordance to an amendment made within the Evidence Act 2001: Section 194(k), allowing this.

My name is published already and appears throughout the Supreme Court sentencing transcript and elsewhere.