

Dear Sir/Madame,

Please see the below for my submission to the Issue Paper – Justice Response to Sexual Violence.

Q1.

I disclosed my sexual assault to my school psychologist. She was someone I had been talking to for a while before my disclosure so I felt safe with her. I did not get to fully process what happened once I disclosed as she needed to contact the police. The police, the principal of the school and my mum were all informed. I was not wanting the police to be involved but I was a minor at 13 at the time. She was very professional and told me what the next steps were.

As I disclosed to my school psychologist, I was unable to talk about the sexual assault until after the trial which was extremely difficult. They provided me with a different service to help which was the Sexual Assault Resource Centre (SARC) in Perth, WA. I was only provided with 1 counsellor at the service that I could talk to. I was told by SARC that I was not allowed to talk to my school psych as she was not specially trained to help with this kind of trauma. The counsellor at SARC was not approachable and I was not comfortable talking to her. I was told by the people working at SARC and my mum it was only that one counsellor or no one as there was not any others available. I did one session and never went back. I believe there needs to be more counsellors trained at SARC/ in sexual assault trauma. There needs to be more who are trained with talking to children and more accessible to them. Being able to talk openly and honestly about something so private needs to be with someone you have a connection with. Due to this, I was not able to get help about my sexual assault until I was over 18.

Q3.

As I was a child at the time, not much was told to me about the process. I was told information from the detective on my case. He would talk to me through what each step would be but not in full detail. I was too shy to ever ask more questions if I was not sure. I believe more should be given or explained to children on what happens within the court process. I believe if it was more transparent, it would have helped me more. I was in limbo waiting for when the trial would be.

After the trial was over and my abuser was found not guilty, I was not given any support. They gave a pamphlet and that's it. No one ever helped or followed up with us until I reached out years later. Being an adult, I was looking into my own case just to know the ins and out of it yet was not allowed to see any information. All paperwork and requests have been a road block that I believe I will never get the answers for. Survivors should be able to get all the information they need about their own case.

Q4.

I think a television advisement may be beneficial. There are so many confronting ads on TV which mostly centre around not abusing alcohol/gambling and where to find help; or mental health issues which put up phone numbers for help if anyone needs it. A TV advertisement that could help anyone to reach out to a website or a phone number for support about sexual violence. I believe this could help others to help disclose their story or know what steps come after a disclosure.

Q5.

I had one detective on my case who helped me through it all. He would talk through what each step would involve but not in too much detail. He would help me understand anything I was unsure of. He would answer questions if I had any. As my abuser was a male, I did not trust any males. He asked if I wanted a female on my case. I declined as he was very respectful of me and how I was feeling after the initial disclosure. He had worked with many children before so he was properly trained. Today, I can still contact him with questions about my case many years ago.

Q7.

Police needs to have patience when it comes to disclosing such a traumatic experience especially from a child. Asking if a female officer needed instead which was I was asked about but I declined this. A police officer must have no assumptions about the survivor. They need to know that not all details come back in one piece. I had 2 interviews as there was more I remembered over time. For myself, I was given space to give my interviews and not feel pressured for time.

Q11.

As I was a child, I gave my evidence through CCTV. I was ushered into an area of the courts with white walls and a small room with a TV and toys for younger kids. As I was a teenager at 15 at the time, there was nothing there for me. I was allowed my phone but that was it. There was not anything to help distract myself. I sat on a chair the whole time with nothing to really do but think. It has been 16 years so that may have changed now. I was told I could have someone in with me if I liked but it had to be approved beforehand and was limited to who it could be. I chose the lady that worked there as I did not have anyone else to pick from and I did not want to be alone. I was told that the judge would be on one screen and the prosecutor/defence team on another. I was told to read from a card to swear myself to the court and to tell the truth. I could ask the judge for a break at any point if I needed it. Before I went to court to give my testimony, the prosecutor said the defence would ask me questions but that he was a nice family man. I thought he would be nice as that is how I perceived it but it was not. I did not feel comfortable asking the judge for a break and the defence team were very hurtful in how they talked. I understand that this was their job but no one prepared me for what was about to come. The CCTV was also a non-negotiable. I understand now why but back then, I wish someone would have explained why I could not be in court.

Q12.

I think any child should be told more about what happens when doing a CCTV interview. A child should know what they are going up against and what kind of questions would be coming at them. They intimidate you which is their job but maybe some more explanation would be beneficial. I do think this reduced my trauma only slightly as I did not see anyone in the court room but I would have liked the option to go if I wanted it.

Q13.

A court process that could be improved would be to tell the child what the whole process involves even in simple terms. I did not know it was going to be a 2 year wait for my trial to come and that it was just a waiting game in the middle. I understand that the parents would know but a child should be able to have an opportunity to ask what was happening and be told.

Q14.

I had 2 recorded police interviews that summed up to 4 hours long. It was played for the jury but I am unsure on when it was played. I found the recording process exhausting.

I was interviewed by 2 female detectives who were very nice and had worked with many kids before. I had 2 interviews as there was new details that I remembered. After a traumatic experience, it took a while for me to disclose as details were coming back in small pieces. They were very patient and would let me stop if I needed it.

Before the trial, I had to sit in a room by myself with a pen and paper and rewatch my whole 4-hour interview so I could remember what I had said before trial. That was a very traumatizing experience. I did not want to rewatch myself talking about my rape in such detail with no one around and no support. I wanted to throw up as it was so traumatizing. I feel like I should have been given a support person who could sit with me during that time.

I felt like it was a little tough to not give evidence in person as I wanted to face my abuser in person to give my evidence. I only understand as an adult that it was for my own protection that I was on CCTV.

Q15.

I do believe that having recorded evidence is an advantage. It can help protect someone from seeing their abuser and feeling intimidated by talking about their traumatic experience in such detail.

Q16.

I think an intermediary person would be a great help. It would have been helpful for myself to have someone I could ask questions to and know I could go to them if I did not understand anything. This would have been beneficial for me when I was re-watching my interview as it would have been nice not be left alone at a very vulnerable time.

I had a lady sit with me when I gave my evidence to the court through CCTV. She just sat in the corner. I had met her on the day and did not really talk to her. As hard as it can be, a child needed to create repour with someone and I only met the lady on the day so it wasn't long to be able to ask any questions as she had other families she needed to attend to.

Q21.

I personally do not like the idea of a trial by judge alone. I believe it should be up to a jury at a trial. The individuals must come together to decide a fate of the person at a trial and convict them beyond a reasonable doubt. I feel like there could be a risk of a singular judge bringing their own beliefs into a verdict.

Q22.

I found the cross-examination quite intimidating. As previously said, the prosecutor said to me the morning of the trial that the defence counsel was a nice family man. Yes, outside of the courts he probably was but that was not what I should have been told. He did his job and he was an intimidating man who would try to confuse me and twist my words around constantly. If I had been told what was going to be asked and how, I would not want to go through the trial process.

Q27.

I was told that my records for my counselling sessions were private but my school counsellor was told to give evidence as she was the person I disclosed to. After reading the court transcripts from my trial, they used notes from my sessions with her against me.

Q33.

I see both pros and cons to a specialised court. It would be beneficial in regards to the people working at the courts knowing what survivor would be coming through the door, how they might be feeling and what might be able to help them. A survivor may feel more comfortable knowing that people in the courts deal with this specific issue. I think it would not work due to the limited judges/lawyers that would be trained specifically in that area. It took 2 years for my case to be heard in the courts. I believe that it could take longer due to staff shortages. No one, especially a child, should have to wait that long.

Kind Regards,

Sian Cuevas