

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?

Response:

When I first shared about my childhood experiences of sexual assault as a young adult, I was only around age 19 or 20 years old. I was at a film in which incest was showing, it triggered my memories of similar things that had happened to me during my childhood. At the time I told my boyfriend with whom I was watching the movie. I was immediately plunged into depression and deep, deep flashback memories which made me very suicidal. There was no information at that time that I knew of to advise who to tell or what to do.

Later, because I was struggling so much, I told my adoptive mother but apparently because of my feelings of shame I asked her not to tell anyone. I found out later she approached [REDACTED] and did confirm that these things had happened with him. He was only 1 of the 5 who had forced me into inappropriate sexual situations.

What supports did you need at that time? Were the supports adequate? How could they be improved?

Response:

I didn't know what supports I needed at these times. My boyfriend and my adoptive mother also had no clue as to how to support me nor themselves.

It was only a year or so later that I was walking past Anglicare who had an advertisement in their window about a sexual abuse women's group, facilitated weekly for a set period. I decided to give it a go and wow, it was the most healing thing I have ever experienced. The power of meeting other women who had suffered in this same way was incredible. It changed my life course and showed me the power of group connection and healing with people who understood and could validate my struggles.

If you decided not to tell someone about your experience, you may wish to share with us the reason(s) why.

Response:

At the years when my sexual assaults were occurring, I did try to tell various people. I had told my adoptive mum I was "sore down there" because of a cousin who had been forcefully doing things to me. She didn't even ask why but in hindsight, despite being a primary school teacher and principal, she seemed to have no clue. Family members need education on what sexual abuse can be and how to be curious if a child mentions anything relating to their private parts of their body that they wouldn't have the language to explain. I also told my adoptive brother and sister who laughed at me and told me to stop making up lies about their

cousin. So I ended up not saying anything because people didn't seem to take it seriously and nobody was my ally or cared enough to talk to me more. Another time in my later years I told one of my friends at church. She told her parents who talked to mine and I got in trouble for making up lies. So each time I told before the age of 19, nobody believed me. I was the adopted naughty bad child who made up lies about this amazing family who could only ever be saints in everyone's eyes. It highlights the extreme vulnerability and the lack of anyone to turn to for us who are adopted – especially when it's a transracial intercountry adoption with it's layers of saviourism and rescue to get past.

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?

Response:

I am not aware of any reforms in my state of [REDACTED] where I grew up nor [REDACTED] where I currently reside. I experienced my sexual assaults mostly in [REDACTED], but one episode also happened in [REDACTED]. When I was 46 years old, I reported in the state I lived in, [REDACTED].

What I experienced was the difficulties of reporting across jurisdictions. It was awful that I had to be interrogated twice to get my reports done because the state of [REDACTED] had apparently not done my reports by Offender, but as a whole timeline story with the 5 perpetrators listed thru out. I also completed recorded phone calls with 3 of the offenders because I had existing relationships with them. It was very difficult getting proper approvals for this to be done [REDACTED].

The sexual assault unit in [REDACTED] was clearly more trained than the generic police station in [REDACTED] where I went locally to report. Hence the report done with [REDACTED] was far less in detail and essentially, I was interviewed all over again for the state of [REDACTED] reports. At the time it was COVID so luckily, they allowed me to do the interviews over the phone but I wonder how flexible they are now that COVID is over.

I also chose for the State of [REDACTED] to not bother reporting as I could see how difficult it was to report crimes across jurisdictions.

In both states, I could see the huge under resourcing within both Police jurisdictions. I had a total of 3 different police persons who were looking after my case in [REDACTED] alone as they go on leave, have babies, have staff changes, etc. The lack of communication from Police to me in [REDACTED] was terrible but not because they don't want to, but because of the lack of resourcing, I believe.

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.

Response:

There needs to be an independent body who can give advice and support from multiple angles. Someone needs to help victims understand the very basics of the legal processes - civil vs criminal routes, plus the alternative reporting routes which I never even heard of until

years after my legal processes. There needs to be peer support spaces where we can talk to others who have traversed this system and be given peer mentoring support by someone stable enough and with the right knowledge to help us navigate things, know what to look out for, how to prepare emotionally for the journey ahead. There needs to be professional support paid for and made avail, so we are not traversing the journey without properly trained supports from a professional.

The police do not sit down and explain the processes and issues. They assume you figure it out by yourself, and no-one tells us that they are not our allies, nor is the “case” they run if they do, is FOR you, but that you are just the reporter and that it is henceforth THEIR case against the perpetrator and you just happen to be what brought it about.

The Prosecuting police is NOT on your side, nor do they inform you properly, or even meet with you. I wish someone had told me all this which is what eventuated in my case, that I got screwed over by the prosecuting police who agreed with the defence lawyer to let [REDACTED] plead guilty in exchange for very reduced charges.

He had been faced with 4 large charges, of which they dropped 3 that covered the span of many, many years, but the 4th charge only referred to one instant, the last one which I could describe in much more detail because it's less easily forgotten as I was older (age 14) than the previous times over multiple years.

I run a peer support network globally for intercountry adoptees - a minority group, people of colour, much more at risk than non-adopted cohorts such as foster care people because we have no-one checking up on us after we are given to an adoptive family. My experiences of isolation and struggle led me to create this network of peer support for the past 26 years. There needs to be much more done to tap into the wealth of expertise various peer support communities can provide to ensure a victim is connected to a wholistic support network.

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?

Response:

Because our perpetrators are often within our family systems, we need exposure as young children and people to education on what is sexual assault within our other communities - schools, churches, sports groups where it is openly talked about and educated on what to do when sexual assault/abuse occurs.

I remember telling a family within my church community about what was going on in my family. They went straight to my parents and asked, who responded that I was just a liar and cause trouble because I'm adopted. I was instantly disbelieved and the other family in the church had no knowledge from their community networks of how to deal with someone exposing this type of truth to them. They just went straight to my parents who of course are going to deny what was going on.

Criminal justice responses to sexual violence

There are 16 sub-categories in this section.

1. Police responses to 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?

Response:

I contacted police at age 46. I walked into the police station in my local area. They responded well and had me make an appointment to come and officially be interviewed for a report. I had already actually prepared an affidavit because of my connection to lawyers prior to this looking at my options and obtaining advice. I had no knowledge of civil vs criminal routes, but the lawyers had helped me understand a little based on 1 consultation that was free and had said if I go via the criminal route and get a guilty plea, a civil case is usually much easier. Nobody told me that if you get screwed over by the police prosecutor who just wants to end the case and not go to court, that they would prefer to do so because of their workload. I've only found out a year after my case ended with perpetrator pleading guilty and the agreement was significantly reduced charges to the point where me now taking civil action is not warranted because of the minimal payout due to such low charges. The police did not inform of these consequences at the time when the prosecuting police told me [REDACTED] pled guilty and the case was over between the prosecuting and defending lawyers. I actually made a formal complaint to the police system because I was so angry at the lack of doing a proper job by prosecuting police - they didn't even meet with me prior to the pre-trial case, and they certainly didn't tell me there was a possibility [REDACTED] could plead guilty and the case not proceed to the scheduled contested court hearing that had been given a date a month after. I remember verbally and in writing telling the prosecuting police I did not agree to him pleading guilty and that I wanted the case to continue to trial for the scheduled contested court case in 4 weeks' time. We had police recordings of him admitting his guilt to my sexual assault over years. He knew he was done.

Question 6 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?

Response:

I am not familiar with any reforms or recommendations for the state of VIC.

You can see some of the issues in my case alone [REDACTED] that if there are reforms, they aren't working well still. I made complaints also to the Victims Tribunal in VIC and was told this is a huge problem that no matter what, when victims make a complaint about the justice system in VIC, the report can only be lodged to the police about the police, or the magistrate system about the magistrate. There is not an independent body who assesses the complaints or has the power to improve either of those two systems.

In my experience, there needs to be accountability of the police and magistrate's systems.

I've never even heard a response back from my official complaint lodged about how the prosecuting police dealt with my case and the deal with the defence lawyer for [REDACTED]. He merely got a slap over the wrist and the magistrate presiding over the case was an absolute disgrace. He clearly didn't know I was on the online system watching the proceedings. I recorded what he said and if anyone listened to his behaviour and words, it is a disgrace that this is how the highest order in our country can carry on and behave in cases

like this. It was quite clear the defence lawyer and the magistrate were drinking mates at the local [REDACTED] pub. There was no considering the wider case, or that I am a child of colour stolen / taken by a family who had done an illegal adoption. The police prosecutor didn't even talk to me to even understand the nuances of my case and I had to sit and listen to a judge sum up [REDACTED] behaviour as a "minor slip in judgement", assuming like many falsely do that our adoptive parents are such wonderful charity minded people who are just trying to do their best. The magistrate clearly had no understanding of intercountry adoption and how at risk we are to be taken from our countries and treated like this by complete strangers who buy us from a willing lawyer.

I now represent us as a community at the United Nations and The Hague for intercountry adoption and I am appalled by the assumptions that magistrate had of "charity" and "goodness" afforded to [REDACTED] in his sentencing. It was if all the "good" he had done in saving and rescuing me was in exchange for the sexual assault of me over many years. It was clearly from a racist, colonialist, and white power lens in which the magistrate made his sentencing to let [REDACTED] off.

Our system of professionals, especially at the magistrate end, needs to be highly trained in the matters that the case includes. My case needed a magistrate who understood the complexities and traumas inherent in intercountry adoption and illegal trafficking of vulnerable young children. The police prosecutor had no understanding of these complexities either. They should have been considered. My case was not just the usual sexual assault. My situation was done in the context of being illegally taken from my country of origin as an infant, with no choice, made to stay with an abusive family from the age of 5 months to 17 years in which I endured abuse from their hands by multiple perpetrators in that family including the [REDACTED], and yet he got judged on the last incident because in police words, it was the easiest to determine date/time and what happened in detail. In my Impact Statement I made reference to these issues and advised that I have legally discharged my adoption and hence lost another sense of "family" but the magistrate turned to the defence attorney and asked if any of it mattered, to which of course he said, "no she's just reactive". Why is the magistrate turning to the defence lawyer to understand my Victim Impact Statement? There was no weight given to my actual impact statement or to the wider issues involved and as to why I was so much more vulnerable than an average born-to child.

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

Response:

Police need to be educated as mentioned above about the complexities of the other involving issues so they understand sexual assault in the fuller context in which it can occur. As above, intercountry adoption, illegal adoption, it adds another massive layer of complexity that should have been considered. Everyone understands if sexual assault is done in the context of foster families, yet those same understandings didn't seem to be applied to adoptive families. Adoptive families on the other hand are naively portrayed and seen as "amazing people who save a child". This incorrect mentality needs to be educated about within the police system especially the prosecuting police.

2. Prosecution responses

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?

Response:

As mentioned in Q5, I never met with nor was invited to meet with the ODPP. Only the Friday afternoon before the case went to a pre court meeting scheduled for the Monday after the weekend, did the ODPP contact me. There was NO support given to me nor advice on what to do if I disagreed with the strategy the ODPP was taking. It became clear to me that the ODPP was very junior and inexperienced. He was also likely overloaded, and it was obvious thru' his communications that he didn't really know what to do and was just being advised by the defence lawyer of how to run this case. I have had communications with the Unit and the police person who was my contact prior to her going on leave - she had been the one to prepare everything for the case. Both the unit and her and the police officer in [REDACTED] all expressed shock and sadness at how my case turned out as they had all done their best to make sure we had a better outcome. They all expressed that they just don't understand how he ended up with so little given the amount of evidence we had against him. It was the police in [REDACTED] who encouraged me to lodge a complaint in the police in [REDACTED] for how the prosecutor failed me so much or to get the outcome that he should have gotten if he'd been willing to put in a bit of effort to understand things.

It was nice to be given that empathy from the police in [REDACTED] and [REDACTED] who had done the hard work and worked with me to get all the evidence. They still say to me now how sorry they are for how it all turned out and that the ODPP can be like this, where there's just so many things that don't connect up from the work they put into getting a case in a good situation, to it being dealt with by ODPP and the actual outcome. It sounds to me like this is not the first-time cases turn out like this. The ODPP must be rewarded to get win in a "guilty plea" but not be rewarded to get a strong sentence with it that will allow other civil claims to follow. That is, they don't get rewarded for the longer-term outcome, just their short-term wins.

The Unit in [REDACTED] only just last month shared their view with me on this because I followed up and wanted to find out if they had applied at the time to put a hold on the perpetrator's ability to move his assets (asset freeze). They were so disappointed when they told me that the charges that he eventually got listed with are so minimal that there is no point them putting in the work to do an asset freeze because "it wouldn't be worth it" for a case now. It's gut wrenching that the police fail to even talk to you about asset freezing for purposes of civil cases and I only found out that there is also a time limit on this ability by the victim - a year. I was literally within 3 weeks of that year coming to its time. These things need to change so that victims are fully informed of the many complex consequences.

My experience with the ODPP was just appalling whereas my experience with the rest of the sexual assault unit [REDACTED] was really positive given how under resourced they are.

Question 9 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?

Response:

I have no idea what reforms are happening [REDACTED] for the ODPP. But they certainly need to have a system where victims can independently complain and be heard, and something done about the failings of the ODPP. I did submit a usual Police Complaint about the ODPP but to this date, over a year later, I've never heard anything back.

You can clearly hear in my case that even fellow police who work in the system prior to the ODPP becoming involved, how discouraging it is for them to see all their hard work be wasted by an ODPP that is unprepared and ill equipped to follow thru'.

It also only became apparent in the magistrates ruling and sentencing that the ODPP had also FAILED to tell me of offers the defence and perpetrator had offered. Some months before the pre-trial meeting, I had been told by police looking after my case (a different woman to the main one because she'd gone on maternity leave) did I want to look at undergoing a "healing circle" program instead of going to court. I repeatedly asked why would my prosecuting police offer a healing circle? And why wasn't he talking to me himself? If he'd known about my years of trying to work and negotiate with this family and my asking since age [REDACTED] would they take us to family counselling and it never happened, I didn't understand why now it was being suggested by the ODPP.

I was never told at any point that this offer in fact was sent from the Defence or my perpetrator. I declined it because I thought it was the ODPP suggesting it and because I had to ring the organisation myself to find out what this "healing circle" even was. The police themselves didn't even understand what the program was. When I asked would it be guaranteed that thru' a "healing circle" program I would have his admission of guilt - it was a "no, we can't guarantee this". I asked, well what's the point? I get nothing out of this. I want accountability.

Only during the sentencing did I hear from the magistrate that the defence had offered this "healing circle" and how it showed the perpetrators "good intentions" which I had apparently "declined". I was shocked at the lack of communications on issues like this from the police and ODPP.

I had no idea it had come from the defence nor of the implications if I said no. The ODPP as I've mentioned never even got on the phone with me until the afternoon before the pre-court meeting, of which I was told it was just "process" to sort out any potential trial issues. They never even informed me of the possibility that the "case" would be over from this "pre-court meeting". I was shocked when on Monday morning, the day of the pre-trial meeting, that I was told the case is finished. He had pled guilty to reduced charges and did I want to give a Victim Impact Statement, of which I had 2 hours to submit so they could all go to lunch.

Question 10 Do you have ideas for improving ODPP responses to the prosecution of sexual violence?

Response:

Do any cases get reviewed by ODPP and Police after the case is completed? My case alone shows how there's discrepancy between what the police do in terms of preparing and putting in all that work to get the case in a good state to be prosecuted, yet the ODPP let it fall to the wayside for whatever reasons that never get told to us the victims. The ODPP just kept saying that the other 3 charges being over multiple years would be "so hard to prove in contested court" despite me being willing to be grilled in court, despite the evidence of recorded phone calls with him admitting, etc. Despite many pieces of evidence whereby he had admitted to the rest of the family of his guilt and wrongdoing over years.

3. 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?

Response:

My case never even got to court even tho we had a date scheduled for contested court hearing. The ODPP and defence did some deal which I fail to understand how it happened nor why.

But what I can say is that because of COVID and me being “interstate” to the pre-court meeting, I was invited by the ODPP to attend online, and I could see and hear everything. It became apparent by the way in which the magistrate spoke and handled the sentencing that he was totally NOT aware that I was attending, watching and listening online. His language and everything he said was so offensive to me, especially the way my Victim Impact Statement was pretty much laughed about and minimised by him and the defence attorney. My ODPP was quiet the whole time and said nothing. It was literally as if the defence attorney and magistrate had already pre worked out what would go down for this, to shut it down quickly and efficiently. The magistrate praised [REDACTED] for his genuine remorse and “saving the courts money” by pleading guilty.

My suggestions for improving the court proceedings is that the magistrate should always be informed that the victim is actually attending online. I’m sure he would have chosen completely different mannerism and tone if he’d known I was attending. It was so offensive and retraumatising to experience yet another white man in power belittling my experience and being an ally to my perpetrator.

Question 12 Do you have views about the measures listed above? Have the measures reduced the trauma of giving evidence? Could they be improved? Have things changed? What is working well? What is not working well?

Are there other measures which have been implemented and are not listed above

Response:

N/A

Question 13 Do you have other ideas for improving court processes for complainants when they are giving their evidence?

Response:

N/A

4. ‘Special measures’: evidence in the form of audio-visual 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?

Response:

N/A

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?

Response:

I made use of recording evidence in the police work phase to gather evidence against [REDACTED]. I did two recordings of phone conversations in which he did admit to my sexual abuse over years.

I thought it was a great way to help gather evidence with the perpetrator being unsuspecting. I believe this had a lot to do with why he pled guilty so easily.

5. 'Special measures': intermediaries and ground rules hearings

Question 16 If you are a victim survivor, was an intermediary involved to assist with communication? If so, we would like to hear your feedback.

If an intermediary was not involved, do you think an intermediary would have been helpful? If so, in what way?

Response:

N/A

Question 17 Has an intermediary scheme been implemented in your state or territory? How is it working in practice? What is working well? What is not working well? How could it be improved? Have any of the issues described above arisen?

If an intermediary scheme has not been implemented in your state or territory, do you know why? Do you think such a scheme would be helpful? If so, what do you think the scheme should involve?

Do you have any ideas generally about the use of intermediaries in the criminal justice system?

Response:

N/A

6. 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?

Response:

N/A

Question 19 What is your view about the usefulness of jury directions in countering myths and misconceptions described by the research discussed above?

Do you have a view on whether the jury directions in your jurisdiction are sufficient? Could they be more extensive?

How are the directions in Victoria under the Jury Directions Act 2015 (Vic) working in practice? Can they be improved?

Response:

N/A

Question 20 Do you have a view about the other recommendations that have been made (educative videos, mixed juries, judge-alone trials, and education and training)?

Do you have other ideas for reform based on research which suggests the evidence of complainants is assessed according to myths and misconceptions about memory and responsive behaviour?

Response:

N/A

7. Judge-alone trials

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

Response:

Given the outcome of my criminal case against [REDACTED], I am totally against a trial by magistrate alone when that magistrate is totally not educated about the complex matters in the case and when [REDACTED] the lawyers and magistrates know each other. If you listen to the magistrates sentencing and comments alone, you would be shocked as to how much of a boy's club it appeared to be between the defence attorney and the magistrate. Our system is relying on old white men who have had their power and privilege for centuries, dealing with cases like mine of vulnerable people of colour who are taken by white colonialist and "rescued/saved" but then abused in the home for years. My case needed to be dealt with by a magistrate who was female, a person of colour, who knows these systemic injustices and can judge a case accordingly. The justice system completely lets us down when we have been victims in multiple ways with no rights to safety or security, and no way to fight against oppression and white privilege.

8. 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?

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

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?

Response:

N/A

9. Interpreters

Question 25 If you are a victim survivor, did you need an interpreter in the court room? Was one made available? We would like to hear your feedback.

Response:

N/A

Question 26 Have changes been made to interpreting services for complainants over the last five years? Does there continue to be a problem with availability, training and accreditation?

Are there problems in regional areas?

Are the available interpreters culturally and linguistically appropriate and diverse, particularly for complainants who are Aboriginal and Torres Strait Islander people?

Is the unavailability of interpreting causing difficulties and challenges for courts to ensure pre-trial recordings and trials commence as listed?

Response:

N/A

10. 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?

Response:

N/A

Question 28 Are the legislative provisions adequate to protect the disclosure and use of a complainant's personal information obtained during counselling or other therapeutic intervention? How are they working in practice? Should they be harmonised?

Is there a need for complainants to be separately legally represented in court when submissions are made about the disclosure of the material and the application of the legislative provisions?

Response:

N/A

11. 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)?

Response:

N/A

Question 30 Should there be legislative reform to the admissibility and use of distress evidence?

Is this an area which calls for legislative intervention and harmonisation? If so, how should they be harmonised? Should distress evidence be admissible at all?

Response:

N/A

Question 31 Are there further reforms to be considered to tendency and coincidence or discreditable conduct evidence in addition to the Evidence (Tendency and Coincidence) Model Provisions released by the Royal Commission into Institutional Responses to Child Sexual Abuse?

Response:

N/A

Question 32 Are there any other evidence issues relating to sexual violence trials that we should consider, including whether there should be harmonisation?

Response:

N/A

12. Specialisation and training of judges and counsel

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?

Response:

As I highlighted in Q6, the magistrates should be trained in all aspects that are relevant to the case in question. In my case, my illegal intercountry adoption should have been taken into account as part of the abuse. I have essentially been illegally adopted to be sexually abused since childhood by a family who weren't looking out for my well-being or best interests. They only acted to protect themselves and seemed remorseful because I finally stood up and had the courage to hold them to account.

Magistrates should be trained in race, privilege, colonialism to understand the underlying factors of who has power and who doesn't in situations like mine. [REDACTED] should have been held to higher account for his failings of me in so many ways, not just the sexual abuse that went on for years.

The fact the magistrate turned and asked the defence attorney "do we have to list him on the Sex offender registry" was just appalling. The defence attorney said "yes". Who was calling the shots in this case? Seems more that the defence lawyer got what he wanted whereas the magistrate was wanting to be even more lenient on [REDACTED].

The legal process is long and lengthy, but I would have preferred even longer if it had guaranteed a more highly trained and informed magistrate if it had resulted in an outcome that was more appropriate given the issues in the case.

So yes, I believe lawyers and magistrates should be educated in these matters. I've contributed to creating educational resources to address this because I am so shocked by the lack of expertise knowledge in the justice system.

13. Delay

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?

Response:

I experienced delays because of the backlog during COVID. I believe this had a significant impact on why the ODPP wanted to just get a result the quickest way possible. He made statements to that affect about the backlog of cases. I was understanding of these delays and the case had been going on for so long already, it was just the norm. So, no major impact on me from my perspective. I viewed it this way, it had taken me over 40 years to report it so what was another 3 years to get my case to court.

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?

Response:

I understand how under resourced these areas are. I think it's not a lack of will power by police to get these cases sorted out faster, I believe they do their best in an under resourced world. They truly do care and want to fight crime and help victims, but they have their hands tied by a huge lack of resources which I could see.

If only the sexual assault teams could work nationally, pool their resources and make things more efficient by not doubling up and replicating each other, but work more seamlessly across jurisdictions. If only they talked to each other better. There was a huge delay in my case being transferred from one state where I reported to the other. It was just crazy how there was such a disconnect between the police themselves because of jurisdictions.

It would be great if there was a national approach, but given the varying laws in each state, it'd need a complete overhaul of the legal system. I know this is an area we deal with and fight in intercountry adoption laws varying state to state too. I understand how difficult this makes things. I'm realistic enough to know we probably won't ever change it because it's just too big and too hard. So, we end up just patching up where we can but it's not efficient and it's never going to work well until we do a complete overhaul of the justice systems and the various legislations around these areas.

14. Guilty pleas

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.

Response:

Yes, my offender pled guilty in return for significantly reduced charges. From 4 significant charges down to the 1 most minimal charge.

As mentioned above in Q8 and 9, my ODPP never met with me to talk about my case until the day before the pre-court meeting which I had been led to believe was just required to give both sides an opportunity to talk about whether there were any questions to clarify before the contested court hearing which had been scheduled for a month away.

As mentioned earlier, the guilty plea was a negotiation that went on with ODPP and the defence. I had been asked my views the Friday afternoon before the pre-court meeting on Monday. I had insisted to the ODPP that I did not agree to his reduced charges and that I preferred to go to contested court.

Then all I heard next on the Monday morning following, was that the case was over and he had pled guilty with an agreement of reduced charges. I was asked if I wanted to give a Victim Impact Statement. I was shocked. I had no clue it could end like that.

I was told I needed to give an impact statement in 2 hours and that the magistrate would then sentence him. I was allowed to join online. I recorded the sentencing.

I am totally against a guilty plea when the perpetrator is allowed to essentially get off and nothing really happens. The ODPP told me it was significant that the perpetrator had to go on the Sex Offender Registry for the next 8 years but when the police unit spoke to me a year later, they said they fail to understand how that worked. That the perpetrator was on the Sex Offender Registry which usually indicates a serious crime, yet his actual charge is so minimal I can't even go thru' a civil route to claim compensation.

All I can gather is that I was screwed over by ODPP who failed to inform me, failed to advise me of consequences, and made a call to agree with a guilty plea without my agreement. The ODPP did a deal with the defence so that they could "move onto the next case".

Question 37 Have any recent changes in sentencing laws had an impact upon the preparedness of accused persons to plead guilty to sexual violence offences?

Response:

N/A

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?

Response:

N/A

15. Sentencing

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

Response:

N/A

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?

Response:

My experience of the sentencing process was traumatic because of the way in which the case closed before it even began. I would have liked to have been notified by the Police Prosecution that the case had a possibility of being closed and finished without it ever going to the scheduled court hearing. I would have liked to have had a say. I was literally just phoned on the Monday morning and told, the case is completing, that he pled guilty, and did

I want to make an Victim Impact Statement and that I had to do it within the next 2 hours, but don't rush, because then the sentencing would happen after I submitted it.

How is that even reasonable for a victim to have no knowledge the process will be finished and over despite being told this earlier meeting was just "procedural" to see if either side had any legal questions.

I took an hour to put together my Victim Impact Statement. If I had been better informed, it would have been good to have been told to write it up already in preparation. Instead, I felt rushed, I was told they were all there in court and the Magistrate wanted to go to lunch and that if I could provide the Victim Impact statement before they go to lunch, it would give everyone time to read it before reconvening.

What was worse, was that after they got back from their lunch break, the judge proceeded to read my Victim Impact Statement then asked the defence lawyer questions about my statement. Why was he asking him and not the prosecuting police lawyer? My impacts of annulling my adoption (a legal process to undo the adoption) were diminished and ignored, the magistrate asked defence whether what I said was to be of any significance of which he replied to the effect that I was just "emotional" and bitter. It was also clear the Magistrate had not been told by the Prosecuting Police that I was online in the room/space and was watching and hearing everything. The way the magistrate spoke about my Victim Impact Statement was another trauma. Another white male in power who was diminishing the significance of what had happened to me at the hands of this white male who was meant to be [REDACTED]. Why bother giving a Victim Impact Statement when you experience further trauma from a Magistrate who clearly has no education or knowledge in adoption and its trauma to apply over the top of this case of abuse to which he pled guilty but for significantly reduced charges.

Question 41 Have there been recent changes to the role of victims of sexual violence in the sentencing process in your jurisdiction? Are Victim Impact Statements given appropriate consideration by the sentencing judge?

Are there further improvements to be made? Should victims have independent legal representation during sentencing submissions?

Response:

Yes, I believe I should have been able to have independent advice or counsel of the implications of giving a Victim Impact Statement, and I should have been given someone who was going to support me given how traumatising it was to sit and listen to the BS that went on between the Magistrate and the Defence.

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

Response:

I suggest that when victims are watching or present in sentencing processes that the Magistrate / Judge must be made aware of this. It was offensive and traumatising for me to hear the magistrate talk about me in the way he did, disrespecting my Victim Impact Statement and being so overtly supportive of my perpetrator.

The police prosecutor did such a poor job and even though I put in a formal complaint about him and the way he handled my one day of dealing with him and the court process, I've

never heard a thing back from the complaint system and I can only imagine that he has never learnt the lesson and probably continues to believe he's doing a fine job. In the meantime, he revictimizes the survivor over and over again because of his poor communication. If it wasn't his lack of communication, then the magistrate in question should be de-barred as no-one should be treated in the manner he spoke of and referred to me. Which also highlights that the complaint process for the magistrate and how he managed himself with respect to me, the victim on the day, is also as bad as the police complaint mechanism. That is, we complain to them and they investigate themselves which is why nothing changes.

There needs to be an independent complaint mechanism that has the power to hold both the police and the magistrates/judges to account.

The sentence itself was essentially a slap over the wrist and reflects nothing of the years of impact to the survivor. He is on the sex offender registry for 8 years but the magistrate himself asked the defence whether he had to do that. It is fairly apparent from my case, that sexual violence against minors by an adult is not treated with the seriousness of the impacts it had on my life as the victim.

16. Appellate proceedings

Question 43 If you are a victim survivor, what was your experience of the appeal process?

In responding, you may wish to consider the following:

- What information or support did you receive about the appeals process and its possible outcomes? If you received some information or support, how useful did you find it?
- What information or support did you receive about the decision made on the appeal? If you received some information or support, how useful did you find it?
- What impact did the appeals process have on you?
- If the appeal resulted in a re-trial, were you consulted about whether the prosecution should proceed with a re-trial?

Response:

N/A

Question 44 What are your ideas for improving the appeals process in matters involving sexual violence offences?

Response:

N/A

Civil proceedings and other justice responses

There are five sub-categories in this section.

1. Restorative justice

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?

Response:

Restorative justice for me with the institutions responsible has been a mixed experience. On the one hand, having that personal apology given to me face to face, was incredibly healing because I had the [REDACTED] and he was so genuine and empathic. It truly has been a healing process. What detracted from that, was dealing with the institution contact who clearly had no training or experience in connecting with people who have trauma. It was me pushing them all the time, me getting a person who HAD experience as my support person pushing them as an institution to do the right thing and follow the National Redress guidelines. The current DPR process I'm going thru' with the Australian Govt - Dept of Home Affairs in comparison, has been a complete nightmare with staff who keep moving on and out, the staff insisting the Minister who is issuing the apology and meeting with me, can have no longer than 1 hour for the meeting, etc. It seems the DPR process from a Govt dept is more interested in having it meet the needs of the Minister than of the survivor. It has been over a year so far and I'm still waiting for my DPR.

So, there is a lot to be learned from having a restorative process and I'm referring here to the DPR process within the Royal Commission. What needs to be in place is to have an independent and well-resourced section of the Royal Commission tasked to be our ally, by our support and guide as victims who want a DPR / restorative process. They need to understand clearly the guidelines of what we as survivors can have. They need to manage the bureaucracy of the institution who is responsible for apologising and meeting with us in face-to-face meetings. The mediator who facilitates the DPR should not have to be involved in the messy business of organising the "operational" parts of the meetings and should be left to be "independent" and neutral. In my experience with the Australian Fed Govt, the mediator ended up becoming such a strong ally for me because they could see how badly the Govt was dealing with things and an unhealthy triangle of power imbalance emerged because the Govt employs and pays the mediator and hence they feel they must do what the institution wants. The process needs to ensure the mediator is not employed by or paid for by the institution otherwise the mediator is not independent.

Outside of the Royal Commission process, would I want a restorative justice process with my perpetrators? I was offered it but because for the past 20 years at least, I had asked my perpetrator to consider a way to bring the family together to work thru' the harms and it was never done, until I reported them to police. I feel that a restorative process is only going to work if it's prior to the option of a police case going fully ahead. By this stage, I knew my perpetrator only offered a restorative process as a means of "getting away with what they'd done". And in the end, he pled guilty but with conditions of a significantly reduced charge that was pretty much nothing and subsequently, I found out a year later that the charge is so insignificant that I cannot proceed with Civil claims because a lawyer or police don't believe it's worth anyone's time or money.

I think restorative justice should be an option for a survivor to choose from, to enable to us to be fully empowered to go whichever way we choose. I think like with my comments about the Royal Commission DPR, there should be a funded and trained team to help support victims thru' a restorative process so we aren't left to fend for ourselves and work it out by

ourselves. We need an ally, an advocate if we wish. There needs to be no massive power differential between the ones we are trying to get restorative justice with and us the victim.

Question 46 What reforms have been implemented in your state or territory? How are they working in practice? How could they be improved? Have things changed? What is working well? What is not working well?

Response:

I am unaware of any reforms in my [REDACTED] where I currently live or [REDACTED] where I grew up except for the Royal Commission changes and subsequent DPR process, which is national, not state based.

Question 47 What are your ideas for implementing restorative justice as a way of responding to sexual violence?

Response:

I'm not sure talking about restorative justice is appropriate until the victim chooses, and it should always be in our control as to whether we wish to go via this route or not.

In my case, restorative justice should also not be offered when a victim has clearly stated that they've tried to get the perpetrator and family to seek professional help over many decades of which the perpetrator fails to do. Certainly, when it's offered during a criminal case by the prosecuting police or the defence, it seems rather tokenistic and not at all genuine, otherwise it would have been taken up in the years I had kept asking for our issues to be resolved within the family. If that had been done, I most likely would not have taken the case and reported to police.

The police in their process of offering me "restorative justice" via the form they offered it – me having to personally contact the Healing Circle, it certainly was clear the police knew nothing about the process nor how it worked. The fact I had to call up Healing Circle myself to find out what it was, how it worked, was not a positive introduction to the concept especially given my circumstances of me having asked the perpetrator for professional help for the whole family for decades. It highlighted to me how little the police or the prosecuting police understood my case and did not take the time to understand my years of trying with that family already to help us process and move thru' the trauma with professional help. For me, going to the police was actually my last resort because I had waited around for years patiently hoping that family would come to the table and acknowledge properly the harms they'd caused. Once I waited for decades and saw it wasn't going to happen, especially via the recorded phone calls where I asked for financial compensation and he replied he didn't believe in blood money, that's when I knew he was only sorry he was caught. He wasn't actually sorry for the damage he'd done in my life.

So restorative justice should only play a role way before the criminal process. Perhaps if when I first went to report the case, the police had referred me to a space where my options could be fully understood and if someone had offered me assistance then for restorative justice instead of a criminal case, perhaps I'd have considered it if it had been facilitated by a reputable process and organisation. But again, in my case, I had actually rung a mediator who my counsellor had given me the name of but it turned out they weren't able to assist and I didn't know where else to turn.

2. Civil litigation

Question 48 Which of the measures listed above are likely to most improve civil justice responses to sexual violence?

Response:

N/A

Question 49 Apart from those listed above, are there other recent reforms and developments which the ALRC should consider? Are there further reforms that should be considered?

Response:

N/A

3. Workplace laws

Question 50 If you are a victim survivor who experienced sexual violence in connection with a workplace, which factors led you to take legal action, or not take legal action, regarding the violence?

Response:

N/A

Question 51 What provisions or processes would best facilitate the use of civil proceedings in this context?

Response:

N/A

4. Compensation schemes

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?

Response:

I did try to apply for the [REDACTED] Victims compensation, and I was hoping to be compensated for the years of therapy I paid for but I found out via the process that one needed proof of all the hours over years from counsellors I'd seen. Nobody tells you to keep a logbook and proof of these. My therapy all those years ago, I can't even remember some of the counsellors now. My main two, both are now retired and don't have their books or logs. So, it became too difficult for me to submit the evidence to be compensated. I would have liked to be compensated especially given I cannot undergo a civil case against my perpetrator it appears. So, there's no way I can be compensated via that method either.

I did also apply to the Royal Commission Institutional Sexual Abuse scheme and was awarded compensation at the maximum level by two organisations who had facilitated my placement into the adoptive family. The experience was difficult as we weren't sure if I would be successful given adoptees are typically considered outside the bounds of the scheme – our adoption normally deems us outside institutional care even though the institutions place us and assess and approve our adopters. But luckily my adoptive parents had been negligent and had failed to adopt me for [REDACTED] years despite obtaining me as a [REDACTED] infant in a war-torn country. It was during those [REDACTED] years that the abuse happened so technically my guardianship was the Minister of Home Affairs. So luckily, I was able to prove that I had not been adopted and the scheme allowed me to be considered and my case was successful. I'm one of the rare few adoptees in Australia to be allowed but only because my adopters had failed to legally adopt me for so many years.

I found [REDACTED] lawyers to be excellent and very supportive. They really made the whole process of applying for my case and being awarded compensation smooth and as trauma free as possible. We need more specialist lawyers like that who are trained well and can take nuanced out of the box cases and really try hard to help the victim be heard and have a strong case. I had tried 11 law firms for a civil case and no one knew how to manage my case because of the difficulties of being with a family but not adopted, not being a proper State ward, but now really knowing who my “guardian” was whilst the abuse occurred. [REDACTED] had the persistence and took the time to help figure out my case.

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

Response:

For all Australian adoptees, I truly believe it is a huge wrong to not allow them to apply under the Royal Commission Institutional Abuse Scheme. As mentioned above, their adoptions are considered a “private” affair and not under “institutional” care, yet I argue we were in care, our States placed us and approved our adopters, yet when abuse happens by these same people whom they approved, why then is our abuse not considered “institutional”? This is a massive wrong to thousands of adoptees in Australia today.

In terms of the [REDACTED] State Victims Compensation process, when I first rang a Rape Crisis hotline for support or via one of my many therapists I saw, it would have been helpful to have known via one of these to keep logs and proof of my therapy in case I ever wanted to make a compensation claim. Nobody tells you this. Even during the police process I was barely informed and only learnt the hard way of what they were supposed to tell me that they hadn't. Survivors need to be better informed so that we know our rights as survivors and can at least be aware of how to protect our rights, while going thru' the justice system.

5. Victims' charters

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?

Response:

I've never thought of a victim's charter before. It would be important to survivors/victims, I think. I would include a list of things to be aware of as a victim so that I don't miss out on knowledge that's important e.g. such as, get the police to put a request in to stop the

perpetrator from moving their assets so one can do a civil claim after the criminal case. I didn't find this out until almost a year after the police criminal case ended and I was also told I had to apply for compensation within a year of the case completing in VIC. These are important aspects to know up front, not accidentally find out.

I would want it to include a full outline of what my rights are and what the full process is and how it fits with other processes like Civil claims, Redress, etc. There doesn't seem to be a space one could go where you really can get good advice except thru' maybe a lawyer? But who has money to pay for a lawyer to give you this before you go to the police?

Question 55 Have reforms been implemented in your State or Territory? If so, how are they working in practice? How could they be improved? Have things changed? What is working well? What is not working well?

Response:

Would not know if reforms have been happening in my State. Clearly victims don't get kept in the loop nor would I know where to go to find out about these "reforms". I only learnt about this Law Reform Commission because of my connection to the National Centre for Action on Child Sexual Abuse.

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

Response:

I would like to know what my victim's survivor "rights" are and then I can give better feedback on how these could be best respected in the criminal justice system. Personally, when I went to put in my case to the police, I was not told or educated about anything like what my rights are except to tell me that I could decide at any time if I wanted to proceed or not.