

ALRC submission
Justice Responses to Sexual Violence
Addressing questions in the ALRC's issues paper

[REDACTED] - victim, and Clinical Psychologist

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

My name is [REDACTED]. I'm a victim of sexual violence, on multiple occasions, with my first sexual assault at age 14 perpetrated by a peer aged 16 years of age, and my most recent experience of sexual violence at 28 years of age. I prefer the term victim for myself. I appreciate victim-survivor captures both sides and experiences for people and I advocate strongly for people to use terms that best capture their beliefs and feelings about themselves and experiences. I am also a Clinical Psychologist working within Private Practice and providing psychological assessment and treatment. A large proportion of my caseload comprises of clients who have experienced sexual assault, and therefore I provide a lot of trauma based therapeutic interventions. Sexual assault does not exist in a vacuum, with early childhood/adolescence sexual assault and trauma/abuse increasing the likelihood of further assault and abuse. Similarly, therapy supporting those experiencing sexual assault happens throughout the treatment process – often with sexual assaults happening at some point in therapy, a reason for coming to therapy, or an underlying contributing factor for struggles months, years or many years down the track. As a Psychologist working with vulnerable groups, and working with teenagers and adults, I play a role in providing consent education, educating of safe behaviours in relationship, safe sexual practices. I am often the first person to which sexual violence is disclosed, and commonly the only person that sexual violence is disclosed to. I think that my personal experience combined with my professional experience, results in a privileged, but helpful position, for advocacy and contribution to a landscape in which needs urgent, immediate, and large-scale reform. I strongly believe that as a society we all play a role in contributing to this changing landscape – no matter our profession, our relationships, our personal experiences, and I hope that my contributions can be found to be helpful.

I will mostly touch on my most recent experience of sexual assault to answer questions and offer personal reflections. I do however want to note, that I don't believe I am alone in the wide-spread scale of sexual assault, and with my first experience of sexual assault occurring at age 14. We know a terrifying large percentage of people assigned female at birth have experienced sexual assault by age 15. We know that if we introduce consent education in later years, that this is largely already 'too little, too late'. I believe sexual violence is a gendered problem that links in strongly to many societal beliefs and systems throughout our

society. Of course, this does not negate the fact that victims are also men – and I feel sad that I feel the need to justify my stance. As Chanel Contos captures brilliantly in her book ‘Consent Laid Bare’, I also believe that men become perpetrators commonly out of ‘opportunity’ and a ‘disconnect’ for respect and care for the other person, with an emphasis on personal gratification. I think this is particularly true given the biggest demographic of perpetrators of sexual violence is boys aged 15-19 years of age. I think we need key understanding of the wider problem, before we can begin to effectively make law reform. The legal system is an extension of society – societal beliefs inform the legal system – the legal system can change, but it will remain ineffective as long as it does not capture the reality of trauma and sexual assault.

I want to be clear about my beliefs around sexual violence, as I also believe that the person who raped me in [REDACTED], did not belong within the category of ‘opportunistic rapist’. I believe he fell into a category of intentional rapists, of which generally sexual assaults perpetrated more explicitly with intent, garners more empathy and concern from the public. I believe that my story became more believable, more warranting of concern, more warranting of outrage because of indicators that it was ‘intentional’. I do not believe this should be the case. All rapes should be warranting of concern. In fact a pre-meditated intention to sexually assault someone is the exception, not the rule, and it is mostly men we know, love, live with, trust and have relationships with. Mostly men who are otherwise and in other areas compassion, caring, loving and respectful. If there is a such a high proportion of victims of sexual violence, then there is a high proportion of perpetrators of sexual violence. These people do not live on the outskirts of society, they are the people we love dearly, and they are in all spaces. If we continue to discuss sexual violence as if it is something that happened to victims, and not something that was done to victims my someone, we will continue to fall short in all changes and reforms. I believe, as I will outline further below, my profession, my credibility, my knowledge, my ability to articulate and advocate for myself, my candidness, my ability to communicate clearly my expectations and boundaries with the person who raped me, my clear story line, my ability to not fill in gaps in memory and report accurately to the Police what I did remember and what I didn’t remember, my understanding of trauma, my self-advocacy, my ability to navigate confusing systems, my ability to educate the detective on my case on trauma and the effects of intoxication on memory and motor function, my access personal and professional supports all meant I was afforded an experience where I was believed, without doubt, that many would not experience. That experience was still not good enough, and still warrants outrage and concern; but it was one that was vastly different to the many people that I support.

I used this outrage, and anger for what happened to me, and my privilege to drive for change. I decided I would contribute by speaking publicly, hoping to add helpful and educational media coverage, in a landscape dominated by misinformation and rape myths. I had countless clients who would comment on how x person known to them had talked about Grace Tame or Brittany Higgins or Saxon Mullins, in front of them, debating whether they were believable, or conniving or money hungry - and how now after that, they were never safe to disclose to them. That it was likely they would apply the same beliefs to them and blame them for their assault. I think the [REDACTED] article answered some, but not all, core questions about the areas of law reform that are needed when it comes to sexual assault, police reporting and processes. It includes many important people in the area contributing their knowledge and advice – a university researcher, Associate Professor Teresa Henning (a highly-regarded figure in law reform), and the director of a sexual assault support service. [REDACTED]

[REDACTED] As a separate note, but worth noting, the journalistic experience of talking in the media about my experience and rape very much mimicked the police process. Silencing, loss of autonomy and control, measures designed to protect perpetrators above and beyond what would be fair, stripping my story to bare bones in case of legal ramifications for myself and requests for vulnerability and exposure of myself, all with a disproportionate protection of the perpetrator.

As an ending note to the introduction of myself, I am incredibly willing and wanting to contribute to change and advocacy where I can. Should any further situations arise, or any further opportunities where you think my input may be helpful, please feel free to reach out.

Responses to questions outlined in the ALRC questions and areas for consideration

1. Reporting the experience of sexual violence safely

Soon after I was raped, I had two people close to me attend to me – one in person, and one via Facetime interstate. I had limited memories of this night because I was either alcohol affected, alone, but more likely (although unable to say with any certainty) also by a date-rape drug. Therefore, the morning after I woke up and started trying to piece together an understanding of what had happened the night before with someone I trusted. I also contacted the person who I had called on Facetime for support, and disclosed to them what had occurred – trying to get their understanding of my state and what I had said to them on phone call the night before.

The day after I was raped, I disclosed the rape to a further 3 friends. I contacted a helpline for support. In the days afterwards I told my Psychologist, other health professional and a GP. I made a police report 2 weeks later. I made decisions on who to disclose to, how to seek support and whether to make a police report based on my knowledge as a Clinical Psychologist of the harms of sexual assault, possible ‘protective’ measures in the aftermath of a sexual assault to help ‘prevent’ PTSD as best as possible, and awareness of the other avenues of support. I knew I would need to contact Police and make a report as soon as possible if I ever wanted to be ‘believed’. In the days afterwards I reached out to people I knew who could help me make that decision (e.g. friend who is also a Psychologist who worked at a Sexual Assault service) and I also checked in under ‘professional’ guidance with a police officer that I knew in a personal space, about the best way to report sexual assault. It was only because of these supports, and my own knowledge already that I felt I could advocate for myself. I think there is a big gap in support needs here that I was only able to fill because of who I know, and my own profession and education. We need easily accessible guidelines on steps for who we could disclose to following sexual assault, the benefits of disclosure (formal and informal – e.g. minimising the possibility that we will internalise harmful beliefs that may form as a result of the sexual assault), education on early responses of PTSD, how support could have mitigate the likelihood of sexual assault, the different ways people may respond following trauma, the normalisation of fawn response, education and facts about how often alcohol or other substance use is involved in sexual assault, and pathways for reporting to Police – as just a number of ideas. This information needs to be more easily accessible than it is. It needs to be easy for professionals to share, and in one place, preferably. It needs to be created by a number of professionals – Police Officers, lawyers, counsellors, psychologists, GPs etc, with a trauma informed focus that captures the reality of sexual assault, and acknowledges the shame that often is associated.

An example of how I found this to be unhelpful and inadequate, was through my experiencing phoning 1800RESPECT. I called them with a direct question “This happened to

me, I am struggling to process it, I know it is rape but I also know that I will start to internalise things, and I just want to make sure I am not missing anything I can do to help myself right now.” The gist of their support was limited to reminding me to report to Police (of which I did not want to do, but this wasn’t discussed much further) and to encourage getting an MSE conducted. I did not wish to do either, and had already considered carefully why I had decided not to do so. I could have benefited from talking through the meanings and beliefs that had already started to come up (this is an accident, I am responsible, I got too drunk, I must have thrown myself at him). I really would have benefited from a reminder of how often alcohol is a factor in sexual assault, and normalising of the fawn response. I could have benefited from someone pointing out directly the shame I was feeling and telling me that was seen and heard. I am sure experiences will be varying, I am sure those things happen at 1800RESPECT time to time, but what I recall, was the focus was police reporting and MSE. These things are time sensitive, so often are the focus immediately afterwards, but I think we can still do better in addressing both needs. Even if that is through a website link, or handout that could be referred too, or may come up when you google sexual assault support etc.

I decided very clearly not to have a MSE conducted the day after the rape. I know I was still processing the rape at the time and trying to make sense of what had occurred to me. This was a very considered decision that I made by talking it through with many supports. I decided at the time that I would have ‘sufficient’ evidence that I was raped, and that the perpetrator had admitted to ‘sex’ happening. I decided against an MSE as I did not believe it would prove anything further beyond his DNA/sperm being inside me and thus confirming ‘sex’ had happened. I made this decision knowing that the MSE process was likely to be confronting and further traumatising, and because of the likelihood given my profession and likelihood of knowing someone at the hospital where it would be conducted because of my profession and location. I made this decision also knowing wait times at the hospital, and the awareness that I needed to be around supports in a safe environment where I could be safe to be distressed and process what had happened, rather than in a hospital waiting area for many hours. I only realised when I reported to Police that it was likely my drink had been spiked. As I’ve already made mention to, most rapes are perpetrated by people known to us and that we have relationships with. That distorts the ability to seek help. I did not consider that a person I was ‘friends’ with, and ‘trusted’, would or could do something as intentional as drink spiking me. I was barely comprehending that they could have raped me. The default easily became, ‘maybe they misunderstood’, ‘maybe they didn’t realise’, ‘maybe I contributed by throwing myself at them and I don’t remember it’, ‘maybe I just drank too much too quickly’, and ‘maybe I just didn’t eat enough that day’. I was very aware this awful thing had happened to me and I was very quick to name it up as rape. But, I still held beliefs that I must be somehow at fault. I was certain that there was no value in a MSE or reporting to Police. I couldn’t see a time in which I would want someone I was once friends with to be reported to Police, as I couldn’t see what had happened to me as intentional. I could acknowledge I was raped, but I also believed deeply I was to blame, and that it was accidental. Why would I want someone punished for something I was partly at fault for, and that was not an ‘accident’ or ‘misunderstanding’?. I am aware of the statistics around reporting and reporting outcomes, of added trauma and of my experience with reporting sexual assault at age 14 to Police – where I was very, clearly, victim blamed and invalidated. I knew all of this. So why would I want to do anything that I ‘should’ do in these moments? This person could not have done this. This was my fault. Those measures are ‘big’. I say this because it’s important that we understand deeply the thinking processes that occur in the immediate aftermath of sexual assault. It is important because after trauma we cannot be expected to be

present and logical. We say this because most people will have internalised rape myths and shame that will strongly show up in the moments, hours, days, months and years after a sexual assault. Most people have a strong feeling that something 'wrong' has happened, but we are often steered away from it. If we are going to change systems and processes for the better, we need acceptance that my thinking processes in the immediate aftermath of rape was not uncommon. These are the thought patterns I see replicated with clients. It is often my role to help clients see that it was clear it was not consensual, that they had not contributed, that even if they were 'too drunk' they should have been cared for and not raped.

The shame of sexual assault, and these beliefs/thought patterns, and time needed to process experiences affects timelines of those disclosing sexual assault to anyone – personal, and formal like psychologists and police. We truly need a greater trauma lens to understand the early stages following abuse – singular event and multiple event assaults. These include:

- Understanding that victim-survivors may change their narrative as begin to understand and process what has happened to them.
- Trauma memories can come days and weeks later. This happened to me.
- There is no specific way that a 'victim' reacts or behaves after sexual assault. People may be friendly and engaged with their perpetrators immediately after the fact and then slowly start to distance themselves. They may need to do so to keep themselves safe; further rejection or communication or distance or hurt may aggravate the risk of further violence. They may be shamed and feel responsible and seek soothing through connection with the perpetrator.
- People may be well-functioning, 'happy', attend events and be publically engaged in very 'normal' ways following an assault. They may be still processing, in disbelief or shock, or in denial of what happened. They may be avoidant of acknowledging to themselves that something awful has happened. This is a very protective mechanism following trauma. This is a form of detachment and dissociation, and protects us from being too overwhelmed and distressed when experiencing trauma. It keeps us safe.
- We need greater public understanding of how trauma impacts memory formation and recall; how dissociation works, it's role, function and impact on memory and how alcohol and other drugs can do so also.
- Greater understanding that victims are not 'perfect', they are confused, and often act in ways that may 'place themselves at more danger' in the eyes of an uneducated layperson. This is normal and common. They are not responsible for their abuse because of this.

The belief that victims should know immediately and respond in 'protective ways' often gets used to discredit victims. In my case, I made the mistake of seeing a reddit thread that argued against the validity of my rape.

In the words of one reddit user:

They're not technically - **both people are rapists which seems ludicrous**. I don't know if both would be prosecuted though. There seems to be cases in the USA **where the man was prosecuted and not the woman**.

I guess the **best advice is don't get too intoxicated or too drunk where you don't know what you're doing**, man or woman

The suggestion that the defence should prove consent on the balance of probabilities is very problematic. It is a fundamental pillar of the justice system that when you are accused, it's for the

prosecution to show you're guilty beyond reasonable doubt, not for you to prove your innocence.

The current system is obviously broken, **but the solution can't be a system where two people can have drunk consensual sex and then one can come out later and say um I don't remember. That's effectively withdrawing consent after the sex is over.**

These are not uncommon beliefs, and it will need consistent education from the ground up to assist with law reform. All of which, form the broader picture of addressing sexual violence. I hold no doubts that these beliefs are held by people in positions throughout support avenues – GPs, Psychologists, counsellors, hospital staff, police officers, judges and prosecutors.

No part of my formal education at university included any education on how to respond to sexual or domestic violence. I was not provided education on consent. I recall one student in my Masters cohort who confidently interjected a lecture on sexual disorders, to state that *'surprise sex isn't rape'*. These beliefs are held in all positions of power – where serious harm, and failure to protect can and do occur. People will not report to police, if they are dismissed, invalidated or had beliefs about responsibility of their assault confirmed by those in power. These experiences can be foundational. The Psychologist I saw at 14 failed to respond adequately to my reports of sexual assault. He confirmed assault as normal. He therefore made me vulnerable to further assaults – of which occurred whilst I saw him, and after I saw him. He cemented the belief that I was 'over-reacting' and my reluctance for 'sex' was 'normal' and 'expected' in heterosexual relationships. The impact is significant – and, a version of this, is not uncommon. I have had similar stories of this repeated to me from clients, from Psychologists who have normalised abuse, have labelled trauma responses in the case of active trauma and DV as anxiety or depression and encouraged medication for symptom reduction, and have failed to protect or encourage reporting. A bottom up approach is significant and needed. People will never go on to report this, and sometimes not even be aware that what they have experienced is abuse. This will not be captured in statistics of the rates of sexual violence. And the opportunity for intervention simply stops here. They will have no experience to recount about their experience with reporting and the legal system, because they will never get there.

To answer these common, unfounded, and uneducated questions:

- If you thought you were drink spiked, why didn't you go straight away and get an MSE?

I didn't even think of it until the Police showed serious concern for what happened and noted my presentation and alcohol consumption didn't match up.

- Why would you message your perpetrator a nice message in the morning and then change your tone at 1pm that day?

Because I woke up trying to figure out what had happened. I felt immense shame and embarrassment that I must have been so drunk in front of them. I could recall crying and being distressed and sitting naked cross-legged on my bed in front of them. That all brought up shame. How dare I get myself into a state where I did that? How shameful. I need to show I am not 'crazy', I'll apologise for my behaviour, I'll hope they have a good day, I'll send them a love heart at the end to show I haven't changed at all in my response and relationship to them then it was before the rape.

Every victim has some version of this story, and we need to understand better how trauma works, how shame shows up, that there is no one way of processing rape and trauma. We

need to understand that because victims may change their stance, be initially willing (or forced to continue to have a 'nice' relationship) with perpetrators, that this does not discount or discredit their reliability.

So how could things be improved in the instance of initial reporting?

- Mandatory education for all workers and 'first responders' that may have sexual violence reported to them, including teachers, Psychologists, GPs, police officers, nurses and doctors. This education should include the debunking of myths about trauma and sexual violence, memory, and trauma responses. It should include education on helpful responses, and support avenues. It should also include education that encourages choice, control and autonomy for the victim – where action and the sharing of information sits firmly with the victim-survivor where appropriate and possible (e.g. child safety reporting requirements needs to be followed).
- Information should be readily available and accessible in multiple formats, for example handouts and websites. These should include handouts and websites that debunk common myths and beliefs – that normalise freezing and fawning responses, and that encourages connecting with safe people for support. This could also include examples or 'green flags' of safe people to report to, and 'red flags' for unsafe people. It should also encourage choice, control and autonomy and normalise/validate the decision to report or not to report to police. It should include the different options for reporting and its possible benefits, for example, informal reporting can help build statistics. This helps to provide people with the feeling that they can take some control or action in response to a serious violation of their right to safety, choice and control.
- Greater funding to services who support those who have experienced sexual assault.
- Greater funding allocated to public education on sexual violence and consent. This can be beneficial in many ways. Greater education on consent will address the rates of sexual violence, provide people with the knowledge about sexual violence which gives them the language and context to understand what may have already happened to them, or the knowledge to understand what has happened to them if it occurs in the future. It can make families and friends safer people to disclose too. It can create change amongst jurors, and other professionals already named that are involved throughout the process.
- Specifically – a website or service dedicated to easily accessible, clear, outlines on the process of reporting, who to call, that you can make formal or informal reports, that its helpful to coordinate an appointment with someone from sexual assault branch, rather than walking in and talking to a uniformed officer, the benefits of a MSE, its limitations etc.

What has been implemented and working well?

SASS – the sexual assault support service here [REDACTED] has Police on site. It has helped those who are considering making a Police report, or have made a Police report access support before, during and after this process. A support person, counsellor, worker, can sit in with them on police interviews and advocate for them by checking in on progress of the report, and communicating back to the person. This is a helpful step.

2. Police responses to reports of sexual violence

I reported my sexual assault to police two weeks after it happened. My friend, who is also a Psychologist and worked at a dedicated sexual assault service, advised that I call to schedule an appointment with a detective from the [REDACTED] instead of

making a report by walking into a branch and speaking with a uniformed officer. The rationale for this was that the detective would have more experience taking reports of sexual assaults, a better understanding of trauma and sexual assault, therefore less likely to inflict harm or be invalidating.

I had initially intended to make an informal report. This had been suggested by the same friend as an option I could take. I wanted to make an informal report rather than a formal report, because I still felt it was “wrong” and “unfair” to report my “friend” who had “accidentally” raped me, irrespective of other beliefs and feelings of the opposite.

When I spoke to the detective I was clear about my intention to informally report, including my rationale, what I hoped to gain, and the reasons against making a formal report. Reasons for an informal report included; being aware that in the near or far future I may process the rape differently to how I viewed it now and therefore I may change my mind about reporting. I recalled to the detective that I wanted to ‘protect myself as best I could if I changed my mind’, and noted to him that “I knew to be believed I would need to report as soon as possible otherwise I will be dismissed”. I noted to the detective that I didn’t want to make a formal report because I was “aware of the statistics around sexual assault convictions. They are around 1%. I don’t think I would even have a chance.” I also did not want to risk invalidation, rape blaming and ongoing distress. After discussion with the detective, and sharing my story with him, he told me that I would need to make a formal report to achieve the aim of reporting, which was for it to ‘hold up in court’ if I ‘ever changed my mind’. He was encouraging of me to take time to consider this if I wanted and was patient with me. He also communicated clearly disgust and concern for what had happened, and I felt believed. He told me a formal report involved a taped audio and visual interview, whilst an informal report would involve a written statement. I felt safe and supported because of his response and concern. I made a decision to complete the audio and visual taped interview then, as I didn’t want to delay it further than it had been. He offered to have a support person and I declined. He communicated clear concern and that he believed me, offered me a support person and encouraged breaks throughout the interview when he noted I had tired. He apologised for asking what was insensitive questions, which I felt was helpful and appropriate.

My goal for reporting changed at a couple of stages throughout the policing process. It initially involved a formal report in case I wanted to take further action or changed my mind in the future.

I agreed to collect evidence and do a taped interview in order to achieve this goal. The detective told me that I could withdraw or stop once the perpetrator was asked to attend for an interview. At the time, I agreed I would continue up until that point. I knew that my choice, control, autonomy and voice had been taken away from me. I knew that I was so vulnerable that I would not be able to communicate this to him myself, and I doubted he would care or respect the fact he had seriously hurt me. I felt as though I could obtain some choice, control and voice back by reporting him to the point to which his actions were communicated to be serious. I trusted at the time that the detective would do so in a way that communicated seriousness of the allegations.

I changed my mind further again, as I became aware of other victims, namely a second victim who had been raped ‘violently’ (in the views of the detective) i.e. choked until almost passed out. He used similar tactics to which he did with me – and with my support, this person made a report to the same detective. We noted to him the similarities in the behaviours and comments made around the time of the rape, including in the hours and minutes in the lead

up to the rapes, immediately following, and in the days/weeks following to others. I want to note clearly that sexual violence strips people of control, choice, voice and autonomy. Therefore, it is central in all responses following this, that the prioritisation of return of this choice, control, voice and autonomy in all aspects is prioritised. This becomes a central pillar of trauma treatment – and should be a central pillar of all responses to sexual violence and violence.

I have since engaged in a research study currently being conducted by LaTrobe university on the police proformas for taped interviews in sexual assault cases. The proforma that was shared with me to provide feedback on was not used in my case. For example, I wasn't given any instructions regarding memory, and to not fill in gaps. In saying this, this proforma also needs reform and change. It had suggestions on 'helping someone' if they noticed the victim was having a 'trauma response', but was so vague and incomprehensible that it was difficult for myself as a Clinical Psychologist to even understand what directions or steps that would be expecting the police to take at these times. These should also be reviewed.

I was acutely aware throughout the interview that I needed to remain 'contained' and not overly distressed', in order to present as reliable, credible and stable. As per feedback from the DPP later on, my taped interview was used to demonstrate my credibility – and in their own words, I was reliable and articulate. I was very clear on what I did remember and what I did not remember, I was clear that I was not filling in any gaps in memory, and where I offered possible explanations for my gaps in memory and what may have happened, I was clear that they were speculation and provided reasons and rationale for why I had come to those conclusions. These things were all things I was acutely aware I needed to do in that taped interview, a standard which is unfair to ask of for most victims, and something that was helped by my profession and my knowledge. It was helped by the fact I could easily step into a role that allowed me to speak about my experiences as if it hadn't happened directly to me, but with awareness of what would be needed of me – all of which was a standard to adhere to that was confirmed in the DPP feedback.

Despite this first interaction being positive, I have a number of concerns with the Police process following this which I will note. I say this noting that I don't believe these were unique to this detective, and at the time I was incredibly grateful and glowing about the support and response he provided me. I felt indebted to him because he believed me.

There were several serious failings that warrant noting:

- I provided psychoeducation on a number of topics relevant to my case to the detective, in response to misguided comments, or comments about the direction of my case. For example, the detective made comments querying dissociation as a cause for my memory loss prior to the rape itself. In response to this, I provided psychoeducation on dissociation and its function, and the impact on memory (does not account for retrograde amnesia, that is incongruent with its function which is to protect from harm, it does not predict rape and apply dissociative functions pre trauma). I also provided psychoeducation on the impact of alcohol and other common date rape drugs on motor function. This included in response to a CCTV footage that was used to consider my state of mind in an uneducated manner. I included links to journal articles and research to back my statements and to be credible. I was concerned greatly about the impact of misguided beliefs and knowledge about trauma, memory and alcohol/other substances to discredit my experience, and the impact this may have on the file presented to the DPP. I do not know how this was presented to the DPP and whether inaccurate information was included.

- In regard to common date-rape substances, I provided education on the time frames that they commonly leave systems. I did so in the context of him suggesting and noting that if toxicology came back 'positive' then we would have a case. I was concerned about him placing emphasis on this being a 'silver bullet' when all evidence, research and knowledge about common drugs showed this was unlikely when bloods had been taken by my GP four days after the rape occurred. I believe that an emphasis was built on this, and in the process other credible evidence was disregarded.
- I provided suggestions on avenues to obtain further evidence – e.g. I suggested obtaining CCTV footage from the street, recording us walking back to his car. This CCTV footage was later used to suggest I could have provided 'consent' and may back up a defence of mistake of fact as I was not "falling over" and he was not "being violent and dragging me into a car" and that I had "kissed him".
- In regard to this CCTV footage, the detective asked me to attend the station to view the footage with him. I had noted on many occasions to the detective that I had no memory of walking back to the car, only having some brief audio memories. We reviewed the footage in a small room together, and he queried my memory of a 'kiss' that happened on the footage. I reiterated I had no memories of walking back, no memories of the group of people behind us. I had told him I could only guess we might have taken that path to the car, as we had taken that same pathway from the car to the bar when we had arrived. He was not considerate of the distressing nature of viewing this, having emailed to ask me to come in to discuss and after I asked questions about the content, he told it was brief, patchy, we walk together holding hands and the perpetrator pulls me in for a kiss and I do not push him off. I told him immediately I would come in, and confirmed I had no memory of this and it was distressing to know that happened. When I viewed this footage with him, I confirmed this with him – no memory, and distressing given it was non-consensual and I had no memory – to which he responded, it was "relieving that he was at least was not dragging you into the car" and "you weren't falling over on the ground". I could appreciate at the time those comments were intending to be reassuring, but this was not reassuring to me. I was of the belief that I had my drink spiked, or was so affected by a substance, even if it was alcohol alone, that I had no memory of it – and that after this fact, I was raped, showered by the perpetrator, and left in a shower, distressed and alone in a house. I had my phone taken by the perpetrator and only returned when I had messaged for help from my laptop to someone who called me non-stop on Facetime. I had told the detective I had a memory of the perpetrator being frustrated and handing my phone to me and leaving immediately saying "X won't stop calling you". I did not need to be dragged on the ground because I was being compliant – either because I was drink-spiked, or because I was alcohol affected. I did not consent to the kiss. The footage was distressing. The act of rape was violent because it was rape. It would be incredibly incongruent to a goal of sexual violence, to have a victim so affected that they were falling over. Some date rape drugs do not impact motor function. Some do. In the stages of alcohol intoxication, impaired motor function is often one of the last stages. Why would someone need to 'fight' me, or be 'violent' if I was compliant because of intoxication of some kind? Why would you want to draw further attention to us on a street by "dragging me into a car"? You would leave the bar and premise before this occurred, knowing the time frame of a drug and its effects on a victim. The statements he made were victim blaming and invalidating.
- He made several comments across the time indicating that although we had 'affirmative consent' legislation, that evidence such as 'scratches', 'bruises' etc.

would help build a case further. He noted the kiss on the CCTV footage could indicate to a jury that it was fair and reasonable grounds for mistake of fact defence. He noted that my case didn't show violence. This is misinformed for several reasons. Firstly, a kiss does not warrant consent for any further acts, I was unsteady in the referenced CCTV footage, that footage he refers to was grainy, had no sound or close up footage – i.e. you could not accurately see my state of mind at the time. I may have been completely disoriented, I may have had no idea where I was or may have been speaking in a way that was evident, I was not of sound and present mind. Alternatively, we held footage that someone close to me had taken within an hour of the rape. It clearly showed the state of mind I was in – I was slurring words, I was incredibly distressed, I was unaware of where I was and what I was doing, I was repeating words. This footage was entirely dismissed by the Police and the DPP, and the emphasis was placed on the CCTV footage as further reason for why my case would not stand up in court or be likely to achieve a prosecution. I was never given any reasons for why grainy CCTV footage would hold greater weight, then filmed close footage of me, close to the time of the rape, that included audio and visuals clearly evidencing a state of intoxication to which I could not consent.

- The subject line of all email communication included the name of the perpetrator. I personally found this distressing every time it came up on my phone, as I found it to become a trigger to PTSD responses. I also note that I have had several clients report the same. Clients report find it hard receiving emails for this reason – triggering PTSD responses.
- I had to wait 6 months for toxicology to be completed. The initial timeframe given to me was 4 weeks. The detective was often not in touch with me throughout this and was just encouraging of me to not be anxious or worried, when I noted the impact.
- I asked specifically if I should change my attendance at a location where the perpetrator was. The detective was helpful in noting my options and the possible perceptions of juries. It was noted that by both of us, that whilst it was unfair, as I had every right to try and continue with my life, and to be firm in still attending where he might be, that a juror may view that as incongruent with behaviour of someone who was raped. The perpetrator left soon after so this decision was taken out of my hands – but I would like to note that this is a clear way that rape myths affect the trial process unfairly.
- The toxicology report delay of 6 months was significant for numerous reasons. We needed to wait for this to be returned before the perpetrator was to be contacted about a statement. This allowed him time to continue to live his life while mine was stalled. It felt incredibly unfair. It also meant I was asked not to share that I had been raped with anyone outside of immediate supports, in case it reached the perpetrator that I had believed he had raped me, providing opportunity for him to create a narrative in ready. In this time, the perpetrator spread many narratives and stories about me that I heard from others (and which he similarly did to other victims). Given the delay, I was unable to respond to these stories and narratives, if I had wanted too, effectively silencing me and placing me at further mercy to him. This further striped my choice, autonomy and control. It is something that I likely would not have shared irrespectively, but it took away my choice, and voice – of which had already happened by being raped. I had to be heavily guarded and allow narratives of myself and the experience be openly and freely spoken about without any ability to defend myself – and no choice about whether I wanted to do so.
- It was difficult to start a grief processing knowing that a DPP response about advice on the file could take 6 months to a year (information given to me by the detective,

and confirmed by others). This was difficult knowing the process was already delayed 6 months through the toxicology wait. Guidelines say the DPP should responded to requests for advice for a file within 6 weeks. The DPP process in my situation was quick, but I am aware this is not often the case. Delays throughout the process make processing trauma very difficult. Life is on hold. Each day and week you wait wondering if you'll be released of this wait – and also questioning whether you might have your capacity and functioning unexpectedly impacted, increasing nightmares and other trauma symptoms.

- Despite communicating the impact of delays to the detective (in a way that was incredibly people pleasing and compliant, as I was acutely aware all choice and control and autonomy sat with him), he was often ambivalent and did not communicate any delays. He often did not follow up for respond to emails for weeks at a time, even during times where there was high stress.
- Notably, he failed me in achieving one major goal of following up with a report to police. The detective told me that the perpetrator had been 'contacted by phone' and he had requested he come in for an interview. He said the perpetrator had agreed, and that they had scheduled an interview for a week later. When I enquired about the rationale for it being a week later, he encouraged me 'not to worry, it's just scheduling things on my end'. I followed up with him a week later, and asked if I was 'allowed to know' how the interview had gone, and requested an update. He told me that the perpetrator had cancelled that morning after receiving advice from legal aid to not engage in an interview. Although I did not communicate this, I felt incredibly let down. I felt as though there was more serious action and urgency taken in minor matters, and yet, we were mostly dependent on the perpetrator engaging in an interview and being questioned on the events of the night. I knew that without that, I again had limited chance to gain advice to proceed with prosecution, with a low risk of conviction. I felt like his lack of urgency communicated a lack of care, and ultimately could play a role in a chance at justice. Of course, my perpetrator may have always gone and sought legal advice being coming in for an interview. However, a phone call, rather than presenting to his house or place of work, did not communicate concern for me and I felt the scheduling of the interview a week later allowed for significant time for a story to be developed, and advice to be sought. I know that the perpetrator had two dinners that week with people mutually known to us. I had not disclosed what had happened to these people, and I feared he was telling further narratives about me that were untrue in response to this request. I have never clarified this and I do not know the intention or outcome of those dinners. He had not seen or contacted them since we were last in the same social space 6 months earlier. I felt let down by the detective and system, that allowed and felt complicit in further harm. It did not communicate concern and the seriousness of the allegations and report. I felt incredibly unprotected, and that the act of a phone call could easily communicate a lack of belief and concern, and seriousness of the police response. I felt as though my 'goal' of the formal report to have it communicated to the perpetrator that what they did was 'not okay' and 'serious', did not occur. I felt a lack of control and questioned seriously why I had proceeded in the first place.

3. Prosecution response

I did not have direct contact with the DPP. This came through the detective, but my case was presented to the DPP. The advice from the DPP to not proceed with charges was based on the fact I had limited memories of the rape, and suggestions that the CCTV footage could be used

to support a mistake of fact defence. The feedback also noted my credibility, and that advice to not proceed did not mean 'they did not believe me'. This was not comforting.

Again, several concerns lie within this:

- This feedback was communicated to me suddenly and without warning by the detective over the phone to me while I was at work. I was very distressed and had to suddenly cancel clients as I was not being in any position to safely provide care to others. I was not told this phone call would be distressing. I was told it was an 'update' on DPP feedback. From my perspective I thought that there was more steps to come given the unseriousness note of the email from the detective regarding this call, and that I had noted to him I could call him between clients. He did not express any concern or suggested that I call at a time that I was not at work.
- A second victim had reported the same perpetrator after I had. It was communicated to me that "if a third person came forward that might change things in the future, we'll keep the file on board, you just never know".
- My credibility through 'containment' and being 'articulate' was reinforced – this only served to reinforce the unrealistic expectations of victims. It also reinforced that I held no chance of prosecution from the start. I was a credible victim. I had lots of evidence for a rape – two witnesses soon after the fact, text communication confirming that 'sex' had happened, CCTV footage of me being unstable, text message communication with me clearly indicating boundaries and telling this person I did not want any intimacy or relationship with them beyond friends (clearly outlining this – to which the detective did comment that I had good communication skills!), video footage of me in a state was clear I was unable to consent soon after the rape etc. My story never changed. I was clear. I had limited alcohol – three drinks, possible four drinks max. There was a second victim with a very similar story. All of which was not good enough because I had no memory, confirming that the very method he likely used to rape me (drink spiking), meant he was able to get away with it without any ramification or consequence.
- I was not informed I could challenge or appeal this. Although this feels mute irrespective, I still was not informed of this. Whilst I do not believe cases that are unlikely to be prosecuted or have a conviction should be encouraged to trial – I think this uses limited resources, exposing victims to further distress and trauma and can contribute to further public mistrust. But I also feel incredibly disheartened that our system is so unequipped and designed to support, yet also designed in such a fashion that it is complicit in rape and sexual assault. The system itself is not broken. It is working as designed, and that is to protect perpetrators. It has not been designed with the safety and protection of victim-survivors in mind. In my case, the system fully supported the mechanism in which the perpetrator chose to rape me. Our system will never find justice or be able to convict my perpetrator, should he continue to use this method, of which he has done on two known occasions, and likely more – it is undetectable and unable to be prosecuted in our current system, both in its blood work generally, and in its impacts on memory.

We have affirmative consent legislation, but our system is not able to apply affirmative consent, as can easily be seen in my case. I also do not believe affirmative consent was applied throughout my communications with the detective. He often referred to evidence of violence – to which I noted back to him, that rape in and of itself was violent – that fawning and freezing responses exist, and that drink-spiking itself is incredibly violent. I did not need to be dragged anywhere. The violence act was already committed, and a further violent act was about to be committed. This was never acknowledged.

My sentiments that in the final email exchanges with the detective on my case capture my frustration and anger:

“Hey [REDACTED]

I confirm that following were the main factors we discussed that result in [REDACTED] not being charged (I'd note that below is not a complete and thorough depiction of all the evidence collected, just a summary of the main points):

- Your evidence was articulate, honest and well-presented. It was credible because you didn't try and fill in the gaps of your memory with suspicions or things you couldn't remember. When you did try and fill in the gaps, you made it clear it was only a suspicion, and made a clear distinction with things you remembered clearly. No adverse findings were made in relation to your credibility or ability to give evidence. However, the downside of gaps in your memory, is that you couldn't remember overt acts consistent with rape (assault, abuse, threats, intimidation, overbearing nature, etc - the overt factors set out in s.2A of the Criminal Code). This makes it very difficult to prove rape to a jury in the absence of evidence to support an overt physical or violent act/s consistent with rape.
- Intoxication was obviously a big factor in this case, because as we have discussed, a person needs to communicate (say or do something) to consent to sexual intercourse and have capacity to consent (this is also in sch.1, s.2A of the Criminal Code). The gaps in your memory, statutory declaration from [REDACTED] saying he has never seen you that intoxicated before, the video evidence of you in an intoxicated state, all assist in trying to establish a lack of capacity. However, all of this comes after the alleged act of sexual intercourse. The evidence prior to the act of sexual intercourse is the [REDACTED] CCTV footage from the laneway to the carpark. This footage shows you both very intimate with each other and kissing. The footage doesn't show you in such an intoxicated state that you didn't have the capacity not to consent. A jury would see this footage and effectively see you doing something before sexual intercourse consenting to intimacy (i.e. kissing, embracing, etc). As we have discussed before, this would assist [REDACTED] in raising a defence of *honest and reasonable mistake of fact* (see sch.1, s.14 - 14A of the Criminal Code). I would note that kissing, embracing, is not complete consent to engage in sexual intercourse, and consent needs to be ongoing, however it is one of the confirmed acts [REDACTED] could use to say consent was established under sch.1, s.2A of the Criminal Code.
- There was no forensic or medical evidence relating to your level of intoxication - the forensic results from [REDACTED] relating to the [REDACTED] Pathology blood sample indicated the sample was too small to undertake a complete drug screen, however the testing that was done didn't detect any alcohol or date rape drugs (GHB, etc) - this testing was quite limited however due to the sample size.
- Because [REDACTED] made no comment in relation to the allegations, there were no flaws or inconsistencies we could expose to try and remove or mitigate any defences he could later raise at trial. “

As a result, the DPP determined there was not a reasonable prospect of conviction in relation to this matter. The criminal threshold of proof is very high (beyond reasonable doubt) and we wouldn't be able to prove rape to this standard if the matter proceeded. As discussed, the DPP did provide us with legal advice in the form of a report, that we don't typically release because it is legally privileged. They did legally analyse it much better than I can however. If it were

released, that release could remove the legal protection of that privilege, and could be used it Court later if proceedings ever eventuated on fresh/compelling evidence (e.g. if [REDACTED] made admissions, etc). However, you can apply to have it released and they can assess if they can release it or not. The process is stepped out at the following

link: <https://www.police.tas.gov.au/information-disclosure/right-to-information-disclosures/>

I'd absolutely reiterate that there was nothing wrong with what you did or your evidence. We didn't charge [REDACTED] because we couldn't reach that threshold of proof on the evidence. I hope it somewhat helps? I know it's frustrating and obviously not good news, but I hope it brings some closure in the sense that you've done everything you can to try and establish what happened and we got all the evidence that could be retrieved in the circumstances.

Hi [REDACTED],

Sorry I was delayed in acknowledging that you had sent this. Thank you for putting as much effort as you did into it all and explaining everything. I just needed some processing time.

I'm grateful to have it in writing - in processing everything there was a fear I had misinterpreted or misunderstood what the major points back where given I was pretty upset when you fed them back to me at the time, and that I wasn't expecting the feedback to be that. Even though I held hope along the way he would be prosecuted for what he did, especially as more evidence formed that supported what he did as intentional, and that he had done it before - and I'm sure more times than twice (of course speculation, but what I believe after knowing everything I do); I also was expecting it to never go my way anyway. Again, just like I told you at the start, I know the stats and the outcomes, and I had virtually no chance. As I also said at the time to you on the phone, it devastates me that this is the outcome because it just reflects how broken the system is. I don't feel like this matches affirmative consent at all. I'm aware Tassie doesn't yet have affirmative consent laws, but we have pretty close and this just feels so far removed from that (**noting after the fact that in this email I had relooked up legislation and saw commentary about this that was inaccurate, I felt confused by that, but now understand further what I read to be inaccurate and we do have "as good as we can" laws addressing affirmative consent*). I know there's the legalities around each point, but it remains that the points are really held up by rape myths and aren't exactly trauma informed. Such a huge systematic problem - and where do you even begin with that I suppose. It's both an easy and hard question to answer.

It baffles me that there needs to be outward signs of "violence" defined in a very specific and limited way. Rape is so very rarely violent like that. And if someone is so affected by either alcohol or date rape drugs (which I think is better explained here) that they're just compliant because they can't consent, then there really is no need to be "violent" in that way. I would argue date rape drugging someone is violent and rape itself is violent. Again, a legal issue.

The issue of CCTV also baffles me. The fact that happens when I don't recall, have said I have blacked out memory and I've said I recall him commenting that we need to get out of there as we leave. It's baffling that footage that doesn't truly show my state of mind holds more weight against witness reports and video footage that show how clearly intoxicated I am, to a level I clearly can't consent - and are dismissed all because it occurs post fact. As you also say, it's not reflective of affirmative consent. Consenting to a kiss (which wasn't even accurate because I couldn't and am not doing that on the CCTV footage anyway) doesn't mean anyone consents to sex. I suppose it's again running with the assumption

society again doesn't understand rape very well and that the jury is likely to interpret it that way. It also baffles me that my lack of memory is both a reason for not pursuing in the first point and also further evidence for my intoxication in the second point.

Thank you very much for sending this straight away, I really appreciate that. This also isn't a criticism of you in anyway, I know your intention has always been very well placed and it did make a huge difference that I knew you believed me from the start. I know this isn't reflective of whether I was believed or not, and it's a system that needs to be better and do better. We need to understand the realities of rape better, and we need to actually apply affirmative consent at every step of the process. Gonna involve lots of change in lots of spaces - society very much included in that

Thank you,

██████

Further to points made in these emails - Associate Professor Teresa Henning spoke directly about the justification for a leavening on burden of proof in the 730pm report and article, addressing the mistake of fact defence.

“Associate Professor Henning said consistently low conviction rates suggested the system was stacked against complainants.

She told ██████ it was time for major reform, saying it should be on the defence to prove an encounter was consensual on the balance of probabilities – instead of the prosecution having to prove the absence of consent beyond reasonable doubt.

“I think that we have gone really far down the track in making the law in Tasmania as good as it can possibly be, but if we're still not managing to shift these myths and stereotypes, and problems of perception, with juries, we probably need to do something much more radical,” Associate Professor Henning said.

“It subverts, to a degree, that golden rule that the prosecution must prove its case beyond reasonable doubt ... (but) things are so stacked in favour of the defence that some leavening of the burden of proof can be justified.”

These sentiments were echoed in the recent Brittany Higgins civil defamation case. It demonstrated what an understanding of trauma by those in the court can achieve. It also demonstrated that when a lowered standard is applied (as is warranted in these cases of sexual assault), that justice can be achieved. I am doubtful the same outcome would have been reached if a criminal standard of proof was required.

DPP responses need to be improved in several ways:

- Leavening of the burden of proof when a mistake of fact defence is made
- Communication of the DPP process to be clearer, with more information about steps involved in the process and clear expectations

- Possibility for an advocate who may be able to liaise with police and DPP on your behalf
- Further psychoeducation of trauma and responses
- Understanding of rape myths and ways in which 'helpful' feedback may contribute to unfair and unrealistic expectations of victims
- Advice and assessment of evidence to include evidence-based recommendations e.g., accurate assumption and meaning of evidence is formed on the basis of known research on trauma, memory and intoxication
- Review of the prosecution of cases where there is a lack of memory – suggestions and legislation reform/advice sought by those with expertise in the area to comment on necessary changes to ensure affirmative consent does not only capture sexual violence where “violence” is defined by a very limited amount of “overt acts consistent with rape”, in which is unnecessary and unlikely when victim-survivors are incapacitated and affected by intoxication and substances and/or where victim-survivors fawn or freeze (as is common). As it is often pointed out – fawning or freezing is an incredibly protective response to violence and threat to safety. It is encouraged and seen as a proactive response when people are faced with other forms of violence (e.g. carjacking or robbery – do as is asked, give all items over, wait for them to leave, be compliant). It is used against victim-survivors time and time again in the case of sexual violence – and where this response is effective in protecting us against any further harm or threat, it is seen as evidence of our compliance and consent.

4. Assessment of the credibility and reliability of complaints

I am evidently very aware of this research. The 730pm report also touched on important research. I am evidently very aware of trauma responses. I have noted that I had to educate the detective on my case time and time again on this research – using my own words, using journal articles and references. It is very possible there were others who were uninformed and uneducated on necessary research who were important in my case, such as those who reviewed my file at the DPP. Should it have gone further it is likely that others would have also been uneducated. We need significant further education for all responders in all stages of the response – e.g. GPs, helpline workers, teachers, counsellors, DPP, prosecution, general public, jurors, judges etc.

Prosecutors should call expert witnesses to speak about research. As you can see in my case, decisions and interpretation of evidence was made in a way that was incongruent with research on trauma, memory, and intoxication. It is incredibly likely that all people in courts (e.g. jurors, prosecutors, defence lawyers and judges) will be uneducated or unaware of research in a similar fashion. This has serious implications about the interpretation of evidence or testimonies of victims that are inaccurate and used to discredit them or pose enough doubt that means a standard of beyond reasonable doubt is not reached. I do not believe expert witnesses are being used in this way in [REDACTED] Tasmania. I am not sure why and I would advocate strongly for this.

I think jury directions should address common misconceptions about rape, trauma, and victims. It should address freezing and fawning responses. It should address gaps in memory. It should address inconsistencies in stories as normal. It should address any changes in stories by victims as a normal response to trauma. It should ask them to consider these things. I would support educative videos, mixed juries, judge-alone trials and education and training. I think all practices hold merit and are warranted, I think that it should be determined on a case-by-case basis to ascertain what exactly may be needed, with some adjustments being

applied in all cases (e.g. in all cases education and training and educative videos are used, but some are determined as judge-alone). I would be encouraging of further input by those more experienced in these spaces, however from a psychological lens, I think education is warranted in all cases. I think it is necessary that this education is applied consistently and repeatedly. It is unlikely to sink in and be received in only one form (e.g. juror direction, written form etc).

5. Judge-alone trials

I feel uneducated to fully offer an opinion here but based on personal experience and general knowledge of the process – I think it is warranted. Our system is so stacked against victims. I think that jurors are much more likely to hold rape-myths that would contribute to not being able to reach a burden of proof needed in criminal cases. Rape myths are so strongly held by our society – I would hold them to a degree – and I clearly can hold them when it comes to my own experiences and lens to myself. We know the experience of sexual assault is so widespread. If for example, I hold rape-myths about myself, and I have not been able to process this adequately, nor am I aware of my rape myths etc., I can easily apply these same set of standards to others. For, if I am responsible for my own rape because I ‘drank too much’, well it is much too painful to handball the responsibility to others, because that would mean I had been raped. It can easily become a way of coping, e.g. blaming others for their rapes also – if I was responsible, so were you, if I think you were raped, well then gosh, now I have to reflect and process that I was too (something that is much too painful to do). This is all to show and demonstrate the way that we have a long way to go, and that we only need one person on a juror to hold these beliefs, and we change most/all things up until this point, and conviction rates may continue to struggle to change. Affirmative consent laws (if on the presumption they could be applied as they should be), also are dependent on knowledge of affirmative consent by the public. We know that consent education is so lacking – therefore this also needs to be addressed.

6. Types of evidence

Evidence of one more complaint should be admissible. I think this would have helped my case. It also clearly demonstrated a pattern of behaviour that showed what occurred was very intentional. This showed this was not an isolated incident. Where rape/sexual assault is often victims ‘word’ against perpetrators ‘word’, we need assistance in establishing a pattern of behaviour where we may have very limited other evidence.

I think it may perpetrate myths about responsive behaviour to sexual violence as is noted, but I think it can also be helpful. I think this risk doesn’t negate the need for change here. I think that the myth that people should make a complaint in order to be credible and valid, is well established in society irrespective – and that this is an opportunity to provide weight to the other side. I don’t think it should be ignored in lieu of this added risk. This harm already exists, and I think can be addressed in other ways (e.g. in education videos etc).

In my case, the reliance on toxicology felt incredibly ill-informed – it was incongruent with known evidence and research around these types of drugs and the way they work on motor function, and how long they remain in the system etc. My case really hinged on toxicology showing evidence of drink spiking – which irrespective of whether I was or wasn’t, we had enough evidence that I was substance affected that I was unable to consent. It did not matter whether I was substance affect was caused by alcohol or other drugs – the fact remained; I was so affected I could not consent. My lack of memory (and credibility around this), should

have been used to further support my intoxication and inability to consent, rather than used against me.

7. Delay

As spoken about the delay in the toxicology report was the major delay. I have spoken to its impacts above. In reducing these delays – I know some of it was due to the detective not following up on things e.g., it took a long time for him to contact witnesses and obtain their statements, despite them being willing to do so immediately. I think that was likely result of understaffing and being under resourced. He noted to me the toxicology delay was because we didn't have the systems/equipment required to complete it in Tasmania, and it was being sent across the country to be completed. This can be helped funding and resources. I am not sure if these delays are experienced with other crimes.. This may be incredibly misinformed, and I am not sure, but namely, I am not sure whether the fact it is known widely that sexual assault cases are unlikely to be prosecuted that limited resources are given to them in comparison to other crimes. This would be a helpful thing to explore and consider – because if so, could contribute to the ongoing cycle. When delays happen, evidence is missed, memories fade, evidence may no longer be considered 'reliable' by jurors, or may never be collected or no longer be available by the time its followed up etc. Delays also will contribute to attrition in victims pulling out of the process – and further distress also.

8. Restorative justice

The current system has a long way to go regarding change, it will likely take money, time and continual change across society. The introduction of restorative justice is a change we can make more quickly. We can evaluate the success, flaws and effectiveness of restorative justice practices in other countries to help direct its implementation in our justice system. For many reasons that I've described already, victim-survivors may be unwilling to pursue a policing response. Quickly, this can include views that the self is to blame, that the person is 'good' and not 'intentional' in hurting them, that it isn't 'deserving of a justice response' and that they don't want to expose themselves or others to a justice response or lengthy court process. As, as I have noted, the nature of sexual violence stripes victims of choice, control, and voice – it is central in the trauma processes/therapeutic process alone that victim-survivors get this back; it is often so integral to the work that I do. The restorative of some control, choice, autonomy and choice was the major driver in decision to continue the police reporting process. Restorative justice could assist with achieving this. This needs to be at the central of all changes – where are we able to give people this and even where we cannot, that the loss of this is acknowledged and its impact validated. Victim-survivors are not just 'witnesses' for the state – this is their story, life and experience and this needs to be better acknowledged throughout. Where we can include them in decisions we need too – even if those decisions are deemed small, or insignificant to others, it offers opportunity for choice and control back. This is helpful for all.

The detective was supportive of my change of decision from making an informal report, to a formal report. I initially decided to proceed up until the point of which the perpetrator was contacted for interview. I felt as though all my control and choice was stripped of me. I did not feel that I could be taken seriously or that I had option to contact the perpetrator myself to communicate the seriousness of what had happened and the harms that had come from it. I also felt angry and sad that I had to carry these impacts alone while he happily lived life. I felt as though the Police contacting him and requesting an interview would communicate this for me. This speaks for the option and need for reformative justice. I think there are many victim-survivors who feel the same and know that many of my clients do. Chanel Contos

cites research in her book 'Consent Laid Bare' that states when opportunistic rapists are given consent education, they are less likely to perpetrate again. I believe that restorative justice could contribute to the mandatory consent education of perpetrators, and assist with reducing rates of sexual violence as a result, and in the rehabilitation of perpetrators. Restorative justice may offer a greater chance that systemic systems hold perpetrators to account, and communicate seriousness of the crime and act, and acknowledgement of the impact on victims. This could achieve the goal of restoring some choice, control and voice back to victims. It may also increase the likelihood that perpetrators are held to account, given other legislative measures may not be pursued e.g. jail time (which is unlikely and uncommon anyway). In the current system, it's highly unlikely that perpetrators will confess culpability to the act of sexual violence – especially given the way the system is designed to protect them

9. Civil litigation

I have no comments from a victim perspective that have not already been addressed – however, I just want to note that it is commonly used/threatened to silence victims. The fear of defamation lawsuits, particularly in the aftermath of Brittany Higgins, was referenced many times when I was speaking out in the media. Lawyers [REDACTED] removed much of my evidence and story that added 'credibility' on the small chance that the perpetrator may be identified. Even down to removing the phrase 'my bad' in the text message he sends the day after he raped me, in case that 'my bad' is his catch phrase in which may identify him. The text message was only included because I said I wouldn't speak out publicly without that inclusion. And it took strong advocacy of my behalf by [REDACTED] for this to be included. I say this to acknowledge to the degree to which silencing occurs and is replicated throughout many systems. The media and court processes cross over in many ways – the reporting of cases also needs to be reformed. There needs to be greater measures and standards to which the media and journalists need to be held to when reporting on sexual violence. In the day following the airing [REDACTED] my story was reshared without my consent or without contacting me by [REDACTED] I laughed at the inaccuracies displayed and the glorification of my distress for clicks (pictures of me crying were used as the main images, with click-bait headlines). They misquoted me and attributed the rape to a stranger I met on a date. These corrections were only made when [REDACTED] requested they be reflected accurately on my behalf. I laughed at the idea of them using my tears to get money. These were all not untrue. I was used in this case – they did not consider me or the implications of their words. I had trusted [REDACTED] and I had not trusted these news outlets. The same news outlets that report victim-blaming articles seeking to undermine the credibility of other victims consistently. These all need review with the protection of victims at the forefront, and the acknowledgement of the scrutiny and vulnerability we are exposed to as victims when we speak out. Victims are invisible in all avenues of seeking justice and/or contributing to reform. There are often common threads – rape myths, and systems that protect the perpetrator greater than the needs of the victim. We need to consider how defamation law suits are often used to further harm victims (Brittany Higgins as a case in point of this), and how this often is 'successful', and how it onflows to other areas of change and justice (e.g. speaking publicly in the media). We need to consider in this how non-disclosure agreements are also often used – I do not have the credentials to comment on this, but there are many who could.

10. Workplace laws

I have supported many clients who have experienced sexual assault and rape in the workplace. There are many pressures to be quiet about this for those victims to keep their

jobs and to continue be respected in their fields. This needs to be considered. They often do not report, or when they do, expect they will no longer have careers. I have seen this happen in many cases – where they have been unfairly targeted and scrutinised in processes that should be designed to protect them (e.g., WorkCover) – where they end up with no privacy, no support, further blamed for assaults, and having their therapeutic records unfairly accessed and past medical and psychological history unfairly accessed and attributed as blame to their assault. These needs people well equipped to further comment on this too. I would be happy to do so from a psychological treatment perspective in greater detail if this would be helpful in future.

11. Compensation schemes

I have not accessed these. I have privately funded frequent and long-term psychological support. I am aware that many people cannot fund this or have access to this. I am very privileged in this respect, and we need to account for the long-term impact of trauma on people and have this adequately addressed in these schemes, such as victims of crime schemes. I wasn't even aware of the possibility to access compensation schemes (e.g. victims of crime) until recently. I had heard of the scheme but had not considered it or know any or much information about it.

To whoever has read this – I wish to acknowledge the heaviness of your work, and thank you for doing it. In reading this you have given space for a voice, and choice and control in my advocacy and advocacy for others. Irrespective of the outcome, that alone will have individually helped. I am very willing to help and contribute in any further ways that I can and welcome any contact should this be helpful. I consent to any and all parts to this document and submission to be quoted or made publicly available – however, I do not consent to my full name being used publicly and attributed to this.