

**Submission for Justice  
responses to sexual violence:  
A victim-survivors response.**

### **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:***

- ***particular support service;***
- ***the police;***
- ***a health professional, a teacher, an employer; or***
- ***a family member, friend, or some other person?***

***Was there sufficient information available to you to help you decide who to tell and what to do? Where did you find that information? Was the response you received adequate? What supports did you need at that time? Were the supports adequate? How could they be improved? If you decided not to tell someone about your experience, you may wish to share with us the reason(s) why.***

Approximately 20 years after the sexual assaults occurred, I disclosed the incidents. Initially, I confided in a friend but did not pursue further action. A few years later, following a significant mental health episode, I began seeing a psychologist. He informed me that one of the sexual assaults warranted mandatory reporting since the perpetrator was still a practicing massage therapist working with young people. He provided me with a contact number for the local SOCIT. Eventually, I called them and scheduled an appointment to give a statement at the local police station.

I believe the psychologist's response was inadequate, as he implied it was my duty to report the offender. I now view this as a dangerous approach that places the responsibility on the victim/survivor to stop the perpetrator.

My initial reporting to the police was a mixed experience. I had to explain my visit to a constable at the police station's counter, which was the first time I had ever been in a police station. The experience was highly stressful. A detective then escorted me to a dingy interview room where I gave my statement. Although the detective was caring and kind, the entire process was overwhelming. After completing my statement, I left the building without any support or follow-up. I was informed that, because the offense occurred in a different region, my case would be transferred to the relevant jurisdiction.

The support I received was inadequate. All police personnel should receive training in adopting a trauma-informed approach, a requirement that should be mandated by the agency. One of the most devastating aspects of navigating this process is that while the justice system encourages victims/survivors to come forward, it simultaneously imposes additional layers of trauma. Despite the good intentions of the individuals involved, my habitual people-pleasing behaviour and reluctance to burden others complicated matters. At that crucial moment, I needed to be surrounded by knowledgeable individuals who could support and guide me through the process.

## **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?***

The consent laws in Victoria have been changed; however, because they are not retroactive, they did not assist me with the second case I reported. I was repeatedly informed that I could withdraw from the cases at any time so there was an awareness of the gravity of participating in the system.

I understand there was an initiative to co-locate CASAs with SOCITs, and during my time navigating the justice system, the SOCIT handling my cases adopted this setup. I believe this is a positive intervention, and it is unfortunate that it is not implemented statewide in Victoria.

## **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.***

To make accessing the justice system and reporting easier for victim survivors, several key improvements are needed:

1. **Reform Laws Surrounding Sexual Assault:** The current laws place the burden of proof disproportionately on the victim/survivor. Despite being in 2024, the legal framework still operates in a manner that makes victims feel as though they are on trial. This needs to change to ensure a more balanced and just approach. Victims should be supported and believed from the outset, and the legal system should reflect a trauma-informed and victim-centred perspective.
2. **Adequate Funding for Justice Agencies:** Agencies within the justice system must be funded adequately to manage their caseloads effectively. For instance, my detective was handling around 40 cases simultaneously, which is an untenable situation. No matter how skilled a detective is, managing such a high volume of cases inevitably leads to oversight and delays. Proper funding is essential to ensure that each case receives the attention it deserves.
3. **Comprehensive Information Provision:** Information given to victim survivors should be thorough and clear. While I received an information pack from my detective, it lacked crucial details. For example, I was not informed that I would never see the statements, even after the case concluded. Providing comprehensive, clear, and accessible information from the beginning can help victims navigate the process more effectively.
4. **Confidentiality and Privacy Measures:** The confidentiality of the reporting process must be upheld rigorously. Victim survivors need assurance that their privacy will be respected and

that their personal details will be protected throughout the legal proceedings. This is particularly important for fostering trust in the justice system.

5. Support for Marginalized Groups: Specific groups within the community, such as Indigenous peoples, LGBTQ+ individuals, and those with disabilities, may have unique needs that require tailored support. The justice system should be inclusive and considerate of these needs, providing specialized resources and support services to ensure that all victim survivors can access justice on an equal footing.

6. Integrated Support Services: The initiative to co-locate CASAs with SOCITs is a positive step and should be implemented statewide in Victoria. Such an integrated approach can provide victim survivors with seamless access to both legal and counselling support, making the process less isolating and more supportive.

By addressing these areas, the process of seeking information, help, and reporting can be significantly improved for victim survivors. It is critical that the justice system evolves to be more supportive, transparent, and equitable, ensuring that victim survivors are treated with the respect and care they deserve.

#### **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?***

To ensure that victim survivors have a safe opportunity to disclose their experiences and receive appropriate support and information, several additional measures should be considered:

1. Presence of Sexual Assault Workers: When a victim wishes to make a statement, it is crucial to ensure that a CASA or sexual assault worker is present. This provides immediate emotional and professional support, helping the victim to feel safer and more understood during the process.

2. Personalized Information Delivery: Recognize that victim survivors have diverse needs. Some individuals may want comprehensive information and a clear understanding of all possibilities, while others may find this overwhelming. Those who seek detailed information should have access to it, enabling them to make informed decisions about their participation in the legal process. Tailoring the delivery of information to the individual's needs is essential for providing genuine support.

3. Transparent Communication about Outcomes: Victim survivors should be made fully aware of the potential outcomes, including the low conviction rates and the likelihood of facing additional trauma through the legal process. This transparency can help them make more informed decisions about whether to proceed with reporting.

4. Consultation and Co-Design with Victim Survivors: Involve victim survivors in the creation and adjustment of services. By consulting them directly, services can be co-designed to be more inclusive and safe. Multiple pathways for reporting should be established to accommodate different preferences and comfort levels. For example, options for online reporting, anonymous reporting, and various in-person settings can be considered.
5. Trauma-Informed Training for All Professionals: All professionals involved in the justice system, including police officers, lawyers, and judges, should receive comprehensive training in trauma-informed care. This training should emphasize understanding the complex reactions and needs of victim survivors, ensuring they are treated with empathy and respect at every stage of the process.
6. Enhanced Support Services Post-Reporting: After a victim has reported an assault, ongoing support services should be readily available. This includes not only legal advice but also psychological support, counselling, and practical assistance. Continuous follow-up is vital to ensure that the victim does not feel abandoned once their initial statement is made.
7. Confidential Feedback Mechanisms: Implement confidential feedback mechanisms that allow victim survivors to share their experiences with the system. This feedback can be used to identify gaps, improve current practices, and develop new protocols that better meet the needs of future victim survivors.
8. Awareness and Education Campaigns: Public education campaigns can help to reduce the stigma associated with reporting sexual assault and encourage more survivors to come forward. These campaigns should also educate the public on how to support survivors in their personal lives, fostering a more supportive and understanding environment.

By implementing these measures, the process for victim survivors to tell someone about their experience and get appropriate support and information can be significantly improved. Ensuring a safe, empathetic, and supportive environment is crucial to helping victims navigate the justice system more effectively and with greater confidence.

## **Question 5**

**If you are a victim survivor, did you contact the police? If so, how? What was your experience of the police response?**

As a victim survivor, I did contact the police. I was provided a phone number by the psychologist I was seeing at the time. The initial interview was overwhelming. Although the detective was kind and respectful, the environment was distressing. I was in an interview room with no windows, a setting typically used for interrogating criminals.

The heavy workloads of the police significantly impacted my experience. After my case was transferred to another SOCIT, I did not receive any communication and had to follow up myself. Eventually, I connected with a compassionate detective who managed my case for the next five years. However, I had to travel 1 ½ hours to the SOCIT for further interviews. During this period, I decided to report another case that had surfaced in conversations with

my detective. He assured me I could report it whenever I felt ready, which I ultimately did. The detective then handled both of my unrelated and historic cases.

For the first case, I was asked to call the perpetrator in a recorded call to solicit a confession. This request was overwhelming, but due to my tendency to please people, I agreed. The detective explained the rules and set up the recording device. Because there were no spare rooms available, I had to make the call from my car on a hot summer day. To avoid inconveniencing others, I had scheduled an appointment with the perpetrator under a pseudonym, which the defence later labelled as deceitful. Despite the detective's kindness and care afterward, the experience was traumatic, and I had to drive myself home without any immediate support. I tried to find solace in a walk, through nature, but the distress remained.

Months would pass between updates, causing significant deterioration in my mental health due to the uncertainty and prolonged waiting. My detective, however, directed me to VOCAT and periodically checked on my mental well-being during our interactions. I consider myself fortunate in this regard, knowing that other victim survivors have had vastly different, often less supportive experiences.

After a couple of years, my detective transitioned to a different area within the police force. He retained the first case as we had already undergone a committal hearing. The second case was transferred to another detective and then reassigned again before it was ultimately not recommended for further action. This decision was devastating, especially given that one justification was based on a Blue Knot report suggesting that my prior trauma could have caused muddled memories. Despite years of therapy, including a clinical trial for psilocybin, my PTSD remains severe. The rationale that interviewing the offenders constituted holding them accountable was a hollow comfort. It felt particularly soul-crushing when I learned that one of the witnesses, who had observed multiple offenders raping me, had become a police officer and was a detective at the time of the interview.

I had a follow-up interview with the head of the SOCIT managing my case. While he listened, it felt as though he did so merely to pacify me and prevent further action. This culminated in an immensely disappointing conclusion to a multi-year traumatic experience.

### **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?***

In my state, several reforms and recommendations have been implemented to address the needs of victim survivors of sexual assault.

1. Increases in Funding: There has been an increase in funding allocated to the Sexual Offences and Child Abuse Investigation Team (SOCIT). This increase has allowed SOCIT detectives to have more manageable caseloads compared to the period during my reporting

which began in 2017. Reducing the workload of detectives can enhance their ability to provide more focused and individualized attention to each case.

2. Co-location of SOCITs with CASA: The co-location of SOCITs with the Centre Against Sexual Assault (CASA) is a significant positive reform. This arrangement facilitates better coordination and support for victim survivors. However, based on my experience, there is some room for improvement in how this co-location is utilized. During one of my visits, I saw the SOCIT worker after my meeting with the detective, whereas having the option to have them present during the detective interview could have been more beneficial for immediate emotional support.

3. Persistent Issues: Despite these reforms, there remain critical areas that are not working well. One major issue is the systemic inconsistency in how victim survivors are encouraged to come forward and trust the system, only to be subsequently let down by the same system. While certain elements such as funding and co-location have seen improvements, the overall experience for many victims continues to be traumatic and inadequate.

4. Disparities in Experiences: The process remains particularly daunting for those with fewer resources. I am an educated person with certain privileges, yet the experience was incredibly harrowing for me, resulting in a 15-month leave from work due to a severe mental health crisis. For women and individuals facing multiple layers of disadvantage, the system's failings can be even more damaging, potentially leading to less favourable outcomes in terms of mental health and overall functionality.

In summary, while increased funding and co-location of services are steps in the right direction, the system still falls short in providing consistent, comprehensive support to all victim survivors. This highlights a crucial need for ongoing reforms to bridge the gap between policy and practice, ensuring that all individuals, regardless of their background, receive the support and justice they deserve.

### **Question 7**

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

To enhance the effectiveness and sensitivity of police responses to reports of sexual violence, several measures can be implemented:

1. Regular Trauma-Informed Training: It is crucial that all police officers undergo regular, comprehensive trauma-informed training. This training should provide officers with the skills and understanding necessary to appropriately handle reports of sexual violence. Given that any police officer could be the initial point of contact for a victim/survivor, this training must be ongoing and mandatory to ensure that all officers are equipped to respond with empathy and professionalism.

2. Consistent and Transparent Communication: Ensuring that victim/survivors are not left waiting for months without contact is vital. Police should establish clear protocols for regular

updates, tailored to the preferences of the victim/survivor. Maintaining consistent communication helps in managing expectations and providing reassurance. It is equally important that officers do not make promises or suggest outcomes that are not feasible, as unfulfilled expectations can lead to profound disappointment and further trauma.

3. Co-location Efficiency: Building on the existing positive reform of SOCITs co-located with CASA, efficiency can be improved by offering the option for CASA support workers to be present during initial and follow-up detective interviews, if desired by the victim/survivor. This immediate access to support services can help in managing trauma responses and providing continuous emotional support.

4. Streamlined Caseloads: Ensuring that detectives and officers managing these sensitive cases have reasonable workloads is essential for providing the necessary time and attention each case deserves. Continuous evaluation of caseloads and adjusting allocations can help detectives engage more meaningfully and prevent burnout, thus improving the quality of interactions with victim/survivors.

5. Support for Disadvantaged Populations: Special attention should be given to the needs of individuals with multiple layers of disadvantage, such as socio-economic challenges, disabilities, or lack of access to mental health resources. Tailored support services and dedicated liaison officers who understand these complexities can help bridge gaps and offer more effective support throughout the investigative process.

By implementing these measures, police responses to reports of sexual violence can become more supportive, transparent, and effective, ultimately fostering a system in which victim/survivors feel heard, respected, and safe.

### **Question 8**

***If you are a victim survivor, did you have contact with the ODPP? What was your experience of the ODPP response? What support, if any, was provided to you?***

Yes, I did have contact with the Office of Public Prosecutions (ODPP). My first case proceeded to trial. Throughout this process, a witness support advocate contacted me several times and was exceptionally kind and supportive. Prior to the committal hearing, I met with the prosecution team, accompanied by my detective, which I found comforting. The prosecution team explained the proceedings and were very kind throughout.

In the week leading up to the committal hearing, we convened at the ODPP offices before proceeding to the Magistrates' Court together. The experience at the committal hearing was harrowing, particularly as it was the first time I had seen my perpetrator in years. Despite a delay caused by the illness of a magistrate, the hearing eventually proceeded. The witness advocate provided support but had to leave when the hearing was delayed.

The questioning during the committal hearing was distressing, compounded by the presence of my perpetrator in the same room. Although I was offered the option to participate remotely, I chose to attend in person before the magistrate. Following the conclusion of the



hearing, I returned home feeling profoundly shattered and isolated, despite the kindness extended by the individuals involved. The expectation to resume normal life after such an event, which stirs up deeply distressing memories, was particularly challenging.

The committal hearing determined that the case would proceed to trial in the County Court. Several aspects of the process were not clearly explained to me. For instance, following the committal hearing, I was informed that there was a time limit for subpoenaing information; however, they continued to subpoena additional information. Despite legal protections for the confidentiality of psychologist sessions, an exception was made, and my full file from my psychologist was subpoenaed. My psychologist disclosed this to me after the fact, which was devastating as I believed that the law would protect my privacy. Additionally, my personal journal entries and, later, text messages and emails were subpoenaed, making me feel as though I was the one on trial.

When I objected to the subpoenas for text messages and emails, I was informed that the ODPP could not provide advice on this matter, necessitating that I seek independent legal advice on opposing these subpoenas. There were multiple court hearings as a judge initially rejected the sharing of my psychologist's file. The decision was appealed, eventually granting access to a very limited amount of information, the specifics of which I was not permitted to know.

The entire process was incredibly distressing, leaving me in the dark while making me feel exposed and vulnerable. As mentioned earlier, I had to take 15 months off work to recover and rebuild myself as the experience was mentally and emotionally breaking. My life was in a state of suspension for years, unable to make future plans for fear of the trial date finally being scheduled and needing to relive these traumatic events.

### **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?***

There are some wonderful people working in the system, however the system is still geared in favour of perpetrators and as long as that is the case then it continues to be a system that inflicts horrendous trauma.

In terms of specific reforms:

1. Trauma-Informed Training: Ensuring all staff undergo regular trauma-informed training is essential. This training equips them with the skills needed to handle reports of sexual violence appropriately, fostering a more supportive environment for victim survivors.
2. Communication and Support: Despite the reforms, many victim survivors experience long periods without contact from investigators, causing significant distress and uncertainty. Consistent, transparent communication is crucial to maintaining trust and providing reassurance throughout the investigative and legal process.

3. Systemic Biases: The overall system feels more favourable to perpetrators, with legal protections for victim survivors, such as the confidentiality of psychological sessions, often being undermined through exceptions and extensive subpoenas. This can create an environment where victim survivors feel re-victimized by the legal process itself.

4. Access to Legal Support: Victim survivors often find themselves needing independent legal advice to navigate objections to subpoenas and other legal matters, highlighting a gap in the support system where the ODPP cannot provide guidance on these issues.

The prolonged nature of legal proceedings often leaves victim survivors with their lives in a state of suspension, unable to make future plans due to the uncertainty of trial dates and outcomes. These insights highlight that while there have been positive steps towards improving the system, significant reforms are still needed to ensure that it becomes more victim survivor-centric and less traumatic.

### **Question 10**

#### ***Do you have any ideas for improving ODPP (Department of public prosecutions) responses to the prosecution of sexual violence?***

Based on my experience, several improvements can be made to enhance the ODPP's response to the prosecution of sexual violence:

1. Enhanced Communication and Transparency: Establish a clear and consistent communication protocol to keep victim survivors informed about the status of their case and any legal proceedings. Regular updates can help alleviate anxiety and uncertainty.
2. Comprehensive Explanation of Legal Processes: Provide detailed explanations of legal proceedings and terms, including the rights and protections available to victim survivors. This can help them better understand what to expect at each stage of the process.
3. Streamlined Subpoena Processes: Implement stricter guidelines for subpoenaing sensitive information, such as psychological records and personal journals. Ensure that victim survivors are fully informed and consulted before such subpoenas are issued.
4. Increased Legal Support for Victim Survivors: Offer access to independent legal advice at no cost to help victim survivors navigate complex legal challenges, such as opposing subpoenas for personal information.
5. Trauma-Informed Training for Legal Professionals: Provide ongoing trauma-informed training for prosecutors and other legal staff to ensure they handle cases with the sensitivity and understanding required when dealing with sexual violence survivors.
6. Support Systems Post-Hearing: Establish a support system for victim survivors immediately following court proceedings. This could include access to counselling services and safe transportation home, ensuring they do not feel isolated or unsupported.

7. Witness Advocate Accessibility: Ensure witness support advocates are available throughout the entire court process and beyond to provide continuous emotional support and guidance.

8. Confidentiality Protections: Strengthen confidentiality protections for victim survivors' personal information, making exceptions only under the utmost necessity and with full transparency to the survivor.

9. Feedback Mechanism: Implement a feedback mechanism for victim survivors to share their experiences and suggestions anonymously. This can help the ODPP continually improve its practices and address any systemic issues.

By implementing these changes, the ODPP can create a more supportive and transparent legal environment for victim survivors of sexual violence, reducing the traumatization often associated with the prosecution process.

### **Question 11**

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

I did have a closed court while giving evidence; however, during the committal hearing, my perpetrator's wife was initially in the room. Prosecutors requested she be removed while I gave evidence, so I had to leave the courtroom while they debated that. I was offered the closed-circuit TV option but declined. I don't remember being offered a screen, and there wasn't one present. I found it supportive to have my detective in the room, and I had a squishy ball to help manage my distress, as I had been ripping at my arms otherwise. Unfortunately, I saw my perpetrator far more than I should have during the committal hearing.

Due to COVID-19, the trial was delayed by years. When it was finally scheduled to happen in March 2022, my dad was dying from a brain tumour. The week the trial was supposed to proceed, I spent every day at his bedside, and he passed away at the end of that week. Consequently, the trial was delayed by a month. When preparations were complete and jury selection was to commence, I tested positive for COVID-19. The defence opposed delaying the trial beyond a few days, so I had to participate remotely from home, while the others were present in the courtroom at the County Court. The defence also successfully petitioned for a judge-only trial. I am in Victoria, so the statement about judge-only trials not being permitted here does not apply in my case. I believe that having a judge-only trial undermines the true intent of jury trials and led to a miscarriage of justice. Being under oath for three days was utterly soul-destroying.

I had daily contact from witness advocates, but there were different people each day. They called me between each session and were truly wonderful. Despite their support, the process was brutally difficult. The defence managed to exclude most of the witnesses and successfully prevented the recorded phone call from being presented, yet they were allowed

to question me about notes I had written in preparation for it. The perpetrator had two or three character witnesses, which felt incredibly unfair and unjust. We understand that these individuals don't appear as monsters; they are often very charismatic, but that doesn't mean they are incapable of monstrous acts.

The defence's cross-examination tactics were destabilizing. They used my PTSD against me to suggest that it made me an unreliable witness. It's deeply distressing that PTSD, a consequence of being raped, was used to undermine my credibility. Additionally, my long struggle with bulimia, brought on by the trauma of rape, was also used to question my reliability as a witness. It is a complete and utter betrayal to have the consequences of sexual violence turned against victim survivors to suggest their memories are not reliable.

### **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 not listed above?***

I do not believe a judge-only trial provides a true opportunity for a perpetrator to be judged because it is not by a panel of peers. In my case, the accused decided on the last day to take the stand even though he had refused to comment in the police interview. The practice of giving them so much power to decide what they want to do is disempowering and traumatizing. They are not cross-examined on previous statements and inaccuracies in recollections if they have nothing prior to compare to. It is a manipulation of the system and an injustice in itself that they have a choice to refuse to give a statement, imply they are not going to take the stand, and then take the stand at the last minute without adequate preparation time for the prosecution.

I did experience a closed court during the trial; however, I also did not get to be present when my perpetrator decided to take the stand or for when his character witnesses gave evidence. I may not have wanted to, but I also was not given the option. As previously mentioned, I was offered the outside court facilities if the trial was to be in person, but due to my having COVID-19, I was forced to be isolated and remote from any in-person support. I had to swear that my husband, who was the only other person in the house at the time, was nowhere near me while I was giving evidence, which we obeyed. So, I was very much alone. The support was there before and after, but it was still an extremely traumatizing experience to go through that on my own.

Having the witness support person is a great initiative, however, it does not go far enough. Going through a trial is a horrendous experience, and it feels a bit piecemeal, to be honest. As soon as the trial was finished, there was no follow-up. My detective did, but not from the people trained in supporting victim survivors. I understand why—there would simply not be the capacity—but that isn't good enough. There should be regular contact in the lead-up

and afterward. I am privileged to be educated and have access to support, but I still went to very dark places because it was so very lonely and devastating to go through.

#### Additional Measures and Improvements:

1. Consistent Support: There should be consistent support from trained individuals throughout the entire process, including post-trial follow-up.
2. Remote Participation Options: Improve the remote participation setup to ensure that support is not compromised for those who must participate from home.
3. Enhanced Preparation for Prosecution: Ensure that the prosecution has adequate time and resources to prepare for last-minute changes by the defence, such as the accused deciding to testify unexpectedly.
4. Option to Attend All Testimonies: Provide victim survivors the choice to be present for all testimonies, including those of the accused and character witnesses.

By implementing these improvements, the legal process can be made less traumatizing and more supportive for victim survivors of sexual violence.

#### **Question 13**

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

Produce support material that has been co-designed by victim/survivors.

Additionally, the following improvements could enhance the court processes for complainants:

1. Trauma-Informed Training for All Court Personnel: Ensure that judges, lawyers, and court staff receive comprehensive trauma-informed training to better understand the psychological impact of giving evidence and to handle complainants with the appropriate sensitivity and care.
2. Pre-Trial Preparation Sessions: Offer pre-trial preparation sessions where complainants can familiarize themselves with the courtroom environment, understand the process, and practice giving evidence in a supportive setting.
3. Dedicated Courtrooms: Set up dedicated courtrooms for sexual violence cases that are designed to be less intimidating and more supportive for complainants. These courtrooms could include features like private waiting areas and separate entrances.
4. Legal Advocacy and Guidance: Provide complainants with access to independent legal advocates who can guide them through the legal process, explain their rights, and help them understand what to expect during the trial.

5. Regular Updates and Clear Communication: Ensure that complainants are kept informed with regular updates about their case status and are provided with clear explanations of each step in the process, reducing uncertainty and anxiety.

6. Feedback Mechanisms: Implement systems for complainants to provide feedback about their experience throughout the court process. This feedback should be used to continuously improve practices and policies.

By integrating these measures, the court process can become more supportive and less traumatizing for complainants, thereby improving their experience and participation in seeking justice.

#### **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?***

My police interviews were not recorded.

***What was your experience of the recording process?***

***Did you see the recording(s) before they were presented by the prosecution at trial?***

My evidence was not pre-recorded nor was that an option. My understanding was only child complainants could have recorded interviews and court evidence.

***How did you feel about not giving evidence at trial?***

Given I was rather brutally cross-examined, I feel that this question in and of itself highlights the inconsistencies and inequities that exist in the justice system. I am an adult who suffered a severe eating disorder for over 20 years because of the rapes and have diagnosed PTSD, yet I was submitted to what the prosecution team, my detective, and the witness advocates all felt was very intense cross-examination.

There was the recording of the phone call I made to my perpetrator, but I was not given the opportunity to listen to or read the transcript of that, nor would I have wanted to.

#### **Question 15**

***Has the use of recorded evidence been implemented in your jurisdiction? If so to what extent?***

I believe so but only for child victim/survivors or people deemed 'vulnerable'.

***How is this working in practice? What is working well? What is not working well? What could be improved?***

Unknown

***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?***

Yes, further discussion is needed to evaluate the effectiveness and fairness of using recorded evidence only for specific groups and to consider expanding this option to a wider range of complainants.

***Are there any other issues? What do you see as the advantages and disadvantages of using recordings of the complainants evidence at trial?***

Advantages are the provision of a safe space for the victim/survivor to give evidence.

Disadvantages are it may negatively impact the jury not having the person live.

There is also a need to ensure that recorded evidence maintains the integrity and impact of live testimony, and that juries are adequately briefed on how to interpret such evidence fairly. Additional safeguards and improvements might include offering more comprehensive support to all complainants, not just those deemed 'vulnerable,' to provide a fairer and more balanced approach.

#### ***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.***

No, an intermediary was not involved

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

I'm not sure if a ground rules hearing would have been helpful. If it did occur, it didn't seem to alter much because the defense barrister repeatedly asked triggering questions. This suggests that either the ground rules were not adequately enforced or were insufficient to mitigate the distressing nature of the cross-examination. Implementing stricter enforcement of agreed-upon rules and providing clear parameters for questioning could potentially help in better protecting the well-being of victim/survivors during trial.

### **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?***

I believe it has for children and people deemed 'vulnerable' victim survivors.

***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?***

Implementing such a scheme could significantly enhance the experience of giving evidence for victim/survivors, reducing trauma and improving the quality of evidence presented in court.

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

I don't know how effective they are, but I would hope some research has been undertaken to determine effectiveness. Generally, the use of intermediaries could provide significant benefits in the criminal justice system by ensuring that communication barriers are reduced for vulnerable witnesses, including those with psychological trauma, cognitive impairments, or linguistic difficulties.

To maximize their effectiveness, it would be essential to:

1. **Conduct Comprehensive Research:** Undertake thorough research and evaluation to determine the effectiveness of intermediaries. This should include feedback from witnesses, legal professionals, and intermediaries themselves.
2. **Standardize Training:** Ensure intermediaries receive standardized, rigorous training to handle a variety of communication needs and maintain impartiality.
3. **Integrate into Legal Processes:** Develop clear guidelines for integrating intermediaries into legal processes, from pre-trial preparation to courtroom participation.
4. **Monitor and Evaluate:** Implement monitoring mechanisms to continuously assess the performance and impact of intermediaries, making adjustments as necessary.

By focusing on these areas, the criminal justice system can better support victim survivors and witnesses, ensuring that their voices are heard clearly and their experiences are as stress-free as possible.



### **Question 18**

***Are you aware of the research about memory and responsive behaviour in the context of sexual violence trauma? Do you have views on this research?***

I am aware and have conducted much reading to understand this for myself because as a victim/survivor it's incredibly frustrating and distressing to have the memories the way I have them.

Research into memory and responsive behaviour in the context of sexual violence trauma has shown that traumatic experiences can significantly affect how memories are stored and recalled. Trauma can fragment memory, making it difficult for survivors to remember events in a linear and detailed manner. This research helps to explain why survivors might have incomplete or inconsistent memories of their traumas, which can be misinterpreted as a lack of credibility in legal settings.

From my perspective, acknowledging this research is crucial for the criminal justice system. It underscores the need for trauma-informed practices when dealing with victim/survivors. Legal professionals should be trained to understand the complexities of trauma-affected memory and avoid unfairly challenging the credibility of survivors based on memory inconsistencies. Moreover, incorporating expert testimony about the effects of trauma on memory in court could provide a more accurate context for assessing survivors' accounts.

Understanding and integrating this research into practice is essential for ensuring that the justice system is fair and supportive of those who have experienced sexual violence.

***Do you have any 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)?***

I think they should because people tend to believe the myth and frankly so do judges and defence barristers in my experience, as some of the line of questioning was criticising me and questioning my credibility because I provided an additional statement to the police officer who became the ongoing detective on the case as he wanted more detail and clarification for some parts.

Introducing expert evidence about the effects of trauma on memory and typical responses of victim survivors can help dispel common myths and misconceptions that may influence the judgement of jurors, judges, and even legal practitioners. This type of expert testimony can provide crucial context and a scientific basis for understanding the behaviour and memory recall of survivors, thereby promoting a more informed and fair assessment of their testimonies.

It's important for the legal system to recognize the impact of trauma on memory and behaviour to prevent unfair questioning and credibility challenges that can further traumatize the victim. Expert evidence can play a key role in educating all parties involved in

the judicial process and in ensuring that the experiences and testimonies of victim survivors are evaluated more accurately and compassionately.

***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?***

Yes, but defence are also calling experts to question the credibility of memory.

While the inclusion of expert evidence about trauma and memory is a positive development, its effectiveness is somewhat mitigated by defence experts who counter this testimony by questioning the reliability of memory. This creates a complex dynamic in the courtroom, where competing expert opinions can potentially confuse jurors and complicate the adjudication process.

To improve the balance and impact of such testimony, it may be necessary to establish clearer guidelines and standards for the admissibility of expert evidence on trauma and memory. Additionally, providing thorough education and training for judges and legal practitioners on the nuances of trauma-affected memory could help ensure that the expert evidence is weighed appropriately and contributes meaningfully to justice outcomes.

#### ***Question 19***

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

I think it is important to clearly dispel myths.

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

As my perpetrator was granted the right to a judge-only trial I do not have experience of that.

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

Since my trial was judge-only, I cannot provide personal experience regarding the effectiveness of jury directions under the Jury Directions Act 2015 (Vic). However, it is essential that these directions continue to evolve to effectively counteract myths and misconceptions about trauma and memory within sexual violence cases. Regular reviews and updates to the guidelines, informed by the latest research and feedback from legal practitioners, could further enhance their effectiveness. Additionally, ensuring that all jurors receive comprehensive and clear explanations tailored to the complexities of each case is crucial for maintaining fair and informed verdicts.

## **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)?***

I do not think judge-only trials are a good idea for sexual violence matters.

***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?***

Yes, several reforms could be considered to address the impact of myths and misconceptions on the assessment of complainants' evidence in sexual violence cases:

1. Enhanced Jury Education: Implement comprehensive educative videos and materials that jurors must view before the trial, focusing on the psychological impacts of trauma, the nature of trauma-affected memory, and the common misconceptions surrounding these issues.
2. Jury Composition: Consider the inclusion of mixed juries, ensuring diverse representation to bring a broader range of perspectives and reduce bias.
3. Expert Testimony: the use of expert witnesses to explain the effects of trauma on memory and behaviour, ensuring that both the prosecution and defence experts adhere to stringent standards regarding the scientific basis of their testimony.
4. Specialized Training: Provide extensive education and training for judges, legal practitioners, and court staff on the nuances of trauma, memory, and victim behaviour, emphasizing the importance of a trauma-informed approach.
5. Pre-Trial Ground Rules: Enforce pre-trial ground rules hearings to establish clear parameters for questioning, aiming to protect complainants from aggressive and triggering cross-examinations.
6. Support Service: Enhance support services for complainants throughout the legal process, including the provision of intermediaries, continuous mental health support, and legal advocates who can help navigate the complexities of the trial.

By incorporating these reforms, the criminal justice system can better ensure that the evidence of complainants is assessed fairly and accurately, free from the influence of myths and misconceptions.

## **Question 21**

### ***What is your view about trial by judge alone in relation to sexual offending?***

Having experienced a judge-only trial, I feel I was disadvantaged and that the measure of beyond reasonable doubt that a judge holds is far more perpetrator-favouring than a jury would be. It disadvantages the victim survivor.

Expanding on this perspective, judge-only trials in cases of sexual offending can pose several challenges and potential disadvantages for victim survivors:

1. **Perceived Bias:** A single judge may bring inherent biases or personal views into the courtroom, consciously or unconsciously influencing their decision. In a jury trial, the diversity of juror backgrounds can help mitigate individual biases, leading to a more balanced deliberation.
2. **Interpretation of Evidence:** Judges, trained in law, may approach evidence analysis differently from lay jurors. While this legal expertise is valuable, it might also mean that judges apply a stricter interpretation of legal standards, such as "beyond reasonable doubt," which can be more favourable to the defendant.
3. **Emotional Disconnect:** Jurors, as representatives of the community, bring a human element to the trial process. They can relate to the emotional aspects of witness testimonies, potentially leading to a deeper understanding of the trauma experienced by victim survivors, which might not be as pronounced in a judge-only trial.
4. **Public Confidence:** Trials by jury can enhance public confidence in the judicial system. The involvement of ordinary citizens in the judicial process ensures that the community plays a role in administering justice, which can strengthen the perceived legitimacy of trial outcomes.
5. **Community Standards:** Jurors reflect community standards and societal values, which can be particularly important in cases involving sexual offending. Their verdict can serve as a societal statement about the acceptability of certain behaviours, reinforcing community norms against sexual violence.

To address these concerns, it may be beneficial to:

Encourage trials by jury in sexual offending cases to leverage the diverse perspectives and collective wisdom of a group, rather than the singular viewpoint of a judge.

Ensure comprehensive jury instructions and educative materials to guide jurors on the complexities of sexual violence, trauma-informed responses, and the effects of these factors on memory and behaviour.

Continue to provide ongoing training for judges to recognize and mitigate any potential biases, thus promoting fairer assessments in cases where judge-only trials are deemed necessary.

By prioritizing these approaches, the criminal justice system can better support victim survivors and ensure a more balanced and equitable process in sexual offending cases.

## **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?***

It was brutal. The hardest thing I have voluntarily participated in in my life. I was under oath for three days straight and due to Covid-19 was giving evidence from home with no in-person professional support.

Prosecution objected to some questions. Judge interjected minimally.

During my cross-examination, the defence counsel's approach was particularly harsh and repetitive, often probing deeply into details that were distressing and irrelevant to the case at hand. They were allowed to bring up another case of rape that occurred two years after the series of offenses I was testifying about, which was under completely different circumstances. This not only compounded my distress and PTSD but also confused the issues at trial, potentially undermining the integrity of my testimony.

The prolonged nature of the cross-examination—spanning three days—was extremely taxing both emotionally and mentally. Conducting this from home due to Covid-19, without the presence of in person professional support, exacerbated the isolation and stress I felt. The lack of intervention from the judge, who interjected minimally, allowed the defence to persist in their aggressive line of questioning, adding to the trauma.

While the prosecution objected to some of the defence's questions, their objections did not sufficiently mitigate the overall experience. The repetitive and gruelling nature of the cross-examination highlighted the need for stronger protections and more active judicial intervention to prevent re-traumatization of victim survivors during such proceedings.

In reflecting on this experience, it becomes clear that reform is needed to provide a more supportive and fairer environment for those giving evidence in sexual violence cases. This could include:

**Enhanced Judicial Training:** Judges should receive thorough training on trauma-informed approaches to ensure they can effectively intervene and protect victim survivors from unnecessarily distressing questioning.

**Stricter Ground Rules:** Implementing and enforcing stricter ground rules for cross-examination, with a focus on relevance and respect for the witness's well-being.

**Professional Support:** Ensuring that victim survivors have access to in-person professional support, even in remote settings, to provide immediate care and assistance during testimony.

By adopting these measures, the justice system can better support the dignity and mental health of victim survivors, while maintaining the integrity of the judicial process.

### **Question 23**

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

In my experience, the current legislative provisions fall short in adequately protecting complainants during cross-examination. The fact that unrelated crimes, in which I was a victim, were allowed to be introduced into the trial was deeply distressing and irrelevant to the matters at hand. This practice can unfairly sway the jury or judge and undermine the complainant's credibility by introducing unnecessary confusion and prejudice.

Moreover, the repetitive line of questioning employed by the defence counsel, aimed at tripping me up, was not only overwhelming but also seemed designed to exhaust and discredit me rather than seek the truth. This tactic can deter victims from coming forward and damage the integrity of their testimony.

To improve these provisions, several reforms should be considered:

1. **Strict Relevance Criteria:** Enforce stricter rules to ensure that only directly relevant evidence is admissible in trials. Unrelated crimes and events should be explicitly excluded to prevent unnecessary prejudice against the complainant.
2. **Limit Repetitive Questioning:** Implement clear guidelines to prevent excessive and repetitive questioning aimed solely at confusing or intimidating the witness. Counsel should be required to present their questions concisely and avoid badgering the witness.
3. **Trauma-Informed Procedures:** Introduce trauma-informed procedures and training for all legal practitioners to understand the impact of trauma on victims and adjust their questioning techniques accordingly.
4. **Judicial Intervention:** Encourage more proactive judicial intervention to protect the complainant from distressing lines of questioning and to maintain a focus on relevant evidence.
5. **Harmonisation of Laws:** Consider harmonising legislative protections across jurisdictions to ensure consistency and fairness in the treatment of victim survivors during cross-examination. This could involve national standards for the admissibility of evidence and questioning practices that prioritize the well-being of the complainant.

By adopting these reforms, we can create a more respectful and fair courtroom environment for victim survivors, helping them to provide their evidence without undue distress and maintaining the integrity of the judicial process.

## **Question 24**

***Should cross-examination that reflects myths and misconceptions about sexual violence, such as the belief that a 'rape victim' would be expected to complain at the first reasonable opportunity, be restricted on the ground that it is irrelevant or on any other ground?***

Absolutely should be restricted. There is evidence that victims wait on average over 20 years to disclose, which was the case for me, and the fact that I was questioned a great deal about the delay was used by the defence when it should not even be an option to question the validity of reporting that happens that way.

Expanding on this, cross-examinations that invoke myths and misconceptions about sexual violence, such as the expectation of immediate disclosure by victims, should be considered irrelevant and restricted. These lines of questioning not only perpetuate harmful stereotypes but also ignore the complexities of trauma and the varied responses of survivors.

Several reasons support this restriction:

1. **Research Evidence:** Research consistently shows that many survivors of sexual violence delay disclosure due to a range of factors, including fear of not being believed, feelings of shame, psychological trauma, and concerns about retaliation. It is well documented that the average time to disclosure can be many years. Ignoring this evidence in court undermines the reality of the survivor's experience and perpetuates harmful myths.
2. **Trauma-Informed Understanding:** A trauma-informed approach recognizes that delayed reporting is a common and understandable response to sexual violence. Legal questioning that fails to account for this can further traumatize the survivor and lead to revictimization within the judicial process.
3. **Irrelevance to Credibility:** The timing of a victim's disclosure should not be used to question their credibility. Doing so disregards the nuanced and individual nature of responses to trauma. Focus should instead be placed on the consistency and substance of the victim's testimony and the evidence presented.
4. **Judicial Fairness:** To ensure a fair trial, legal practice must evolve to exclude outdated and prejudicial lines of questioning. Judges and legal practitioners should be trained to recognize and prevent the introduction of myth-based arguments that do not contribute to a fair assessment of the case.

To implement these changes:

**Legal Reforms:** Introduce clear legislative guidelines that explicitly restrict the admissibility of questions and arguments based on myths and misconceptions about sexual violence.

**Judicial Training:** Provide ongoing training for judges to enable them to identify and restrict irrelevant and harmful lines of questioning rooted in misconceptions.

Victim Support Measures: Strengthen support systems for survivors during trial to help mitigate the psychological impact of cross-examination and ensure their rights are protected.

By taking these steps, the justice system can better support survivors of sexual violence, promote fairer trials, and move towards a more informed and compassionate approach to handling such cases.

#### **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.***

No, I did not.

#### **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?***

I do not know as it is not my lived experience.

#### **Question 27**

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

Yes they were even though there is legislation in Victoria that is supposed to protect against that. There were a series of appeals as I objected to it being released. It was extremely distressing as the last thing I wanted was for my perpetrator to know anything more about me than what was required for the trial, an absolute gross injustice, invasion of privacy, and infliction of further trauma. They were ultimately only successful in accessing a small amount of information however it took repeated appeals and incredible distress to get to that.

Expanding on this, the pursuit of my counselling and therapeutic records during the trial process was a profoundly invasive and traumatic experience. Despite Victoria's legislation designed to safeguard the privacy of such records, the system's failure to uphold these protections resulted in a prolonged and distressing series of appeals. My objections were based on the deeply personal nature of these records and the justified fear that disclosing



them would provide my perpetrator with intimate details about my life and mental state—information far beyond what was necessary for the trial.

The rationale behind these protections is clear: counselling records contain sensitive and confidential information shared in a therapeutic context, often revealing the most vulnerable aspects of an individual's psyche. Forcing a victim survivor to disclose these records can retraumatize them, breach their privacy, and undermine the therapeutic relationship essential for their healing and recovery.

To address these issues and prevent future injustices of this nature, I recommend the following reforms:

1. **Strengthening Legal Protections:** Reinforce existing legislation to ensure that its provisions are unequivocally applied, making it exceptionally difficult to access a victim's counselling records without incontrovertible justification.
2. **Judicial and Legal Training:** Provide comprehensive training for judges and legal practitioners on the importance of maintaining the confidentiality of therapeutic records. They should be well-versed in the trauma-informed approach and the significant harm that can arise from unnecessary disclosure.
3. **Clearer Guidelines:** Develop and implement clearer guidelines and standards for when and how such records can be requested and reviewed. These guidelines should prioritize the victim's privacy and emotional well-being.
4. **Victim Advocacy:** Guarantee that victim survivors have access to strong legal advocacy to support them through such challenges, ensuring their voice and objections are adequately represented and heard in court.

By implementing these reforms, we can better protect the privacy and dignity of victim survivors, ensuring that the legal process does not compound their trauma. The integrity of the judicial system relies on its ability to balance the pursuit of justice with the protection of individual rights, especially for those who have already endured significant harm.

### **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?***

No, whilst ultimately the defence only got access to a few lines of information, I had to sit in the risk of my entire file being handed over to them for my perpetrator to be privy to.

Yes, there is a requirement for separate representation that should be provided without cost to the victim-survivor.

Expanding on this, the current legislative provisions intended to protect the disclosure and use of a complainant's personal information obtained during counselling or other therapeutic intervention are inadequate in practice. Although the laws theoretically safeguard these sensitive records, the real-world application often falls short, leaving victim-survivors exposed to unacceptable risks.

In my experience, I faced the distressing possibility that my entire counselling file could be disclosed to the defence, which was an almost unbearable invasion of privacy. The prolonged process and the anxiety of potentially having deeply personal information made accessible to my perpetrator added significant trauma to an already challenging ordeal. Although only a few lines were ultimately disclosed, the emotional toll and the time spent contesting the release were substantial.

To enhance the protection of victim-survivors and ensure a fairer application of these legislative provisions, several improvements should be made:

1. **Enhanced Legislative Clarity:** Strengthen and clarify the legislative provisions to make it explicitly clear under what circumstances, if any, counselling records can be accessed. This clarity will reduce ambiguity and protect victim-survivors more effectively. I would argue they should never be admissible at all.
2. **Mandatory Judicial Review:** Implement mandatory judicial review processes whenever a request for counselling records is made. Judges should be required to thoroughly assess the necessity and relevance of the requested information and ensure that the victim's rights to privacy and mental health are not compromised.
3. **Independent Review Panels:** Establish independent panels to review and approve any disclosures of therapeutic records. These panels would consist of legal and mental health professionals who understand the significant impact of such disclosures.
4. **Separate Legal Representation:** Ensure that complainants are provided with separate legal representation at no cost to them. This legal support is crucial in making submissions about the disclosure of personal information and enforcing the legislative protections intended for their benefit.
5. **Harmonisation of Laws:** Consider the harmonisation of these protective laws across jurisdictions to ensure consistent application and avoid discrepancies that could undermine the rights of victim-survivors.
6. **Counselling Protections:** Bolster protections for counselling records specifically, recognizing the unique nature of therapeutic communications. Legal standards should reflect the high threshold needed to justify the intrusion into these confidential interactions.

By adopting these measures, the justice system would better balance the needs of victim-survivors with the requirements of a fair trial. Implementing these changes would reduce the re-traumatization of victim-survivors and enhance the overall integrity and compassion of the judicial process.

## **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)?***

Partially, however, I was heavily cross-examined on the fact I gave more than one statement. Yes, evidence of more than one complaint should be admissible, however, it should not be scrutinised by defence for minor differences.

While legislative reforms to the admissibility and use of complaint evidence have had some positive effects, there remain significant issues. In my case, the fact that I had given more than one statement led to intense cross-examination focused on discrepancies between them, which was both stressful and unfair.

For these reforms to be truly effective and just:

1. **Admissibility of Multiple Complaints:** Evidence of more than one complaint should indeed be admissible. This takes into account the complex nature of trauma and how survivors might disclose their experiences over time, often in pieces as they feel safe to do so.
2. **Protection from Minor Scrutiny:** While multiple complaints should be admissible, the defence should not be allowed to scrutinise minor differences between statements excessively. Minor discrepancies are natural and do not necessarily reflect dishonesty or inaccuracy; rather, they often highlight the trauma and fragmented memory associated with sexual violence.
3. **Harmonisation of Laws:** There is a clear need to harmonise these laws across jurisdictions to ensure consistent standards and practices. Harmonisation should involve setting clear guidelines on the admissibility and use of complaint evidence, focusing on the protection of victim-survivors and the acknowledgment of how trauma affects memory and disclosure.
4. **Use of Complaint Evidence:** Complaint evidence should be admissible both to assert what is claimed by the complainant and to assess credibility, but with careful guidelines. Courts need to be educated on the nuanced impact of trauma, ensuring that the absence or delay of a complaint is not inherently seen as a lack of credibility.
5. **Myth Busting in Legislation:** Legislative reforms should explicitly address and counteract myths about sexual violence, such as the expectation of immediate or consistent complaints. Legal standards should reflect understanding that delays and inconsistencies in reporting are common and should not be used against the credibility of the complainant.

6. Trauma-Informed Training: All legal personnel, including judges and defence attorneys, should receive training on trauma-informed practices to ensure they understand the effects of sexual violence on memory and reporting behaviour. This training should aim to protect victim-survivors from aggressive questioning tactics that exploit natural inconsistencies in their disclosures.

By implementing these measures, the legal system can better support survivors of sexual violence, ensuring their experiences and testimonies are handled with the sensitivity and respect they deserve. This approach not only upholds the integrity of the judicial process but also fosters a more just and empathetic legal environment for victim-survivors.

### **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?***

Yes, there should be legislative reform to the admissibility and use of distress evidence. This is indeed an area that calls for legislative intervention and harmonisation. There was significant distress evidence in my case however it was also weaponised by the defence counsel.

Distress evidence can provide important context in understanding the impact of an offense on a complainant; however, the use and interpretation of such evidence require careful regulation to prevent misuse or misinterpretation. Legislative reform should aim to ensure that distress evidence is used appropriately and consistently without perpetuating stereotypes or misconceptions about how victims should behave.

To achieve this:

1. Clarification of Definitions and Standards: Legislative reform should clearly define what constitutes distress evidence and establish uniform standards for its admissibility. This clarity will help courts distinguish between genuine indicators of distress and potential misinterpretations.
2. Contextual Interpretation: Distress evidence should be admissible, but its interpretation should be guided by a contextual understanding of trauma. Courts must recognize that distress can manifest in various ways, depending on the individual and the circumstances.
3. Harmonisation of Laws: Uniform legislation across jurisdictions is essential to ensure consistent application of these standards. Harmonisation should involve collaboration between legal experts, psychologists, and trauma specialists to create comprehensive guidelines that all courts can follow.
4. Limitation on Misuse: To prevent potential misuse, reforms should include provisions that limit the extent to which distress evidence can be used to challenge the credibility of the

complainant. The laws should explicitly state that absence of visible distress should not be interpreted as an indication of fabrication or lack of credibility.

5. Educating Legal Practitioners: All legal practitioners, including judges and barristers, should receive education and training on the nuances of distress evidence and the varied ways trauma can affect an individual. This training should emphasize an understanding of psychological responses to trauma and how they can differ among individuals.

6. Supportive Procedures for Complainants: Alongside legislative reforms, procedures should be put in place to support complainants presenting distress evidence. This includes providing access to trauma-informed legal representation and psychological support throughout the trial process.

By implementing these strategies, legislative reform regarding distress evidence can contribute to a more sensitive and fair judicial process. Ensuring that this evidence is used responsibly prevents further trauma to victims and upholds the principles of justice. Distress evidence, when properly handled, can enrich the understanding of a case and provide crucial insights without undermining the dignity and credibility of the complainant.

### **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?***

Yes, further reforms should 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. In my experience circumstantial witnesses were cut from the trial at defence request yet my perpetrator had character witnesses. Extremely unjust.

While the model provisions represent significant progress in addressing the complexities of these types of evidence, additional reforms can enhance their effectiveness and ensure that they are applied appropriately and consistently. Key areas for further reform include:

1. Clearer Definitions and Guidelines: Further clarification is needed regarding what constitutes tendency and coincidence evidence. Detailed guidelines should be developed to help legal practitioners and judges determine the admissibility of such evidence, ensuring that it is relevant and probative rather than prejudicial.

2. Balancing Fairness and Relevance: Reforms should aim to strike a balance between the probative value of tendency and coincidence evidence and the potential for unfair prejudice. Safeguards should be put in place to ensure that this evidence is not used to unfairly bias the court against the accused, while still allowing it to provide critical context and insight into patterns of behaviour.

3. **Enhanced Judicial Training:** Judges should receive ongoing training on the application of tendency and coincidence evidence, with a focus on understanding the potential impact on both the accused and the complainant. This training should include education on trauma-informed practices and the psychological aspects of abuse cases.
4. **Victim Support Mechanisms:** In cases where tendency and coincidence evidence are presented, additional support mechanisms for victims should be considered. These could include access to counselling and legal advocacy to help them navigate the complexities and emotional challenges of the trial process.
5. **Harmonisation Across Jurisdictions:** There should be efforts to harmonise the application of tendency and coincidence evidence laws across different jurisdictions. Consistent legal standards will help ensure that cases are treated equitably regardless of location, providing a uniform approach to the handling of such evidence.
6. **Review and Monitoring:** Establishing a system for the periodic review and monitoring of the application of tendency and coincidence evidence provisions can help identify issues and areas for improvement. Feedback from legal practitioners, judges, and the victims involved in these cases should inform ongoing reforms and updates to the legislation.
7. **Public Education and Transparency:** To maintain public trust in the judicial system, there should be efforts to educate the public about the role and limitations of tendency and coincidence evidence. Transparent communication can help dispel myths and misconceptions about how this evidence is used and its impact on the fairness of trials.

By implementing these additional reforms, the legal system can better navigate the complexities of tendency and coincidence evidence, ensuring that it is used in a manner that supports justice and fairness for all parties involved. These steps will enhance the integrity of legal proceedings and ensure that the protections recommended by the Royal Commission are fully realized and effectively applied.

### **Question 32**

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

In addition to subpoenaing my psychologist file, defence also subpoenaed my personal journal entries, text messages, and emails to the person I first disclosed to, my psychologist, and my best friend. Again, this was incredibly invasive and impacted my ability to communicate openly and honestly for fear further invasion into my life would occur before the trial was over.

The handling of evidence in sexual violence trials raises several critical issues that require further consideration and potential reform. The invasive nature of subpoenaing highly

personal communications and documents can significantly impact a victim-survivor's emotional well-being and willingness to engage fully in the judicial process.

To address these concerns, the following reforms are recommended:

1. **Stricter Privacy Protections:** Legislative measures should be strengthened to protect personal communications such as journal entries, text messages, and emails from being unnecessarily subpoenaed. These protections should emphasize the need for a compelling reason directly related to the case to justify such invasions of privacy because in my experience it was an activity of fishing for information.
2. **Clear Criteria for Admissibility:** Develop clear criteria and guidelines for determining the admissibility of personal communications as evidence. This should include a rigorous examination of the relevance and necessity of these documents to the case, prioritizing the privacy and mental health of the complainant.
3. **Harmonisation of Legal Standards:** There should be a concerted effort to harmonise evidence laws related to the admissibility of personal and sensitive communications across jurisdictions. This harmonisation would ensure consistent application of privacy protections and reduce discrepancies that can lead to injustice.
4. **Enhanced Judicial Oversight:** Introduce enhanced judicial oversight for the subpoenaing of personal records. Judges should be required to consider the potential psychological impact on the complainant and weigh this against the evidentiary value of the requested documents.
5. **Legal Support for Complainants:** Ensure that victim-survivors have access to independent legal representation specifically to challenge subpoenas for personal records. This representation should be provided at no cost to the complainant to ensure that financial barriers do not prevent adequate legal defence of their privacy.
6. **Trauma-Informed Handling of Evidence:** Legal practitioners should receive training on trauma-informed approaches to handling evidence in sexual violence cases. They should understand how the invasion of privacy can exacerbate trauma and be encouraged to limit demands for personal communications unless absolutely essential for the case.
7. **Periodic Review and Feedback Mechanisms:** Establish a system for periodic review of how personal evidence is handled in sexual violence trials. This review should incorporate feedback from complainants, legal practitioners, and psychological experts to continually refine and improve the process.
8. **Guidelines for Initial Disclosures:** Create guidelines to protect initial disclosures made to trusted individuals. These conversations are often critical for the complainant's support system and should not be unduly scrutinized or used to undermine their credibility.

By addressing these issues through targeted reforms, we can create a more balanced and respectful approach to evidence in sexual violence trials. This approach will protect the privacy and dignity of complainants while ensuring that the judicial process remains fair and

just. Implementing these reforms can help reduce the re-traumatization of victim-survivors and promote a more compassionate legal system.

### **Question 33**

***Do you have views about the creation of specialist courts, sections, or lists?***

***Do you support specialised training for judges who conduct sexual offence cases? What issues should that training address?***

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

Yes, I think there should be specialist courts for addressing sexual offences. Training should focus on trauma-informed approach, dispelling myths. Absolutely support some form of special accreditation for lawyers who appear in sexual offence cases; however, it would need to be a transition process so that it did not delay cases.

The establishment of specialist courts, sections, or lists for sexual offence cases may significantly improve the handling and outcomes of these sensitive matters. My support for this approach is grounded in the belief that specialization can lead to more informed, consistent, and compassionate adjudication of sexual offence cases.

**Specialist Courts for Sexual Offences:** Specialist courts dedicated to sexual offences would ensure that judges and court staff have the requisite expertise and understanding of the complexities involved in these cases. These courts can provide a more supportive environment for victim-survivors, fostering a judicial process that is sensitive to their needs and experiences.

**Specialized Training for Judge:** Judges who conduct sexual offence cases should receive specialized training that focuses on:

- **Trauma-Informed Approaches:** Understanding the psychological impact of sexual violence and how trauma can affect memory, behaviour, and testimony.
- **Myth Dispelling:** Addressing and correcting common myths and misconceptions about sexual violence, such as the expectations of victim behaviour.
- **Cultural Competency:** Recognizing the diverse backgrounds of victim-survivors and understanding how cultural factors can influence their experiences and responses.
- **Legal Nuances:** Deepening knowledge on the specific legal challenges and evidentiary issues unique to sexual offence cases.

**Special Accreditation for Lawyers:** Special accreditation for lawyers appearing in sexual offence cases is crucial to ensure that legal representation is competent, knowledgeable, and sensitive to the nuances of such cases. While I fully support this, it is essential to implement a transition process to prevent any potential delays in case proceedings. This could involve:



- **Gradual Implementation:** Phasing in accreditation requirements over time, allowing current practitioners to gain the necessary training without disrupting ongoing cases.
- **Comprehensive Training Programs:** Establishing robust training and certification programs that include practical and theoretical components focused on sexual offence law and trauma-informed practice.

**Addressing Potential Delays:** To mitigate any negative impact on the availability of lawyers and the timeline of cases:

- **Existing Practitioner Support:** Providing existing legal practitioners with opportunities for accelerated accreditation to quickly expand the pool of qualified lawyers.
- **Ongoing Education and Development:** Encouraging continuous professional development and offering refresher courses to maintain high standards of practice.
- **Resource Allocation:** Ensuring adequate funding and resources for training programs to facilitate the timely and efficient accreditation of lawyers.

By adopting these measures, the legal system can better support victim-survivors of sexual violence, ensuring that their cases are handled by professionals who are well-equipped to navigate the intricacies of these offences with sensitivity and expertise. This approach promotes a more just, empathetic, and effective judicial process, ultimately enhancing the quality of justice delivered in sexual offence cases.

### **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?***

The delays in the judicial process surrounding my case have had profound and devastating impacts on my life and well-being. The initial delay from the investigation to the arrest took several months, creating an early period of uncertainty and anxiety. The delay was further exacerbated by the extended period between the committal hearing and the actual trial, which spanned over two years. This prolonged timeline was partly due to the disruptions caused by the COVID-19 pandemic.

The severe impact of these delays cannot be overstated. Participating in the trial a month after my father's death from a glioblastoma was incredibly traumatic. His passing was distressing enough, and having to engage in the trial process amidst such personal grief compounded my emotional burden. The uncertainty of the situation meant that I was unable to make firm holiday plans for years, as I needed to remain available for trial dates that could be scheduled at any time.

The delays significantly affected my communication with loved ones. The persistent anxiety and stress made it difficult to engage openly and honestly, as the unresolved case loomed over every interaction. This strain extended to my mental and physical health, manifesting in ways that compromised my overall well-being.

Professionally, the impacts were equally severe. My productivity at work suffered, leading to a 15-month departure from my position. The ongoing distress and distraction caused by the unresolved case made it impossible to maintain the level of focus and performance required in my job. This professional hiatus further compounded the sense of instability and disruption in my life.

Ultimately, it took over five years from the time I first reported the crime to when my perpetrator faced trial. This protracted period left me in a state of constant distress and uncertainty, profoundly affecting every aspect of my life. The judicial system's delays in handling my case underscore the urgent need for reforms to ensure timely and efficient processing of sexual violence cases, minimizing the additional trauma inflicted on victim-survivors through prolonged legal proceedings.

### **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?***

The delays in my state can primarily be attributed to the sheer volume of cases within the judicial system and the significant impact of the COVID-19 pandemic, which disrupted court schedules and extended timelines for many legal proceedings.

Comment on Past Recommendations: The previous recommendations aimed at addressing these delays are crucial and should be implemented to enhance the efficiency of the judicial process.

Ideas for Reducing Delays:

1. Increase Judicial Resources: Allocating more judges, court staff, and resources to manage the high volume of cases can significantly reduce delays. This should include appointing additional staff specifically trained to handle sexual offence cases.
2. Specialist Courts: Establishing specialist courts for sexual offences can streamline case management and ensure that these cases receive focused attention, thereby reducing the time taken to bring them to trial.
3. Enhanced Case Management: Implementing more efficient case management systems and employing technology to streamline administrative processes can help expedite proceedings. This includes digital case filing, virtual hearings, and real-time case tracking.
4. Training and Specialization: Investing in specialized training for all parties involved in handling sexual offence cases can improve the efficiency and sensitivity of the judicial process. This includes training for judges, prosecutors, defence counsel, and support staff.
6. Legal Reforms and Guidelines: Revising legal procedures and guidelines to eliminate unnecessary bureaucratic hurdles can speed up the process. This involves reevaluating

sentencing guidelines, evidence submission protocols, and procedural rules to ensure they are streamlined and effective.

#### National Approach:

A national approach to reducing delays could be highly effective, providing a coordinated effort to standardize procedures and share best practices across jurisdictions. Key elements of this national approach could include:

1. **Federal Funding and Resources:** Allocating federal resources to support state efforts in reducing delays. This can include funding for additional judicial appointments, training programs, and technological upgrades.
2. **Standardized Practices:** Developing and implementing standardized procedures and guidelines across all states and territories to ensure consistency and efficiency in handling sexual offence cases.
3. **Inter-Jurisdictional Collaboration:** Facilitating communication and collaboration between states to share successful strategies and innovations for reducing delays.
4. **National Training Programs:** Establishing national training programs for judicial officers, legal practitioners, and court staff, focused on the unique challenges of sexual offence cases and effective case management practices.
5. **Monitoring and Evaluation:** Setting up a national body to monitor and evaluate the implementation of these measures, ensuring continuous improvement and accountability in reducing delays.

By addressing the underlying causes of delays and adopting both state-specific and national strategies, we can significantly improve the timeliness and efficiency of the judicial process for sexual offence cases. This will help reduce the additional trauma experienced by victim-survivors and contribute to a more effective and compassionate legal system.

#### **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.***

My perpetrator pleaded not guilty.

#### **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?***

I do not know.

### **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?***

My perpetrator was found not guilty therefore I do not have experience in this aspect.

### **Question 39**

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

My perpetrator was found not guilty therefore I do not have experience in this aspect.

### **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?***

My perpetrator was found not guilty therefore I do not have experience in this aspect.

***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?***

My perpetrator was found not guilty therefore I do not have experience in this aspect.

### **Question 42**

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

It absolutely appears that for the small percentage of cases that are prosecuted, the sentencing is wholly inadequate, and perpetrators do not actually face consequences that fit the crime.

Improving the sentencing process in matters involving sexual violence offences is critical to ensuring justice for victim-survivors and deterring future offences. Here are several ideas for enhancing the current system:

1. Establishing Sentencing Guidelines: Implementing clear, stringent sentencing guidelines specifically for sexual violence offences can ensure that sentences are proportionate to the

severity of the crime. These guidelines should be developed in consultation with experts in criminal justice, psychology, and victim advocacy to ensure they reflect the gravity of the offences and the impact on victim-survivors.

2. **Mandatory Minimum Sentences:** Introducing mandatory minimum sentences for certain categories of sexual violence can ensure that perpetrators receive consequences that reflect the seriousness of their actions. This can help address inconsistencies and prevent unduly lenient sentences.

3. **Training for Judges:** Providing specialized training for judges on the dynamics and impact of sexual violence can improve their understanding of the long-term effects on victims. This training should include information on trauma, victim behaviour, and the psychological consequences of sexual violence to guide more informed and empathetic sentencing decisions.

4. **Victim Impact Statements:** Ensuring that victim impact statements are given significant weight in the sentencing process can help convey the profound impact of the offence on the victim-survivor. This can personalize the harm and guide judges towards sentences that better reflect the suffering endured by the victim.

5. **Community Input and Oversight:** Establishing community panels or advisory boards that include victim advocates and experts in sexual violence can offer additional perspectives during the sentencing phase. These panels can review sentences to provide recommendations or feedback, promoting accountability and transparency.

6. **Public Awareness and Reporting:** Increasing public awareness about the sentencing process and outcomes for sexual violence cases can help build community trust in the judicial system. Transparent reporting on sentencing statistics and rationales can also discourage leniency and encourage more appropriate sentencing practices.

8. **Appeal Processes:** Strengthening the mechanisms for appealing inappropriate or unduly lenient sentences can provide another layer of oversight. This ensures that sentences can be reviewed and adjusted if they do not adequately reflect the seriousness of the crime.

By implementing these measures, we can improve the adequacy and consistency of sentencing in sexual violence cases, ensuring that perpetrators face appropriate consequences and that justice is served for victim-survivors. This approach not only supports individual justice but also sends a broader message about the seriousness with which society regards these offences.

### **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?***

My perpetrator was found not guilty therefore I do not have experience in this aspect in regards to appealing sentencing.

As a victim survivor, my experience with the appeal process primarily involved the defence's multiple appeals against the findings that prevented the handover of my psychologist file. Although I did not experience the appeals process regarding sentencing due to the not guilty verdict, the appeals related to evidence disclosure were significant and had a substantial impact on me.

Information and Support Received: Throughout the appeal process regarding the disclosure of my psychologist file, my detective and the Office of Public Prosecutions (OPP) were supportive. They provided me with some information about the process and its possible outcomes. However, their ability to offer detailed information and support was limited due to concerns about potentially impacting the ongoing trial.

Usefulness of Information and Support: While the support I received from the detective and the OPP was appreciated, the limitations on what they could share left me feeling distressed and isolated. The incomplete information made it challenging to fully understand the implications of the defence's appeals and the potential outcomes. This lack of clarity and comprehensive support exacerbated the emotional toll of the legal proceedings.

Impact of the Appeals Process: The appeals process added another layer of stress and uncertainty to an already overwhelming situation. The repeated challenges by the defence to access my psychologist file were invasive and retraumatizing, compounding the difficulty of navigating the legal system. The restriction on communication from my support team, necessary as it was, led to feelings of isolation and distress, making an already arduous process even more challenging to endure.

#### ***Question 44***

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

The experience highlighted the need for a more robust support system for victim survivors during the appeals process. Ensuring that victim survivors receive clear, comprehensive information and emotional support throughout all stages of legal proceedings, including appeals, is crucial. This could involve offering additional resources, such as dedicated victim support officers or counsellors, who can provide continuous support while preserving the integrity of the trial process.

By improving the information and support framework for victim survivors during appeals, we can mitigate some of the distress and isolation that accompanies these proceedings, fostering a more compassionate and supportive legal environment.

#### **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?***

As a victim survivor, my feelings about restorative justice are mixed. In cases like mine, where the offences occurred over 20 years ago, I do see a potential role for restorative justice to offer some form of resolution and healing. However, I also have concerns that it may not adequately hold perpetrators to account. Unfortunately, it's a harsh reality that many perpetrators do not face appropriate consequences through traditional justice mechanisms either.

**Importance as an Option:** While restorative justice may not be universally suitable, it is important to have it as an option. For some victim-survivors, the opportunity to engage in a restorative justice process could provide a sense of closure, validation, and empowerment that may not be achievable through conventional legal proceedings.

**Approach to Restorative Justice:** Any restorative justice program addressing sexual violence must be carefully designed to ensure the safety and well-being of victim-survivors. Critical elements should include:

1. **Trauma-Informed Design:** The program must be trauma-informed, recognizing the profound psychological impact of sexual violence and ensuring that the process does not retraumatize participants. This involves training facilitators in trauma-sensitive practices and providing ongoing support to victim-survivors throughout the process.
2. **Co-Design with Victim-Survivors:** The program should be co-designed with victim-survivors who are mentally and emotionally prepared to contribute. Their insights and experiences are invaluable in creating a process that truly meets the needs of those it aims to support. This collaborative approach ensures that the program is both respectful and effective.
3. **Voluntary Participation:** Participation in restorative justice must be entirely voluntary for victim-survivors. They should have the autonomy to choose whether or not to engage in the process without any pressure or obligation.
4. **Accountability and Safeguards:** While restorative justice focuses on dialogue and reconciliation, it should also incorporate mechanisms to ensure that perpetrators are held accountable for their actions. This could include agreements on reparative actions or commitments to behavioural changes that are monitored and enforced.
5. **Support Systems:** Robust support systems are essential. This includes access to counselling, legal advice, and other resources to help navigate the emotional and practical challenges of the process.

6. Monitoring and Evaluation: Continuous monitoring and evaluation of the restorative justice program are necessary to ensure it remains effective and responsive to the needs of victim-survivors. Feedback loops should be established to allow participants to share their experiences and suggest improvements.

In conclusion, while I have reservations about the efficacy of restorative justice in holding perpetrators to account, its potential benefits make it a valuable option. It offers an alternative path to healing and justice, particularly when traditional avenues fall short. However, its implementation must be handled with utmost care, prioritizing the needs and safety of victim-survivors at every stage.

### **Question 48**

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

The effectiveness of civil justice responses to sexual violence can be significantly enhanced by implementing several key measures outlined above. While each recommendation has its merits, some are particularly impactful:

1. Government Funding for Applicants in Civil Proceedings: Providing government funding for some applicants in civil proceedings can alleviate the financial burden and make civil litigation more accessible to victim-survivors. This support ensures that those who cannot afford legal representation still have the opportunity to seek justice and remedies through the civil system.
2. Trauma-Informed Court Processes and Support for Victim Survivors: Instituting trauma-informed court processes and providing comprehensive support for victim-survivors is crucial. Courts must be equipped to handle cases involving sexual violence with sensitivity and understanding. Training for judges, legal professionals, and court staff on the dynamics of trauma can help create a more supportive environment for victim-survivors. This measure addresses the emotional and psychological impacts of civil litigation, reducing the risk of re-traumatization.
3. Excluding the Admissibility of Prejudicial Evidence: Ensuring that prejudicial evidence of little or no probative value is inadmissible can lead to fairer outcomes. By focusing on relevant and reliable evidence, the process can avoid further victimizing survivors and prevent the reinforcement of harmful myths and misconceptions about sexual violence.
4. Supporting Applicants to Apply for Intervention Orders: Assisting applicants in obtaining Intervention Orders can provide immediate protection and a sense of security for victim-survivors. These orders can be crucial in preventing further harm and are an essential component of a comprehensive civil justice response.



5. Government Enforcement of Orders to Pay Damages: When courts order perpetrators to pay damages, government enforcement of these orders ensures that victim-survivors receive the compensation awarded to them. This measure holds perpetrators accountable and supports the financial recovery of victim-survivors, recognizing the economic impact of sexual violence.

6. Addressing the Intersection of Sexual Violence with Other Legal Matters: Recognizing and addressing the intersection of sexual violence issues with family violence, family law, and child protection matters can lead to more integrated and holistic responses. Coordinating these legal areas can provide more comprehensive protection and support for victim-survivors, acknowledging the complex realities they often face.

Implementing these measures can substantially improve the civil justice responses to sexual violence, making the process more accessible, fair, and supportive for victim-survivors. By focusing on trauma-informed practices, financial support, and the exclusion of prejudicial evidence, the civil legal system can offer more effective and compassionate remedies.

**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?***

I do not have anything further to contribute here.

**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?***

My cases were not a result of workplace sexual violence.

**Question 51**

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

I do not know.

**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?***

I did apply for compensation through the Victims of Crime Assistance Tribunal (VOCAT). My detective informed me about the possibility of seeking compensation and provided me with the contact information for a lawyer who specializes in processing VOCAT applications at no cost to the applicant.

Process and Experience: The application process itself was relatively straightforward, thanks to the assistance provided by the lawyer. This support was invaluable in navigating the complexities of the application process without incurring additional financial burdens.

Outcome: I was awarded a small amount of compensation, but this was only for the case that went to court. Unfortunately, I was not eligible to receive compensation for another case that did not proceed to court. This was due to specific provisions in the law regarding eligibility and the dates when the incidents occurred.

Reflection: While I am grateful for the compensation I received, the experience highlighted some of the limitations within the current system. The restriction that precluded compensation for incidents that happened outside a certain time period felt particularly unjust, as the impact of the crime on the victim-survivor can be significant regardless. The eligibility criteria based on the dates of the incidents further limited access to compensation, underscoring the need for more inclusive and flexible regulations.

Overall, the support from my detective and the lawyer made the application process manageable, but the system's constraints reveal areas that require improvement to ensure all victim-survivors receive the compensation they deserve.

#### **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?***

I was unaware of the existence of Victims' Charters prior to this inquiry. Given my experience in navigating the justice system, I find myself questioning the tangible impact of the Charter throughout the various stages of the process. In theory, I believe that a Victims' Charter is an admirable and potentially beneficial tool, but its real-world efficacy remains uncertain to me.

Importance of a Victims' Charter: Conceptually, a Victims' Charter holds significant importance as it aims to outline the rights and protections afforded to victim-survivors. It can serve as an essential framework to guide the treatment of victim-survivors within the justice system, ensuring their needs and rights are recognized and respected.

Components to Include in the Charter:

1. **Clear Articulation of Rights:** The Charter should clearly delineate the rights of victim-survivors at all stages of the justice process. This includes the right to be treated with dignity and respect, the right to information about the progress of the case, and the right to participate in proceedings where appropriate.

2. **Trauma-Informed Practices:** It should mandate the adoption of trauma-informed practices across all facets of the justice system. This means equipping staff with the training necessary to support victim-survivors in a manner that acknowledges and minimizes re-traumatization.

3. **Access to Support Services:** The Charter should guarantee access to comprehensive support services, such as legal aid, counselling, and healthcare services. These services should be available throughout the legal process and afterward.

4. **Enforcement Mechanisms:** To ensure the Charter's commitments are upheld, it should include robust enforcement mechanisms. There must be clear pathways for victim-survivors to report any breaches of their rights, and these complaints should be addressed promptly and effectively.

5. **Regular Review and Updates:** The Charter should be subject to regular reviews to adapt to evolving best practices and emerging needs of victim-survivors. This would help it remain relevant and effective.

6. **Public Awareness and Education:** Efforts should be made to raise awareness about the Victims' Charter among the public and within the justice system. Victim-survivors must be informed about their rights and the protections available to them from the outset.

While a Victims' Charter is laudable in principle, its implementation and actual impact on the justice process are where its true value lies. Ensuring that it is not just a symbolic document, but one that effectually improves the experiences of victim-survivors, is crucial.

#### **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?***

I do not know.

#### **Question 56**

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

To ensure that victim-survivors' rights are identified and respected by the criminal justice system, several critical steps need to be taken:

1. **Trauma-Informed Processes:** Establish trauma-informed processes that extend from the initial reporting of an incident all the way through to the completion of a trial. This includes training all personnel involved—from police officers to judges—on the impacts of trauma and how to engage with victim-survivors empathetically and respectfully.

2. Co-Design with Victim-Survivors: Engage victim-survivors in the co-design of these processes, ensuring that those who participate are fairly compensated for their time and expertise. This approach ensures that the systems put in place genuinely address the needs and experiences of those they are intended to serve, rather than adding to their burden by expecting them to provide free consultation.

3. Comprehensive Support System: Develop a robust support system that includes legal, psychological, and emotional support throughout the entire justice process. Victim-survivors should have access to counselling, legal aid, and other supportive services without having to navigate these resources on their own.

4. Transparent Communication: Maintain transparent and consistent communication with victim-survivors, keeping them informed about the progress of their case and any developments. This can reduce the anxiety and uncertainty that often accompanies the lengthy and opaque justice process.

5. Legislative Reforms: Implement legislative reforms designed to protect and support victim-survivors. This could involve revising laws to ensure that evidence rules do not retraumatize survivors or exclude crucial support services from the courtroom.

6. Review and Accountability: Regularly review the effectiveness of these processes and hold the system accountable for any failures to respect or uphold the rights of victim-survivors. There should be mechanisms in place for victim-survivors to report grievances and have them addressed promptly.

Personal Reflection: Creating this submission has been an exhaustive and emotionally taxing process, exacerbating my PTSD symptoms. Yet, I am grateful for this opportunity because I believe the Australian Law Reform Commission's review of the justice system's response to sexual assaults is crucial. True change is desperately needed. Currently, victim-survivors are encouraged to come forward, only to be let down and retraumatized by a justice system that is ill-equipped to deliver justice. This additional trauma has led me to advise friends and family against pursuing criminal justice responses for sexual violence, it is not a path to healing.

Systems Approach: Solving the problem of sexual violence requires a systems approach. While the justice system alone cannot solve the issue, it should not exacerbate the trauma experienced by victim-survivors. Instead, it should provide a therapeutic path to healing. I am hopeful that this review by the Australian Law Reform Commission will lead to meaningful improvements, making the justice system a true avenue for justice and healing for victim-survivors.