



Our **Mission** is to prevent child sexual assault in our society.
 Our **Vision** is to make Australia the safest place in the world to raise a child.

SUBMISSION FROM BRAVEHEARTS - CASE 57

1. The nature of child sexual abuse and related matters in institutional contexts in Australia and how community understanding of abuse has changed over time;

Bravehearts has been actively contributing to the provision of child sexual assault intervention and prevention services throughout Australia since 1996.

Since the commencement of the Royal Commission, Bravehearts has seen an increase in the number of individuals seeking support and advice in relation to both historical offences and current offences, including parents looking to protect their children; and in relation to harm perpetrated in institutions and outside of.

While child sexual assault is still impacted on by the silence, shame and secrecy, it is less hidden than it once was. A significant problem in every community in Australia, with the exposure the Royal Commission (the 'Commission') has given to the issue there is undoubtedly greater awareness and openness to discuss child sexual assault.

We are seeing more and more reports of offences committed online, with the online environment opening up avenues for meeting, grooming and offending against children. While this has not been considered in the Royal Commission, the very fact that the Commission is resulting in greater awareness and media attention on the issue of child sexual assault, we are seeing broader public discussions of the potential and real risks to our children.

The prevalence of child sexual assault within the community is still largely unknown. There are no adequate, nationally-consistent data collection measures in Australia to provide reliable figures on the prevalence of child sexual assault, with each State/Territory using different definitions and reporting methods. We know that reporting rates to police and other authorities are still low. We know that child protection department data is an inadequate source of reliable information on the prevalence of child sexual assault, as it only captures child sexual assault when it occurs in the familial context and when there is not a parent willing and able to protect a child. We also know that victim self-report surveys show a much higher rate of victimisation than official statistics.

Research tells us that the people who most commonly sexually harm children are family members or individuals close to the family or child. Data from a sample of more than 500 clients attending therapy at Bravehearts over a five year period indicated that approximately ninety-seven per cent of offenders were known to the victim. Specifically, forty per cent of offenders were a father or father

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figure living in the child's primary or secondary residence, thirty per cent were other family members and twenty-seven per cent were known to the child and their family outside the home. Only three per cent were strangers. These figures are consistent with existing research showing the majority of offenders to be either related to or closely affiliated with the child.

The Commission has gathered a great deal of research and resources relating to the issue of child sexual assault. Many of the findings of the Commission's work have been reaffirming for those of us who have worked within the sector for many years, including findings around the rates of child sexual assault, the dynamics of offending and the impact on victims. Research clearly shows that individuals who are sexually assaulted as children are far more likely to experience psychological problems often lasting into adulthood, including: Post Traumatic Stress Disorder, depression, substance abuse and relationship problems. Although we recognise some factors impact on children's vulnerability (see comments under 3a below), child sexual assault does not discriminate along lines of region, race, creed, socio-economic status or gender; it crosses all boundaries to impact every community and every person in Australia.

However, research suggests that many organisations and adults are still unaware of effective steps they can take to protect children from sexual assault. Most do not know how to recognise signs of sexual assault and many do not know what to do when sexual assault is suspected or discovered.

While the work of the Commission has done much to highlight the issue of sexual harm of children and young people in institutional contexts; one of the, perhaps unintended, consequences of the work of the Commission has been the highlighting of the lack of work into the understandings of child sexual assault outside of the institutional environment. One concern expressed by many survivors who have contacted us over the years, is that while they appreciate the necessity of the work of the Commission, their stories, their voices and their experiences are lost.

We think however, that the Commission's work into the processes of the criminal justice system, including police and prosecutions, has highlighted many of the issues facing survivors more broadly.

As articulated below (under "4. Any related matters") we remain focused on drawing attention and more specifically calling for a Royal Commission of Inquiry, with all of the powers it has, to look into the abject failures of the Australian family law system to protect children from sexual harm. While it is not suggested that abuse takes place within the Family Court, Bravehearts contends that the processes and practices of the institution of the Court and its surrounding systems require further examination.

The Family Court is a critical institution that interacts with and deals with issues of child sexual assault. Bravehearts is aware of many instances where deficiencies in the Family Court's practices, policies and procedures have placed children at serious risk of sexual assault. Improvements to practices, policies and procedures within this institution is essential to the protection of many victims of familial harm.

2. The extent of child sexual abuse in institutional contexts historically and in contemporary Australia, and challenges to identification and prevention.

Although we still have a long way to go, certainly the culture of silence, secrecy and shame has begun to shift. Children and young people are increasingly better equipped to disclose child sexual assault. The adults who care for them are likewise increasingly better informed in how to respond.

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However, there are still challenges in the identification and prevention of child sexual assault in our institutions and broader communities.

Prevention Programs

Services providing early intervention and prevention around child protection are a fundamental key to providing for the over-all safety and well-being of children. Prevention, education and awareness programs need to be targeted not just towards children, families or organisations where there has been an identified problem, but also more universally introduced, at a community level. The resourcing of awareness and education is crucial and budgetary allocations need to be made to funding proven, effective programs that demonstrate best practice. Effective intervention early on is essential in better responding to child protection concerns and minimising the negative outcomes.

While positive steps can be taken in empowering and building resiliency in our children, lessening their vulnerability to child sexual assault, it is equally as important that these programs are complemented by programs highlighting the responsibility organisations and adults play in keeping children safe. Organisations and adults should be taking proactive steps to protect children from this significant risk. It is unrealistic to think that a young child can take responsibility for keeping themselves safe. Adults are the ones who need to prevent, recognise and react responsibly to child sexual harm. Adults working with children and young people need to have an understanding of the dynamics of child sexual assault, including the indicators and the barriers to speaking out, in order to properly address concerns or disclosures by children in their care.

Child Safe Organisations

We acknowledge the great work the Commission is doing into changing community expectations for child protection. The focus on child safe organisations is an important one, and we believe that this will continue to result in changes to obligations for all organisations, be they public, private, commercial or not-for-profit.

Without legislative requirements we would question whether organisations, that have not typically recognised their role in child protection, will take up this responsibility. It is our position that every organisation that has assumed the responsibility for the care, education or employment of children has also assumed a legal duty of care for those children. This responsibility exists whether the contact with children is through paid employment or in a voluntary capacity.

Barriers to Disclosure:

One of the major issues facing survivors of child sexual assault across the country is a reluctance to report to the authorities. This is often grounded in a lack of trust of the system, belief that the authorities will not care, a fear of disbelief or concerns that nothing can or will be done. The Commission has seen confirmation of this reluctance and the barriers victims face, in relation to institutional responses, throughout the evidence given.

Bravehearts has long advocated for alternative approaches to disclosure and dealing with those disclosures.

The Sexual Assault Disclosure Scheme was created by Bravehearts with two broad aims: (1) the intent that this scheme could assist as a vehicle by which adult survivors of child sexual assault could notify the police in an anonymous, non-threatening manner and (2) the provision of information to police which would assist in identifying ongoing and repeat offending behaviour.

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Due to the nature of child sexual assault, individuals often feel a sense of powerlessness over their situation. SADS was designed with the hope that this avenue may help reinstate some of the power back to the individual, and in turn, help to increase the number of assaults reported to the police.

Operating since 2001, the Sexual Assault Disclosure Scheme has facilitated disclosures by adult survivors, resulting in convictions of many offenders and now operates with police cooperation across the country. A 2015 evaluation of the Scheme found that there was a positive impact of participation on individuals' ability to talk about their childhood experiences with significant others in their life, and importantly, contributed to a reduction of negative perceptions of the police by participants. The scheme has been replicated by both Queensland (ARO) and New South Wales (SARO) police services.

Bravehearts believes that alternative reporting options, such as SADS, would be invaluable for harm perpetrated in institutional contexts. Providing victims and reporting individuals with an external, independent avenue for making disclosures ultimately increases transparency, increases support for victims and decreases organisational risk.

Family Law System Failures

As outlined below under '*4. Any related matters*', Bravehearts is also concerned with the way in which the family law system is addressing allegations and disclosures of child sexual assault within its framework.

Bravehearts has identified a number of issues impacting on the effectiveness of the system in responding to child sexual assault:

- Where there is family law involvement, child protection departments too readily defer these matters to the family courts without investigating or assessing child protection concerns.
- Court orders are often made preventing further reporting to third parties including police, statutory bodies and external agencies and support (for example, therapists).
- Independent Children's Lawyers and other legal practitioners are often reported as pressuring parents to consent to orders of a shared parenting nature, to withdraw allegations of abuse and minimise the allegations.
- The counter allegations of emotional abuse, coaching and various mental illness are being used to threaten protective parents into consent orders or withdrawing abuse allegations, or risk having the child removed.
- It has been alleged that the family court routinely priorities its own reports from "experts" or family consultants who do not have specific training in child sexual assault, nor who have spent substantial time with the child or family, over evidence from third parties (teachers, therapists, medical professionals).
- Children are often removed from the protective parent and placed in the custody of the parent the child has made the allegations of sexual assault against or court ordered to continue to spend unsupervised time with, further silencing the victim.
- The current challenges are both cultural and systemic. Failures by the family law courts, and the institutions surrounding and associated with it, are continually placing children in grave danger, at risk of further sexual harm and of self-harm.

Regardless of where or when sexual harm took place, Bravehearts believes that any institution, government or non-government organisation or body, must respond appropriately and swiftly when

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any allegations and incidents of child sexual assault occur, including holding perpetrators to account and providing justice to victims.

3. *The factors that contribute to the risk of child sexual abuse in institutional contexts:*

a) *factors that make all children vulnerable to sexual abuse and heighten the vulnerability of particular groups of children to sexual abuse*

- There is an imbalance of power between the perpetrator and the child victim.
- Depending upon the age and developmental status of the child, the nature of the disclosure often lacks contextual details required for criminal charges.
- The grooming and manipulation intrinsic to child sexual assault matters means that many victims face numerous barriers to speaking out.
- Perpetrators will actively try to manipulate institutional departments to create an opportunity to continually sexually harm children
- Children may be particularly vulnerable due to a range of factors, including, but not limited to, disabilities, socio-demographic background, cultural silencing, and residing in regional or remote areas.
- When a child does disclose sexual assault they may face disbelief and find no one is listening to them or acting as an advocate to protect them.
- Children are often removed from protective parents, placed in full time care with the alleged perpetrator. There is no further monitoring or follow up with these children. They are isolated and removed from any previous support network, family, school, or extra activities.
- Perpetrators have mastered the art of grooming, not just on the victim but of protective adults and the institutions that should be protecting children, discrediting the protective parent and the child victim.
- Children are under family court orders are often prevented from attending counselling and the protective parents forbidden from taking the child for medical assistance. In some cases the child and protective parent are silenced from further reporting child sexual assault.

b) *factors that may contribute to people sexually abusing children in institutional contexts*

- Organisational lack of awareness of roles in protecting children and young people.
- Closed culture.
- Lack of organisational transparency and accountability.
- Focus on protecting the organisational reputation.
- Absence of effective and appropriate child protection policies and risk management strategies.
- Inadequate and ineffective organisational governance and policies.
- Inadequate recruitment and screening of staff and volunteers.

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- Lack of training and professional development relating to child protection and risk management.
- The absence of skilled forensic interviewers within the Family Law Court prevents the system from receiving a child's full testimony that considers their age and developmental level.
- When there are family law matters, State departments are deferring victims and protective parents to the family law system under the belief that this is where the matter can best be addressed.
- Family consultants and court appointed "experts" are too often dismissing the allegations and accusing the protective parent of coaching, mental illness, alienation, being vindictive and finding other explanations for the child's disclosures or injuries.

c) institution-specific factors that may contribute to child sexual abuse.

(see also notes above under 3b)

Family Law System

Section 121 of the Family Law Act ensures a total lack of transparency and accountability. While its intention is to protect the privacy of children, the true impact is a resulting lack of accountability throughout the family court systems including the Judges, contractors, and court staff, along with their decisions, behaviours, and practices.

In addition, in many cases presented to Bravehearts, it appears as though the family law courts are occupied with making the standard of evidence equivalent to that of a criminal court rather than that of 'risk of harm'. This should not be the case, the family law system must operate on findings based on the 'balance of probabilities' and not the more stringent test of 'beyond reasonable doubt' demanded by the criminal justice system.

d) The impacts of child sexual abuse and institutional responses on survivors, both in childhood and throughout their adult lives, their families and supporters, and the wider community.

Childhood trauma can impact on children's development across a range of domains including physical, emotional, social and cognitive. Child sexual assault has also been linked with long term poor mental health outcomes, with those who experienced child sexual assault at greater risk of mental health issues.

In the short term, Kendall-Tackett and colleagues' review of 45 studies showed that children who have experienced child sexual assault have more symptoms, including for example, behaviour problems, poor self-esteem, and sexualised behaviours, than those who have not experienced sexual harm. Research shows that between 30-50% of children who have experienced child sexual assault are reported to meet the full criteria for posttraumatic stress disorder, and a variety of studies have also shown that child sexual assault is associated with emotional distress and a range of cognitive distortions in childhood, including hopelessness, impaired trust and self-blame (Blaustein & Kinniburgh, 2010; Lamont, 2010).

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While some initial reactions to victimisation may abate in childhood, other consequences of child sexual assault may persist or develop over the longer term. There are a number of well researched and documented long term impacts of child sexual assault affecting adult survivors. Individuals with a history of child sexual assault are at an increased risk for:

- mental illness
- substance abuse
- homelessness
- suicidality
- revictimisation, including domestic violence and sexual assault
- parenting and relationship difficulties, and
- health issues.

Diagnoses of anxiety, depression and personality disorders are common in adults with a history of child sexual assault (Hillberg, Hamilton-Giachritsis & Dixon, 2011; Manglio, 2010; Spila, Makara, Kozak & Urbanka, 2008). Long term psychopathology of 2,759 Australian children who were sexually assaulted between the years of 1964 and 1995, were evaluated 12 to 43 years after the assault occurred (Cutajar et al. 2010). Findings revealed that 22% of individuals who had experienced child sexual assault later accessed public mental health services, in comparison to only 7% of those in the control group. The authors identified that child sexual assault increased the likelihood of experiencing psychosis, mood and anxiety disorders, substance abuse and personality disorders.

Fargo (2009) examined factors influencing sexual revictimisation for survivors of child sexual assault. There are direct links between individuals who have adolescent risk taking behaviour and sexual revictimisation and indirect links between poor early childhood family environments and childhood physical abuse and sexual revictimisation. Those with poor early childhood family environments have an increased vulnerability to adult sexual revictimisation. Consistent with this, women with a history of child sexual assault are three times as likely to experience domestic violence (Tarczon, 2012).

A literature review by Wilson (2010) identified that adult survivors are more likely to suffer from depression, obesity, autoimmune disorders (for example, asthma or irritable bowel syndrome), eating disorders and addictions

Childhood trauma has been linked with a number of negative outcomes in later adult life, including abuse and dependence of alcohol and other substances. The literature suggests that child sexual assault survivors may use substances as a coping mechanism or form of self-medication for the assault. As many as 62-81% of adult women in drug abuse treatment have reported childhood abuse or neglect, compared to the general population rates of less than half that estimation (Min, Farkas, Minnes, & Singer, 2007). Further, Lown, Nayak, Korcha and Greenfield (2011) concluded that there were greater levels of alcohol consumption, in individuals with a history of child sexual assault than those who had no sexual assault history.

4. Any related matters.

In response to the current Case Study 57, Bravehearts emphasises that we refer to institutional responses to include organisations as already defined by the Royal Commission, inclusive of, but not limited to, organisations that provide services to or have children and young people as part of their focus, police (both state and federal), child protection departments, schools, youth justice centres and children’s homes and care agencies. In addition, as previously advocated for, we believe that the family law system (including the courts, judicial and legal professionals, medical professions, non-profit organisations, relationship centres, educational providers, family consultants and court appointed “experts”) constitute an institution that is involved in responding to child sexual assault matters.

Chief Diana Bryant of the Family Court has made various media releases that refer to the family court she presides over as an “institution”:

The World Today 8 July 2004 Quote from Chief Diana Bryant “...I know that you can't expect people to be happy with what happens and decisions in the Family Court, but I really would **like to see the institution** to have a bit more respect and understanding”.

[.http://www.abc.net.au/worldtoday/content/2004/s1149503.htm](http://www.abc.net.au/worldtoday/content/2004/s1149503.htm)

The Australian, 2016 Quote from Chief Diana Bryant. “This is about understanding that if as a society we are really serious about protecting our children, we should properly fund and **support the institutions** that lie at the heart of the decision-making about them and give them the best tools and enough judges to do the job we expect them to do,”

<http://www.theaustralian.com.au/business/legal-affairs/family-court-chief-justice-diana-bryants-funding-plea/news-story/c9d5d6b8128f4e4010a12f56fd1dac85>

“The family law decisions are difficult [and] I know that you can’t expect people to be happy with what happens in decisions in the Family Court. But I really would like to see the institution have a bit more respect and understanding.” <https://www.liv.asn.au/LIV-Home/Practice-Resources/Law-Institute-Journal/Archived-Issues/LIJ-August-2004/Courting-respect---New-Family-Court-Chief-Justice->

Since 2013, Bravehearts have been advocating for the terms of reference in the current Royal Commission into institutional responses to include the family law system. In February 2017, we presented a petition with over 57,000 signatures to the PM’s office calling for a Royal Commission of Inquiry into the family law system.

Through the United Nations Convention on the Rights of the Child, Australia has undertaken a commitment to undertaking all appropriate legislative, administrative, social and educational measures to protect children from sexual assault and other forms of abuse, including measures for the prevention, identification, reporting, referral, investigation, treatment and follow up of incidents of child assault. While Bravehearts acknowledges the sexual assaults have not occurred on the premises of the Family Law Courts, the abuse is occurring under the Federal Court Orders made by this institution and the surrounding institutes of the current family law systems.

The current Royal Commission TOR clearly state the responsibility of the Royal Commission to investigate and make recommendations in relation to how institutions respond to child sexual assault. We continue to advocate for the inclusion of the family law system as community understandings of child sexual assault include those that occur in the familial context and as such the

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family law system is, along with child protection departments and police, a primary institution with the responsibility of protecting children.

Bravehearts is seeking to ensure that these issues are brought to the attention of the Royal Commission as we strongly believe that this is an institution that should be included in the proceedings.

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