Royal Commission into Institutional Responses to Child Sexual Abuse
The Centre Against Sexual Violence Response to Consultation Paper: Criminal Justice

October, 2016
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Centre Against Sexual Violence (CASV) Inc. is a community based sexual assault service which is dedicated to serving the sexual assault counseling, support, education and information needs of the Logan, Beenleigh, Beaudesert and Redland communities.

The CASV is committed to providing safe, respectful services to assist adults and young people on their path to healing; to work towards dispelling the social and cultural myths surrounding sexual violence; and to encourage the community to take responsibility for the eradication of sexual violence.

The staff, management and members of the CASV have a vision to eliminate sexual violence while providing counselling and support to the victims of this gender-based crime.

The CASV has been funded to offer counselling, information, advocacy and support to anyone (male or female) 12 years and over effected by the Royal Commission into Institutional Responses to Child Sexual Abuse.

The CASV recognises that:

- Sexual violence includes a range of unwanted behaviours including touching, sexual harassment and intimidation, coerced sexual activity, sexual assault and rape, and can include other physical and emotional violence.
- Sexual violence is about power acted out in a sexual way, and is a crime of violence which has harmful individual, social and economic costs to our community.
- The structural, economic, political and cultural values of our society give power to men, making women and children more likely to be victims of sexual violence.
- No one ever deserves to be sexually violated.
- Responsibility for sexual assault lies with the perpetrator and not with the victim, irrespective of the perpetrator’s age, gender, social status, cultural background, or other circumstances surrounding the assault.

The CASV believes that victims/survivors have the right to:

- Be believed.
- Be heard and supported.
- Be treated with respect, dignity and understanding.
- Communicate in their own language, with an interpreter if necessary.
- Be given information about options.
- Have control over their choices.
- Have their confidentiality and privacy maintained.
Introduction

The CASV appreciates the opportunity to provide input regarding the Criminal Justice process for survivors of child sexual abuse. Our feedback is collaborative and based on our extensive experience in working with survivors of sexual abuse. The CASV provides counselling, advocacy, information and support to survivors. The counsellors of the CASV have supported clients through the criminal justice process including facilitating and attending with clients who wish to give a statement to police, assisting clients to access information regarding their case, advocating for the client’s rights, providing clients with support around the trial and appeals processes, acting as a witness at trials and wrapping a counselling process around the clients before, during and after criminal justice proceedings relating to their sexual abuse. The CASV has provided a response to the Criminal Justice Consultation Paper by considering the key issues for survivors and advocacy and support groups proposed by the Royal Commission.
Key Issues for Survivors and Advocacy and Support Groups

Chapter 3: Issues in police responses
- Should all police who may come into contact with victims or survivors be trained to have a basic understanding of complex trauma?
- Should police do more to encourage victims and survivors to report their abuse?
- Should police provide more information to make clear that victims and survivors can withdraw at any stage in the process?
- Should police provide more options for reporting, including by telephone and online?
- What options might work best for Aboriginal and Torres Strait Islander victims and survivors?
- What options might work best for prisoners or survivors with criminal records?
- Is it important to victims and survivors that police maintain regular communication with them to keep them informed of the status of their report and any investigation?
- Is it important to victims and survivors that, as much as possible, the same police investigate their report so that they can talk to the same police over time?

Chapter 4: Police responses and institutions
- If you reported abuse to the institution or to a support service, would you want them to pass your report onto police?
- Would you want them to ask for your consent before they gave police your name and contact details?
- If the institution or support service was going to give police your name and contact details even if you did not consent, would you still report to the institution or support service?
- If you were willing to have your report of abuse passed onto police, why would you not make the report yourself directly to police?

Chapter 5: Child sexual abuse offences
- Should the offence of persistent child sexual abuse be reformed to recognise that victims and survivors who were abused repeatedly and extensively over a period of time may not be able to identify individual occasions of abuse?
- Should any remaining limitation periods that prevent charges being brought for child sexual abuse offences be removed?

Chapter 6: Third party offences
- Should there be offences for failing to report child sexual abuse?
- Should there be offences where senior people in an institution fail to intervene to protect a child from sexual abuse?
- Should there be offences where the institution itself (rather than its management or other staff) are prosecuted for failing to protect children from sexual abuse?

Chapter 7: Issues in prosecution responses
- Should all prosecution staff who may come into contact with victims or survivors be trained to have a basic understanding of complex trauma?
- Is it important to victims and survivors that, as much as possible, the same prosecution staff stay involved in the prosecution so that they can deal with the same people over time?
The Centre Against Sexual Violence Inc. Response to Consultation Paper: Criminal Justice

- Are witness assistance services important in keeping victims and families informed and putting them in contact with support services?
- Should there be more specialist services, including for Aboriginal and Torres Strait Islander victims and survivors, and for victims who are still children?
- Should there be a right to complain or seek a review of the prosecutor’s decision to discontinue a prosecution or to withdraw charges?
- What about for accepting a guilty plea to lesser charges?

Chapter 9: Evidence of victims and survivors

- Would it help victims and survivors to give evidence if their evidence could be pre-recorded earlier, even before the trial starts, so that they do not have to attend the trial?
- Would this help survivors who are adults at the time of the trial?
- Should there be intermediaries available, particularly for children and people with a disability that affects communication, to help communication between the victim or survivor (on the one hand) and the court and lawyers (on the other hand)?
- Would it help to set ‘ground rules’ for how a victim or survivor should be questioned before they are cross-examined to try to ensure that questions are asked in a way that is not confusing, so that they can give their best evidence?

Chapter 10: Tendency and coincidence evidence and joint trials

- Should it be easier to have joint trials so that all allegations against a particular accused can be heard and determined in the one trial?

Chapter 12: Sentencing

- Should convicted offenders be prevented from raising their ‘good character’ to seek a reduced sentence if their good character helped them to commit the offences?
- For example, their reputation might have helped them to keep their job working with children, or might have helped parents to trust them to look after their children.
- Should convicted offenders be sentenced according to sentencing standards at the time they are sentenced, rather than the standards that applied at the time they committed the offence?

Chapter 13: Appeals

- Should a victim or survivor’s evidence in a trial be recorded so that they do not have to give evidence again if there needs to be a retrial?

General

- Are there other improvements you would like to see in the criminal justice response to institutional child sexual abuse – including police, prosecutions and trials?
Chapter 2: The Importance of the Criminal Justice Response

In Chapter 2: The importance of the criminal justice response, the Royal Commission discusses the importance of a criminal justice response for survivors of institutional child sexual abuse. The Royal Commission has sought feedback regarding their proposed approach. The CASV would like to acknowledge and support key statements included in chapter 2 by the Royal Commission including that;

- There are key features of criminal justice for institutional child sexual abuse cases including lower reporting rates, higher attrition rates, lower charging and prosecution rates and fewer guilty pleas and fewer convictions.
- There are features of institutional child sexual abuse that may affect the ability of the criminal justice system to respond effectively to these cases including ‘word against word’ cases, the complaint being willing/unwilling to proceed, lengthy delays and vulnerable victims.
- The myths and misconceptions about sexual offenses including that women and children make up stories of sexual assault, a victim of sexual assault will try and fight or flight from their perpetrator, a victim of sexual assault will avoid their perpetrator and a sexual assault will result in medical evidence for ‘real’ victims.
- Many survivors believe that the criminal justice system is weighed in favour of the accused
- Many survivors feeling like they have little control in the criminal justice process.
- It is important that survivors of institutional child sexual abuse have access to both criminal justice AND restorative justice (redress and civil litigation) processes.

Based on our extensive experience of working with survivors of sexual assault we can confirm that these statements accurately reflect the experiences of our clients who have experienced both past and recent sexual abuse. The CASV believes that it is important that survivors feel included in the criminal justice process and that they have a sense of control and choice. The CASV also supports the statement that survivors should have access to a range of healing and justice measures including both criminal justice and restorative justice (redress and civil litigation) processes.

The CASV further supports the Royal Commission’s proposed purpose of a criminal justice response to institutional child sexual abuse which includes:

- Holding the offender accountable,
- Recognising the harm done to the victim,
- Identifying and condemning child sexual abuse as a crime against the survivor and the community,
- Emphasise that the abuse is not a private matter,
- Increasing awareness of the occurrence of child sexual abuse,
- Increasing knowledge in institutions, governments and the community of the circumstances and environments in which child sexual abuse happens and,
- Deterring further child sexual abuse.
In Chapter 3: Issues in police responses, the Royal Commission discusses their work in regards to issues in police responses to institutional child sexual abuse.

The CASV strongly believes that all members of the police who may come into contact with survivors of sexual assault should have a basic understanding of complex trauma, the effects of sexual abuse, the myths and misconceptions about sexual assaults and how to respond appropriately to sexual assault. The CASV believe that all new Police recruits should receive mandatory training about the aforementioned issues. The CASV partnered with the Queensland Police Service (QPS) in Logan to provide free training to new police recruits in 2014 for working with people effected by sexual assault. The service ran training with five groups of new recruits. We were disappointed that the QPS discontinued the provision of sexual assault training, in the following year, for new recruits due to time constraints as we believe that this is essential training. The feedback received from new police recruits was overwhelmingly positive.

The CASV also believes that training in complex trauma, the impacts of sexual abuse, the myths and misconceptions about sexual assaults and responding appropriately to sexual assaults should be available to all current members of the Police on an ongoing basis. The initial response that a sexual assault survivor receives from the police can greatly affect the impact of the trauma on the survivor therefore, it is essential that police are trained to respond appropriately.

The CASV also works in partnership with the Logan and Redlands Police Services. A Memorandum of Understanding (MOU) has been developed in partnership with the aim of providing a professional and coordinated joint response to survivors of sexual abuse (see Appendix 1). The MOU includes that both the Police and the CASV share their expertise, participate in regular meetings designed to improve service delivery and provide appropriate information and referral to survivors of sexual abuse. By investing in professional relationships with our local police services the CASV believes that we can directly and indirectly inform, educate and support police in providing a safe and trauma-informed response to survivors of sexual assault.

Recently, a 24-hour sexual assault response unit has commenced operating in Townsville which includes eight social workers and seven specialist-trained police officers who will immediately respond to any complaints of sexual assault made by women (ABC, 2016). The sexual assault response unit was developed by the Sexual Assault Support Service in partnership with local Police to provide a prompt and supportive service to survivors in the interests of providing better outcomes. The CASV hopes that initiatives such as these, can be replicated around Australia to provide more support and criminal justice options for survivors of sexual assault.

The CASV believes that Police should provide a safe, respectful, compassionate, transparent, non-judgemental and professional response to survivors of sexual abuse. We believe that if survivors think that they will receive the aforementioned response, they would be a lot more likely to report their sexual abuse. The CASV believes that such a response could be achieved through increased training and awareness for members of the police. Investment in communicating to the community that the
police are more informed and aware would also be necessary to increase trust in survivors to report their abuse.

Police should also provide more information to survivors to make it clear that they can withdraw at any stage in the process. In Queensland, when a woman presents to the police or a hospital following a sexual assault she is told that she has to decide at that time whether she would like to proceed with a criminal justice process before a forensic examination is performed. New initiatives such as the aforementioned 24-hour sexual assault response unit developed in Townsville provides women with access to a forensic facility which can store forensic material from a sexual assault for up to 28 days. This provides women with space to decide whether they would like to proceed with a criminal justice process and elevates some of the time pressure in making significant decisions about their futures. The CASV hopes that such initiatives are broadened to provide survivors with more informed choice and control in the criminal justice process across Australia.

The CASV supports initiatives that increase reporting choices for survivors such as telephone and online options. By removing boundaries to reporting abuse, this provides survivors with more access to the criminal justice processes. It is important that survivors and the wider community are made aware of the different reporting options for survivors.

The CASV acknowledges that Aboriginal and Torres Strait Islander people and services are best placed to provide recommendations regarding how to best support Aboriginal and Torres Strait Islander survivors in reporting abuse. Based on our Aboriginal and Torres Strait Islander Cultural Capability training, we believe that it is important that Aboriginal and Torres Strait Islander survivors are offered culturally appropriate support during the criminal justice process. We also believe that members of the police should also have completed Aboriginal and Torres Strait Islander Cultural Capability training to increase their knowledge and awareness and provide a culturally appropriate response.

The CASV recognises that it is important for the police to keep in regular contact with survivors and keep them up to date about their case. By not keeping in contact, survivors often feel that what happened to them is not being prioritised or taken seriously. They will also feel that the police do not care and they may not have any control over the criminal justice process. This is often not the case and a regular weekly or fortnightly update from the police could alleviate this anxiety and stress for survivors. We recommend that police talk to the survivor about how and when they would like to be contacted about their case and do their best to meet the survivor’s communication needs.

Survivors also appreciate consistency in who they are speaking to about their sexual assault. It is difficult for a survivor to tell their story and it can feel evasive for a survivor to feel like they have to share their story over again to different members of the police. Where circumstances require a change in a police investigator, a warm handover should be conducted in which the survivor has the opportunity to be included. A survivor should also have the right (and their right should be respected) to ask to work with a different member of the police staff if they are not comfortable working with the assigned officer. Survivors should be given the choice to work with an officer of the same gender. Female survivors, in particular, report having difficulty speaking to male officers about their sexual abuse as the majority of cases the sexual assault was perpetrated by a male in a position of authority.
Chapter 4: Police Responses and Institutions

The Royal Commission highlighted in Chapter 3 that one of the areas where responses by institutions may differ is when child sexual abuse is disclosed as a child or as an adult. The CASV supports current mandatory reporting legislation which requires that an institution that is made aware of current child sexual abuse must report this abuse to the relevant authorities. However, in the case that an adult reports to an institution that they were sexual abused as a child and there is no known current risk of harm to other children, we believe that it should be the adult survivor’s choice whether they would like to have the crime reported to Police. The CASV believes that the organisation should treat the survivor with respect, dignity, belief and professionalism. Institutions should work with the survivor to connect them in with a professional trauma-informed sexual assault counselling service and provide the adult survivor with the choice to report their childhood sexual abuse to police. It is important that adult survivors are empowered and supported to make their own choices and decisions.

Mandatory reporting requirements for institutions and/or support services to report disclosures of child sexual abuse by adult survivors, may discourage survivors from disclosing abuse and seeking support. There are many reasons why survivors of sexual abuse do not want their abuse reported when they first disclose this abuse to a support service. Therefore, the CASV does not support mandatory reporting for child sexual abuse disclosed by adult survivors unless the institution is made aware of a current risk of harm to another child.

Some adult survivors may ask for the institution or support services to report the sexual abuse to police on their behalf. There may be many reasons for this including that they feel scared or intimidated or they may have had other dealings with the police which were not a positive experience for them. If an adult survivor would like the institution to report the abuse to police then it is important that written consent is obtained.

Chapter 5: Child Sexual Abuse Offences

In Chapter 5, the Royal Commission considers some of the issues in child sexual abuse offenses which are particularly relevant to institutional child sexual abuse including the offence of persistent child sexual abuse, the offense of grooming, position of authority offenses and limitation periods on criminal prosecutions. The Royal Commission highlights that survivors of child sexual abuse are often required to provide a detailed account of the sexual abuse incidents. There are many difficulties for survivors being able to provide information about individual occasions of abuse. Survivors of sexual abuse use coping strategies including denying, minimising, memory repression and dissociation to help themselves survive through traumatic situations (The Blue Knot Foundation, 2016). These strategies inhibit the survivor’s ability to recall specific events, dates and times of the sexual abuse. Further to this, there is often a significant delay in the reporting of child sexual abuse offenses which can also adversely impact on the survivor’s ability to recall specifics of the sexual assault/s.

The CASV strongly advocates that limitation periods that prevent charges being brought for child sexual abuse offences should be removed retrospectively. It is well documented that there are often significant delays in sexual assault survivors reporting particularly when the offender is in a position of authority.
Chapter 6: Third Party Offences

In Chapter 6, the Royal Commission discusses whether third parties should have some criminal liability for their action or inaction in respect to the child sexual abuse. The CASV recognises that many difficulties have and will be raised in striking an appropriate balance in implementing laws that hold institutions criminally accountable for failing to report and protect children from sexual abuse. However, the CASV does believe that criminal liability laws should be introduced to hold institutions to a high standard of care for children’s safety and wellbeing.

The CASV can see the benefit of having an offence targeting institutional child sexual abuse offenses and having those within institutions with the relevant knowledge or belief to report to the police. Institutions have been entrusted to work safely with young people and therefore it is reasonable that a lower standard of knowledge or belief of child sexual abuse occurring should be required for organisations to take steps to keep children in their care safe. Institutions also have a responsibility to make sure that they hire and train staff to identify potential or current risk of harm to children. After an institution is made aware of allegations of child sexual abuse, institutional criminal liability should be warranted when the alleged abuser is:

- Allowed to continue to work with the particular child involved in the allegations,
- Allowed to continue to work with other children not directly involved,
- Or, relocated to other venues operated by the same institution and allowed to work with children at these alternative venues.

However, having a specific offence targeting institutional child sexual abuse offenses does not negate the need to also have a broader offence targeting child sexual abuse offences that require all persons with the relevant knowledge or belief of child sexual abuse occurring to report to the police. When the criminal offense is broadened to include adult members of the community, rather than just members of an institution with children in their care, it is reasonable that more concrete knowledge or evidence of child sexual abuse occurring would be required for not reporting to be considered an offence.

Both criminal and civil justice options should be available to survivors of child sexual abuse to provide survivors with choice in seeking retribution and redress.

Chapter 7: Issues in Prosecution Responses

In Chapter 7, the Royal Commission highlights issues relating to prosecution for survivors of child sexual abuse and some of the challenges for prosecutors in prosecuting institutional child sexual abuse cases. The Royal Commission proposes key principles to inform the prosecution processes including:

- All prosecution staff that come into contact with survivors of institutional child sexual abuse should be trained to have an understanding of the impacts of child sexual abuse including that survivors may have difficulties in dealing institutions or with people in positions of authority.
- Prosecution agencies should maintain regular communication with survivors and keep them informed about the processes and status of the prosecution.
- Services that assist victims should keep survivors and their families informed and provide appropriate referrals to support services.
• Services that assist victims should provide culturally appropriate services, particularly for Aboriginal and Torres Strait Islander survivors.
• Appropriate witness assistance services should be provided for witnesses who are children.
• Prosecution staff should be non-judgemental of survivors and should focus on the credibility of the allegation rather than the credibility of the survivor.

The CASV believes that these proposed principles for prosecution responses are fundamental. Most commonly, the CASV staff hear from survivors that they do not know what is going on with their case or who to contact. For one of our clients whose case had preceded through the criminal justice process, she was not informed that her case had reached the trial stage and therefore was not given adequate time to provide a victim impact statement. For this client, she was also not informed when her case was adjourned until the following year as the detective in charge of the case was on leave. The CASV counsellor supporting this client, had to make several phone calls to ascertain this information while the client was left practicing her statement for several days until she was informed. For another CASV client, her case was prolonged over 5 years. This client reported that she felt like she did not have any ownership of her case and that communication by the criminal justice staff during this 5 year ordeal was poor.

We believe that prosecution services need to improve communication with survivors in line with the Fundamental Principles of Justice for victims of crime in Queensland (Appendix 2) (State of Queensland: Department of Justice and Attorney-General, 2013). We also believe that sexual assault cases should be expedited as quickly as possible. As with police services, we also strongly advocate for prosecution staff who come into contact with survivors of sexual abuse to have training in complex trauma, the impacts of sexual abuse, the myths and misconceptions about sexual assaults and how to respond appropriately to sexual assaults. Likewise, the CASV also believes that prosecution staff should also have completed Aboriginal and Torres Strait Islander Cultural Capability training to increase their knowledge and awareness and provide a culturally appropriate response.

In line with the Royal Commission’s proposed principles to guide prosecution regarding the laying charges and accepting pleas, it is important that the prosecutor makes time to communicate effectively with the survivor. The risk of charges being downgraded or withdrawn should be minimised through the prosecution process by liaising with the police providing advice about the appropriateness of charges being laid. Prosecutors and police should also do their best to assure the charges adequately reflect the crime/s that occurred. It is important for the survivor to feel like they have a voice in the prosecution process that extends beyond writing a victim impact statement. If the survivor is consulted and included in the process, this is likely to empower the survivor. The CASV believes that the survivor should have the right to access a transparent and accessible complaints process or to seek a review of the prosecutor’s decision. The survivor should be given information about the complaints process at the commencement of the prosecution process.

The CASV supports any measures that can be taken to reduce delays in the prosecution process. Survivors are often left in a heightened state of arousal during the police and prosecution process. For survivors, sometimes the wait time is more distressing than the knowing the outcome, even if the outcome is not what they were hoping for. Communication with survivors during proceedings is pertinent, especially in regards to delays in proceedings.
Chapter 9: Evidence of Victims and Survivors

Chapter 9 of the Criminal Justice Consultation Paper discusses issues relating to survivors giving evidence. As highlighted by the Commission, many survivors have had adverse and damaging experiences when giving evidence about their sexual abuse. The CASV supports any measures that can be implemented in the criminal justice process to minimise further harm to survivors. The Royal Commission has made the following suggestions of ways to reduce further harm or distress to the survivor:

- Use of a pre-recorded interview,
- Use of a pre-recorded cross-examination and re-examination,
- Allowing the survivor to give evidence in a room away from the courtroom using CCTV,
- Allowing the survivor to have a support person with them when giving evidence,
- Using partitioning screens or one-way glass if evidence is given in the courtroom,
- Clearing the public gallery of the court room,
- The judge and counsel removing their wigs and gowns when requested,
- Restricting the scope of questions that can be asked in cross-examination,
- Disallowing improper questions in cross-examinations,
- Allowing third parties to give evidence of the disclosure of sexual abuse as evidence,
- Allowing expert evidence about the impacts of childhood sexual abuse and,
- Using intermediaries and interpreters to assist vulnerable witnesses.

The CASV sees benefit in providing survivors with a suite of options for giving evidence in relation to the crime. Ultimately, we believe it should be the survivor’s choice to decide how they are most comfortable giving evidence and survivors should be empowered to make this decision. It should be the survivor rather than the police, prosecutors and or courts that should not have the final say in how they chose to provide evidence.

The CASV also supports measures that set clear and appropriate ground rules for how a survivor should be questioned to ensure that questions are not confusing or harmful. Where possible, survivors should be given time to think and respond clearly taking in to consideration that people who have been effected by trauma may need extra time to ground themselves when giving evidence.

Chapter 10: Tendency and Coincidence Evidence and Joint Trials

Chapter 10 of the Criminal Justice Consultation Paper discusses how the criminal justice system deals with allegations of sexual abuse by an individual towards more than one survivor. As highlighted by the Royal Commission, child sexual abuse cases can be difficult to prove given that there is often a significant delay in reporting and less physical evidence available. Perpetrators of institutional child sexual abuse often offend against multiple victims. The Royal Commission has conducted extensive research to determine if unfair prejudice may result from conducting joint trials. The Royal Commission has found that concerns about unfair prejudice are unfounded. Given this, the CASV agrees that current laws need to be changed so that more cross-admissibility of evidence and more joint trials for child sexual abuse matters can occur.
Chapter 12: Sentencing

Chapter 12 of the Criminal Justice Consultation Paper discusses the findings of research reports commissioned on sentencing in matters of child sexual abuse. One of the issues raised is whether convicted offenders should be allowed to raise their “good character” to seek a reduced sentence, if in fact, it was their reputation and “good character” that facilitated the grooming process and sexual abuse of children by this person. It was discussed that New South Wales and South Australia introduced legislation to prevent the offender’s “good character” being taken into consideration in sentencing child sexual abuse offences where the person’s “good character” was of assistance to the offender in committing the offence/s. The CASV supports a move for other states and territories to bring their legislation in line with New South Wales and South Australia. It is our experience that many perpetrators of sexual abuse are well regarded in the community. What may be viewed by others as reflective of a perpetrator’s “good character” is more likely a calculated disguise that has given this perpetrator trust and access to children in order to commit these offences. A child sexual abuse perpetrator, nor any perpetrator of sexual abuse, should be able to use their “good character” in order to receive a lesser sentence.

The Royal Commission highlighted that all states other than Victoria, have a presumption in favour of concurrent sentencing for child sexual abuse offenders. They also advised that a number of survivors have expressed dissatisfaction about concurrent sentencing. The CASV also fails to see why concurrent sentencing is favoured over cumulative sentencing. The CASV supports further research and review of cumulative and concurrent sentencing procedures regarding sexual abuse cases.

The Royal Commission has queried whether convicted offenders should be sentenced according to sentencing standards at the time they are sentenced, rather than standards that were in place at the time the offence was committed. Most Australian states and territories sentence in accordance with sentencing standards at the time the offence was committed. However, it is highlighted that it may be difficult to accept that an offender should receive a lighter sentence because the effect of their offending resulted in the victim substantially delaying reporting. The CASV supports further reviews of sentencing time standards.

Chapter 13: Appeals

Chapter 13 of the Consultation Paper discusses the appeals process for survivors and perpetrators. The Royal Commission offers suggestion that the evidence given by survivors at trial should be recorded (or pre-recorded) so that survivors do not have to re-experience the stress and trauma of having to give evidence, again. The CASV strongly supports any measures that will relieve survivors of unnecessary stress and trauma. The CASV believes that giving survivors the choice to record or pre-record their evidence for a trial and potential appeals process is another step that can be taken to increase the survivor’s sense of safety and autonomy in the criminal justice process.
Conclusions

The Centre Against Sexual Violence appreciates the opportunity to provide a response to the Criminal Justice Consultation Paper. Key themes reflected in our response include the importance of open communication with the survivor and transparent, clear and well explained processes. The CASV believes that it is important that survivors feel included in the criminal justice process and that they have a sense of autonomy and choice in the process. Support, healing and protection of the survivor need to be equally considered with the safety needs of community when developing and implementing legislation around the criminal justice process for child sexual abuse cases. The CASV believes that the criminal justice process for survivors of sexual abuse could be greatly improved and we encourage that all individuals, at all levels, of the criminal justice process, are trained and held accountable to provide a safe and appropriate response to survivors.
References


MEMORANDUM OF AGREEMENT

between the

Queensland Police Service
(Logan District)

and

The Centre Against Sexual Violence
(Logan and surrounds)
Preamble:

It is recognised that victims/survivors of sexual violence have experienced a significant trauma in their lives and it is paramount that the services which respond to such incidents must recognise this and reduce the likelihood of secondary trauma by working in partnership in providing supportive and effective intervention.

Purpose:

This Memorandum of Agreement is a record of proposed cooperative arrangements between the parties determined with the intent to provide a highly professional and coordinated joint response to victims/survivors of sexual assault.

Although this Memorandum of Agreement is written in gender neutral language, it is acknowledged that most victims/survivors of sexual assault are female.

The term sexual assault includes those assaults where rape has occurred.

The parties agree to:

1. Share their expertise with each other, other government departments, and community groups in the pursuit of improved services to victims/survivors of sexual assaults, and towards the eradication of sexual assault within the community.

2. Participate by mutual agreement in regular meetings designed to improve service delivery on issues impacting on their respective responsibilities.

3. Members of the Logan Police District will:
   - Ensure police investigations into complaints of sexual assault will be conducted in compliance with the provisions of the Queensland Police Service Operational Procedures Manual, and in accordance with the Interagency Guidelines for responding to Adult Victims/Survivors of Sexual Assault; and
   - Appoint a police contact person within Logan Police District with whom members of the Sexual Assault Support Service can contact to provide advice and police assistance as deemed necessary between both parties; and
   - Display brochures and posters provided by the Sexual Assault Support Service about the Service in each police station situated within the Logan Police District; and
   - Logan District Police will provide victims/survivors with contact details of counselling and support services, and where a victim/survivor requests assistance contacting those agencies police will provide assistance with the referral;

4. The Sexual Assault Support Service will:
   - Appoint a Sexual Assault Support Service contact person with whom members of the Queensland Police Service can contact to provide advice and assistance as deemed necessary between both parties; and
   - With clients consent provide to police information concerning the possible identity of violent sexual offenders who go unreported to police, where the victim does not want police intervention;
Display brochures and posters provided by the Queensland Police Service promoting Adult Sexual Assault – Alternative Reporting Options; and

Promote alternative reporting options to victims/survivors of sexual assault who do not wish to formally report their complaint to police.

Amendments to the Memorandum of Agreement

Alterations to this Memorandum of Agreement are to be provided in writing and signed by the authorised officers or delegates of both agencies. These alterations are to be added to this Memorandum of Agreement as a Schedule.

A Schedule of alterations will not alter the meaning or intention of any part of the Memorandum of Agreement unless specified in the alteration schedule.

Termination or Cessation

Should any of the terms of this Memorandum of Agreement be breached, the other party must notify the breaching party in writing of the breach and request a meeting to discuss the breach and resolve the issue. This agreement may be terminated by any party in writing.

Law

This Memorandum of Agreement shall not be a legally binding agreement between any party.

Life of the Agreement

The Memorandum of Agreement shall take effect from the date of execution and shall continue, unless terminated, in accordance with this Memorandum of Agreement. This Memorandum of Agreement is to be reviewed by both parties on a two year basis or in conjunction with significant changes to interagency responses to sexual violence.

Signed at Logan on the 16th day of December 2009

For and on behalf of the Queensland Police Service Logan District

A.F. Dawson
Superintendent
Logan District

For and on behalf of The Centre Against Sexual Violence (Logan and surrounds)

D Aldridge
Manager
The Centre Against Sexual Violence (Logan and surrounds)
Appendix 2

Your rights as a victim of crime

As a victim of crime in Queensland, you have rights. The Fundamental Principles of Justice below describe the treatment you are entitled to receive from Queensland Government agencies and officers. You have the right to make a complaint if these principles are not met.

The right to be treated fairly
You should be treated fairly and respectfully by all government workers. Services should also be responsive to your particular needs relating to culture, language, gender and disability, including providing interpreters where needed.

The right to privacy
Your personal information should not be given out to anyone other than authorised personnel.

The right to assistance
Assistance is available to you. You should be given information about welfare, health, counselling, legal help and financial assistance services.

The right to information about the investigation
Where possible, you are entitled to information about the investigation including the name of the person charged, what they have been charged with and details of court hearings.

The right to information about the prosecution
You have the right to information about court processes including when you may attend, changes to a charge or the outcome of a court proceeding.

Your rights as a witness
You have the right to have the court process and your role as a witness explained to you.

Your right to protection
Wherever possible, measures will be taken by government agencies to minimise your contact with the offender and their family at court.

The right to express harm caused to you
You have the right to give the Prosecutor a Victim Impact Statement, with details on how the crime has affected you. This can be submitted to the court once the offender has been found guilty.

The right to information about the offender
You have the right to be given information about the offender's sentence, including if they escape from custody, if they are transferred interstate, parole eligibility and their day of release.

Call 1300 LINKUP
1300 546 587
Email: victimlinkup@justice.qld.gov.au
www.justice.qld.gov.au

To speak with someone about these principles, or to make a complaint

To contact us with an interpreter call 03 1300 546 587.