



VICTIM SURVIVORS' ADVISORY COUNCIL

REVIEW OF CONTEMPT OF COURT, JUDICIAL PROCEEDINGS REPORTS ACT 1958 AND ENFORCEMENTS PROCESSES

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*This submission is dedicated to victim survivors of family violence
and the lives of those who have been lost to family violence.*

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Introduction

The Victim Survivors' Advisory Council ('VSAC') is the world's first committee comprising victim survivors of family violence informing an expansive reform agenda for a family violence system.

VSAC informs the Victorian state government, the national family violence sector and the Australian community's understanding of family violence.

VSAC is created as an initiative of the Victorian Government, following the Royal Commission into Family Violence which made a specific recommendation that the voices and views of victim survivors should be captured in the service design and reform of the family violence system.

Recommendation 201

The Victorian Government and agencies that respond to family violence identify and develop safe and constructive ways to ensure that the voices of victims are heard and inform policy development and service delivery [within two years].

Foreword

The Victim Survivors' Advisory Council ('VSAC') includes representatives from a variety of age groups, cultural and socioeconomic backgrounds who share the traumatic lived experience of family violence.

As victims of family violence, we have been betrayed of our personal power, our voices and our safety. There is great power in the lived experience of victims and survivors and that sharing our stories is important.

Silencing victims protects the perpetrator, condones their behaviour and robs victims and survivors of their dignity. This is the time to hear our voices and break the silence.

The Victorian Government has recognised that by working together we can create systems that support people who are affected by family violence.

We know what it's like to be ignored. We know what it's like to experience system shortcomings. We know what it's like to be victim blamed.

Yet the painful reality of the family violence which we have endured is that it can happen to anyone, regardless of their cultural, ethnic and socio-economic background. We know this. We feel this.

At the Victim Survivors' Advisory Council, we are leading the way. Our most vulnerable days are behind us and we are driving cultural change. Some voices have been permanently silenced. To those who have died through family violence, our community apologises for failing you. We do this work in your honour.

We are representative all ages, genders and demographics, from children adolescents, and young people, Australia's First Peoples, to culturally and linguistically diverse communities, people with a disability, LGBTI communities, and elders.

Our drive, passion and voices are jointly dedicated to contributing as a powerful group to ending family violence. Our expertise is based on lived experience and understanding of systemic issues, with the appropriate professional education and background to advise key stakeholders.

Historically, victims of family violence have been failed by systemic shortcomings and cultural attitudes that have enabled our plight and caused us to suffer silently.

That stops now. Our voices represent all of us—those impacted by family violence, and those for whom the system must improve to keep us safe.

The Victim Survivors' Advisory Council brings the strength, resilience and lived experiences of victim survivors to our reforms.

The Victim Survivors' Advisory Council:

- Contributes meaningfully to family violence reform by involving its members – service users and victim survivors – in the family violence reform program.
- Provides an ongoing voice for victims of family violence in the design of services.
- Places service users at the centre of family violence reform and service design.
- Advises how family violence reform initiatives will impact on people who use services.
- Considers and provides advice on specific issues requested by the Family Violence Committee of Cabinet/or the Family Violence Steering Committee.
- Ensures that advice to the Government reflects the diversity of the family violence experience.
- Ensures the Government's response to the recommendations of the Royal Commission into Family Violence meets the expectations of victim survivors and the community.

Responses to Questions

This submission shares the lived experiences of victim survivors of sexual assault and family violence. It covers the diversity of lived experience as it relates to the Victorian Law Reform Commission's (hereafter: 'VLRC') review of the *Judicial Proceedings Reports Act 1958*.

This submission responds to the questions from the VLRC consultation paper which relate directly to the experiences of individual victim survivors. The names and identifying details of parties involved in these matters, particularly children, are not disclosed in this submission to protect the privacy and confidentiality of victim survivors.

Furthermore, VSAC would like to acknowledge the lived experience of survivors of sexual violence. Out of respect for these individuals, whose cases have been heard through the criminal justice system, and due to the sensitive nature of such offences, it is our opinion that future consultations and work done in this area have the personal experience of the nexus between sexual violence and the criminal justice system at the forefront.

Further details regarding specific experiences may be available upon request.

Privacy Protections for Victim Survivors of Sexual Offences

There is very little understanding and information available to the public about the operation of privacy protections for victim survivors of sexual offences.

In practice, this meant that for one particular victim survivor was contacted by the Department of Public Prosecutions ('DPP') via a carriage service acknowledging that they were aware of the victim survivors' experience of providing evidence to the Royal Commission into Family Violence ('RCFV'), despite no consent being provided for identifying details to be revealed to the general public.

This was particularly distressing for the victim survivor, considering that their name had been withheld. Key identifying features had not been erased and so the privacy of the victim survivor was compromised. It is a source of confusion and anxiety for victim survivors that Victoria Police prosecutors were not aware of, or did not identify, that disclosing identifying details was in

breach of the victim survivors' privacy and the suppression order that was in place at that time.

Victim survivors possess multiple suggestions for improvement regarding the level of public awareness of the prohibition on identifying victim survivors of sexual offences. In particular:

Greater education of professionals across sectors:

- Public prosecutors
- Police at all levels of the organisation with an emphasis on frontline and response police
- Witness Assistance Program
- Upskilling of CASA and the Orange Door workforce

Greater education will enable the swift identification of breaches, as and when they occur, including appropriate ways to respond when a breach does occur. However, the ultimate goal of greater education is to eradicate the frequency of breaches occurring altogether and remove the burden from victim survivors to identify when breaches do happen that potentially put victim survivors at risk. Properly implemented, greater education will allow victim survivors to feel safer, uncompromised and empower them to focus on their own healing and recovery in a time of significant trauma and distress.

Victim Survivors Ability to Speak Publicly

The importance of victim survivors having autonomy over their story

A common hallmark of the victim survivor experience is a lack of agency, autonomy and control over their story and its dissemination into the wider public sphere. By empowering victim survivors to be able to speak freely about their story in their own time, in their own words, and in their own way (for example, through other mediums of storytelling, i.e. art, etc.) we enable victim survivors to regain ownership and re-authorisation of their stories. The consequences of this deepens the individual's understanding of sexual and family violence, while also significantly influencing the public narrative and challenging victim blaming ideologies and dismantling the stereotype of the passive victim.

Risks and pitfalls of victim survivors sharing their story

A common risk and pitfall of victim survivors' sharing their story is the exploitation of trauma and the tragedy of lived experience for monetary and other gain by journalists and news media corporations.

For example, one victim survivor consented to her story being published in a small online magazine which had been appropriately vetted with Family Safety Victoria. The online magazine failed to disclose to the victim survivor that they in fact share syndication rights with much larger news organisations. The story was subsequently republished without notification or consent of the victim survivor to a global audience of millions. The victim survivor describes feeling humiliated, shocked and retraumatised by the absence of ethics and integrity.

In particular, it is vital that lawmakers and courts work with the media to broaden the ethics base and moral compass that seeks to include the voices of victim survivors with their express, rather than implied, consent.

Issues arising where multiple victim survivors are present

It is of particular relevance where victim survivors have children, who are also victims of domestic and family violence in their own right, that consent should be obtained prior to disclosures being made public.

Adult victim survivors on VSAC tend to feel strongly that their lived experience and their story can be reported without necessarily identifying or mentioning the fact that they are mothers or have children. While they feel proud of their achievements as mothers, it is paramount that privacy is protected. This is especially important where other intersecting identifying features are present, which may enable a layperson to identify a victim survivor based on the characteristics that are being reported on in the media.

In one example, a victim survivor was characterised as a mother with a disability, and the child of the mother was then able to be identified by the Principal at the child's school. These instances occur frequently among victim survivors; however many have formed the view that the judicial system has worked against their best interests and are now no longer in a position to speak out against these incidents due to feelings of shame, guilt, fear and exhaustion.

This leads to the need for a robust discussion around whether child victims should be able to consent to the publication of identifying material. At the outset, we maintain that this a nebulous area fraught with multiple competing demanded and intersecting complexities. However, we feel that consultation

should be sought directly with children and young people who are advocates with a lived experience. Ultimately, we must strive as a system to protect children and young people whilst simultaneously empowering them to take ownership and autonomy over their story and their lived experience of victimhood. A balanced approach will break down stereotypes and barriers that prevent individuals from speaking out and broadening our understanding of what works and what requires further improvement.

Legal constraints to victim survivors' ability to speak publicly

The law can better accommodate the ability of victim survivors to speak publicly by better informing victim survivors of their rights in relation to telling and sharing their story.

Victim survivors are not always aware of what they are, and are not, allowed to say in a public forum while legal proceedings are afoot. This compromises victim survivors because they are being reported on in the media, and entrust those around them and the legal system, to act in their best interests, however, they have limited agency and autonomy during this time.

The laws relating to the media's publishing of their stories would be better serving the interests of victim survivors if publishers were required to take reasonable steps to obtain the consent of those impacted before publishing. Whilst this would add a layer to the journalists, it would result in better news practices and reporting that would enhance the principles of open courts and increase public understanding and transparency of the judicial process. This would occur in a milieu of increasing the agency of victims, which is of utmost importance to VSAC and other aligned survivor advocates.

The needs of diverse and marginalised communities must be assessed in consultation with the relevant survivor advocates of sexual assault who identify with those communities and advocate on their behalf. VSAC submits that only those from the relevant impacted communities with lived experience of sexual offences are consulted on these questions. This is because they are best positioned to provide actionable advice and the unique nature of their lived experience requires that they are afforded the dignity and respect to speak on their own behalf.

As discussed above, provisions relating to child victims must be discussed and co-designed in consultation with child survivors and advocates. We

recommend the VLRC consult closely with child survivors and advocates prior to making formal recommendations in this vein.

Closing Remarks

Although every experience in the above examples is unique and each victim survivor comes before the courts with their own set of diversity characteristics that require a personalised response, the similarity and common thread of experiences demonstrates that the current state of the *Judicial Proceedings Act 1958 Vic* are not always working in the best interests of victim survivors.

The future state where victim survivors feel the judicial system is performing to their expectations will require much work. To this end, VSAC recommends training and support for those who administer the system to bring about overdue cultural change.

For victim survivors to use the system with consistently positive outcomes for all stakeholders, there should be an appreciation and initiatives toward meaningful cultural change so that the lived experience of victim survivors is valued and treated with dignity and respect.

VSAC remains hopeful that by making this submission to the Victorian Law Reform Commission, we can make meaningful changes to the way that victim survivors can share their story with agency and autonomy. We are happy to contribute to further discussions and thank the VLRC for this opportunity.