

Dear Commissioners,

Thank you for the opportunity to make Submissions in this policy based Royal Commission into Family Violence. I am excited and energised by the hope it offers.

Please find my Submissions and Supplementary documents attached. A list of these is attached at the end of this letter.

As a survivor of childhood sexual abuse I feel I need to cut to the chase. The system simply doesn't work for victims. It didn't for me **this year, in 2015**, and my husband and I are both lawyers. If I couldn't get it to work, how will my child, friend or neighbour without experience or a law degree?

Day after day I see brilliant legal minds working tirelessly to ensure that the perpetrator remains protected by outdated laws and legal loopholes. And day after day I see the most dedicated social workers tirelessly bolstering victims into becoming survivors, encouraging engagement with the system or helping with recovery after re-victimisation by the system itself.

Similarly, the local police and SOCIT units actively follow protocols and strive for continuous improvement in their dealings with victims when they come forward. At a time of Royal Commissions and million dollar advertising campaigns encouraging people to speak up about recent and historic abuse, conviction rates should be at their highest, in this progressive society of ours. People are coming forward so why aren't the rates rising? I say we can partly blame the legal system and partly blame ourselves.

Sadly, I've come to learn that the thickest layer of protection for the perpetrator comes from **the family**. We as individuals are quick to publicly show our support at white ribbon events, be openly outraged at high profile cases like Oscar Pistorius in South Africa and Jill Meagher in Brunswick, and more recently Masa Vukotic. I ask however, what do we do when the victim is a member of our own family? Are we steadfast and fearless in our support or does our tune change? It's easier to be angry and rally against the institution such as the Catholic Church or the armed forces. But what about against our own brother, father or uncle?? On white ribbon day in November 2013 I said good bye to my extended family, a family that pretended it didn't believe me yet knows it's all true. I died the same social death like so many victims do!

It often takes years to find the courage to come forward about childhood sexual abuse. Like me, and the men of Boystown, survivors may be in their 30s and 40s before they tell someone what happened to them 20, 30 or even 40 years ago. My own children couldn't believe this had happened to me and that I hadn't done anything about it all these years. "You're so confident" they said. "It couldn't have happened to you." I decided to tell them because this is when it mostly happens, when you're a vulnerable child. No point telling them when they're older, they need to know now, in case it happens to them. No child is immune.

We have widened our definition of family violence to include physical, verbal or economic abuse. We have smartened up to the more subtle forms of abuse and thankfully have shifted from our preoccupation with the criminal act as seen with the rise of intervention orders. However, the truth and a victim's story no matter how compelling is most often not enough

for the OPP to pursue your sex assault case criminally. **Why? Why isn't the truth enough?** There are a number of reasons, as I painfully discovered.

1. The legal concept of **doli incapax** says you **can't** know the wrongness of your actions if you are under 14 years of age. Honestly, what fully cognisant 13 year old today **doesn't** know the wrongness of their actions? I am particularly concerned as recently there have been studies and discussions around how common intra- familial sexual abuse is between siblings. Teachers in schools are calling police when children have been sexually abusing other children at school only to be told there's nothing police can do. It's a growing problem currently without a working solution. The laws need to be changed urgently in this area.

We can't live in denial, we must accept **where** sex abuse happens and **when** it happens and not sweep it under the carpet with all the other inconvenient truths. Sexual abuse is sexual abuse no matter what age it happens to you and no matter how old the offender is. The law says age matters but victims don't.

I question whether the system is really ready for "her story" and is appropriately responsive? My message is simple, and I'm speaking from experience. **Do not go to the police whilst you are in crisis.** Sounds crazy I know. I too thought that's what you do. Well, my advice speaking from experience and as a lawyer has changed. Your statement and your case will suffer for it otherwise. Write a chronology and take that with you to the police station. Brainstorm your ideas and write out dates, times, places, ages, witnesses, evidence and in date order. This is the antithesis of what the victim is really thinking about when considering going to the police station;

- whether you'll get a nice policeman
- whether you'll be believed,
- the enormity of telling police as there are consequences compared to telling a friend
- family and friends changing forever once you disclose and
- fearing the responsibility for that, the embarrassment,
- fearing small town gossip
- people judging you negatively as if you're somehow damaged goods, or that you're a dodgy parent who may abuse your own children because you've been abused.

Problem with that theory is this. If vast numbers of women and children are abused and if the behaviour is learned, why aren't there vast numbers of female perpetrators? Why do most young female victims not speak about it to anyone, do not abuse other children or younger siblings? Again, it does happen but nowhere near in the same numbers as male offenders engaging in this behaviour. We need to be asking why???

2. Similarly, **Pre-text calls** – great idea in theory, catch someone off guard and see if they'll confess unknowingly on tape. Here's what they don't tell you – it's not enough just to get a confession. For example "I remember you sexually abusing me as a child" and he confessing and saying sorry and that he's regretted it all his life is not enough for a committal to proceed. Imagine that. One must actually

elicit a confession linked to specific incidents. The Police never told me this. So the conversation needs to go something like this ‘ [REDACTED] .’ Now, who actually speaks like that? And who speaks like that to a perpetrator you’ve hardly got the guts to speak to and may not have spoken to since the abuse? And who speaks like that when they’re trying to catch someone off guard? Wouldn’t they be automatically more suspicious and less likely to confess? I remember asking police for a cheat sheet “the top 5 questions please that elicit a confession” and was told they can’t help me as it would make it inadmissible. I had to work out what to say on my own, no easy task, with no help. Seriously, no matter how the question is framed no one is going to confess unless they did it. If perpetrators know the system so well and can use it to their advantage, as they do, why can’t victims be equally wise? Why can we only go in on the back foot?

I was told by a barrister that what’s sexual abuse to the perpetrator and you the victim are two different things. How offensive. That’s the whole point. They think they’ve done nothing wrong. That’s nothing new, perpetrators and their lawyers have been minimising their actions for years but I didn’t expect the barrister briefed by the OPP who was there to prosecute the crime, to say such things! So is all childhood sex abuse simply child’s play; curiosity and experimentation? I don’t agree and I don’t think the Department of Human Services would agree either. I know I wouldn’t dream of admitting to allegations of sex abuse unless I’d done it or had a mental impairment, it’s hardly something you’d admit to lightly.

3. The foundation of our legal system **Innocent until proved guilty** — in sex abuse cases this means the accused can give a “no comment” interview and they don’t need to give any evidence in court either. Well, this needs to change. They should be compelled to give evidence in all cases. Why is it that they don’t want to simply say “I didn’t do it.” It’s insulting that they don’t have to. If I was wrongly accused I’d be desperate for the opportunity to say that. Why can they sit there silent and smug? Because they can. We support that nonsense.

The OPP need to listen closely to victims, they wouldn’t be there without brave survivors coming forward. The problem is it’s their case, the police case, you are merely their witness. You have zero control over the case and if they do a bad job it’s a case of too bad. You can’t pay for your own barrister like the perpetrator can. Imagine a defendant being stuck using the duty lawyer to represent them in serious cases such as sex abuse! Why can they pay for top representation but the victim can’t? One thing I noticed was that there was no one actually advising me along the way, I was left on my own only consulted about what was going to happen, regardless of my wishes. If this is the way the system is then there should be allowance to privately prosecute if the victim has the money and the inclination. That’s preferable to having a sexist barrister like I copped who reminded me that the OPP are his client, not me. Imagine being stuck with the intern for your open heart surgery if you could afford the specialist! But I did eventually get the specialist.... the Chief Crown Prosecutor, [REDACTED] came down from on high to ensure my matter would **not** proceed. In the same time he took to do that he could have rightly prosecuted my matter instead. It remains a mystery at my expense. Why was he there, together with [REDACTED] and a barrister? Why was it so important that my case be dropped?

One only has to look at the cases of Ben Cousins, Stephen Milne, or Oscar Pistorius to ask has the world gone mad? I believe they are good examples of really bad decisions. The OPP decides if they'll drop certain charges, not the victim, for reasons best known to the OPP. Or wrong charges may be brought by the police from the start for example, "rape" instead of "indecent act", there's bargaining over certain charges being dropped, accepting offers of diversion all causing the real incidents to be watered down. This is the dirty politics of real criminal law. Again, without a victim coming forward the great OPP wouldn't exist and the courts wouldn't be so clogged.

So where does that leave us today, in 2015?

No matter how advanced society becomes and how many legal protections are afforded to us, I believe people are still motivated by the 3 essentials: love, food and shelter and will do just about anything to survive.....survive abusive relationships, survive abusive family life whilst still in them and once they've left them. However, adults have different resources and options open to them than a child does. They are older and wiser and have the ability to speak up for themselves when and if they are ready.

So, what do children do when they are being abused? I'm here to say, not much. They generally don't tell anyone, they let things happen to them repeatedly, they keep the secret often out of fear, misguided loyalty and even love for their abuser or to protect other loved ones. Children will only tell if they think they'll be believed and if they won't be in trouble for telling. And even then they still don't tell. My children scoffed at me and said "if that happened to us of course we'd tell you Mum" but I seriously doubt that. Childhood sexual abuse seems to be in a category all of its own and has a unique disabling quality.

In my opinion we shouldn't be asking women and children to have faith in the system and to come forward unless we can support them in using it in meaningful ways. We need more successful convictions for our courageous disclosures and the process needs to be completely revamped to enable this to happen. The system needs to change to serve the needs of victims; there's nothing new in that conclusion. Otherwise what's it all for? I hate to think people out there are still under the illusion that women and children simply make it all up as they go along and men need their freedom protected by learned barristers?

So how do we stop the abuse and how do we better support survivors?

Education is a great panacea but what's the point unless people are willing to embrace the changes and change their attitude. The problem is we've been educated for generations now and more women than men are graduating from universities but the current statistics paint a gloomier picture than ever before. What's going on? We need to stop the sexism and treat women and children as equals of men. Why else does one woman die each week to her current or former partner? Sheer coincidence?

One problem is that initiatives such as quotas and affirmative action are unpopular, particularly with successful women who are often the first to say "With hard work anyone can be in a position like me." I see this as quite ridiculous and denies the reality for so many. Why are the numbers of women on boards of governance so low? Just not enough hard working women out there? You're kidding, women don't need to work any harder; they are working hard already in both the workplace and in the family home. There's just not often enough women in positions of power. Where do all the intelligent hard working women go?

My message albeit perhaps controversial is simple, unless there are changes I don't advocate using the legal system at all as I think it sets one up for failure and frustration. It's far better to invest your time and energy into counselling or other forms of strengthening and healing to get on with your life. The system itself has never been for the feint hearted but it seems it's not for the robust either and **re-victimisation is certainly still the order of the day!** So who is the system really working for? Let's not kid ourselves. The positive public message and the reality are worlds apart I'm afraid to say.

More must be done. **Good people who know better must do better** and must leave their comfort zones and actively seek the changes that women and children so rightly deserve. I feel I owe it to my children, my family, my friends, and my hometown to spread the word. This is the only way forward for me, to do anything less would be to deny my own self and betray my children, family, friends and my clients. It's most important that we address these issues for future generations. The resistance is still strong, [REDACTED] applied for an intervention order against me in an attempt to stop me from telling my story. My entire extended family and it's a big one, have shunned my family and I. Why aren't they shunning the perpetrator? There's a taped confession, they are educated individuals with children of their own? Why?

So what do we do about this? If 1 out of 5 women are sexually abused today we still have a huge problem on our hands. I don't think education will stop abusers from abusing, especially if the daily court report shows how they continually get away with it so lightly. Education can really only help victims after the abuse. Is the answer to become a helicopter parent? What do we tell our children? Stranger danger should **not** be the message. The deranged stranger rapist down the dark alley and the good girl from the good side of the tracks in the wrong place at the wrong time is the stereotype we must move away from. Whilst these cases make the media ask yourself why they make the media? They are shocking and sickening but they don't ruffle anyone's feathers as I don't think Adrian Bailey or Sean Price, killers of Jill Meagher and Masa Vukotic, would have too many fans in high places. They are, in some ways, counter-productive to our cause as they keep the illusion alive that we're tough on crime and have zero tolerance for violence. I only wish that were actually so.

Frankly, I wouldn't recommend going anywhere near a court room if you're a victim of sex abuse. Here I stand today as a mother, daughter, wife, feminist and lawyer with a Women's Studies Major on the Board of WRISC Family Violence Support who couldn't get the legal system to work for me. I like to think of myself as positive and proactive but at the same time I have to admit that the law in this area simply doesn't work. But I'm angry about why? Why doesn't it work in **this** area? **Why not after all this time?** What's the point of educating young girls and women, teaching them to stand up for themselves only to put them down when they do? What's my journey been for if we're really back to square 1 and in reality I'm no better off than my great grandmother who lived in a patriarchal stone farm on the Dalmatian Coast? She knew her place and didn't dare challenge it. I'm told that's not my place in this country, sitting on a stone step in a small village plucking chicken feathers with limited options, but the reality of our legal system betrays this message. It has me sitting back on that stone step feeling undervalued, denied and wronged by the Police, OPP and the Courts. Trust me, I don't want to be a victim **but it's really difficult to be anything but** when you use the system. I do not want anyone else to go through what I have been through. I've changed and my advice, as a lawyer, has changed. My point is, trying to fit sex abuse

into the existing legal framework is like an ugly step sister trying to fit her foot into Cinderella's shoe, it just doesn't fit no matter how hard you try!

The sad truth is sexual abuse and other forms of family violence are going on everywhere at an alarming rate, sometimes in the very next room in our own house. It's in all families from all walks of life, rich and poor. We must open our eyes, our ears and our minds. I say change the system urgently or don't use it at all. Don't ask victims to come forward if the legal system doesn't respect them when they actually do. The OPP Victims Charter and services like the Witness Assistance Program are good but the real help we need is having a system that actually works from start to end. It's the substantive stuff that needs the work, anything less is just paying lip service to victims.

I refuse to be part of the silence and the illusion that it's a more victim-friendly system. I just successfully fought to have a Suppression Order removed which is another story in itself and another layer of silencing the victim. Now that I have my right to freedom of speech restored, I feel it is my responsibility to do all I can to protect the vulnerable women and children in our legal system, our home, in our neighbourhood and in our world. I feel compelled to speak out without shame or fear for what's right. I make the following Submissions to the Royal Commission on Family Violence accordingly and I eagerly await its recommendations.



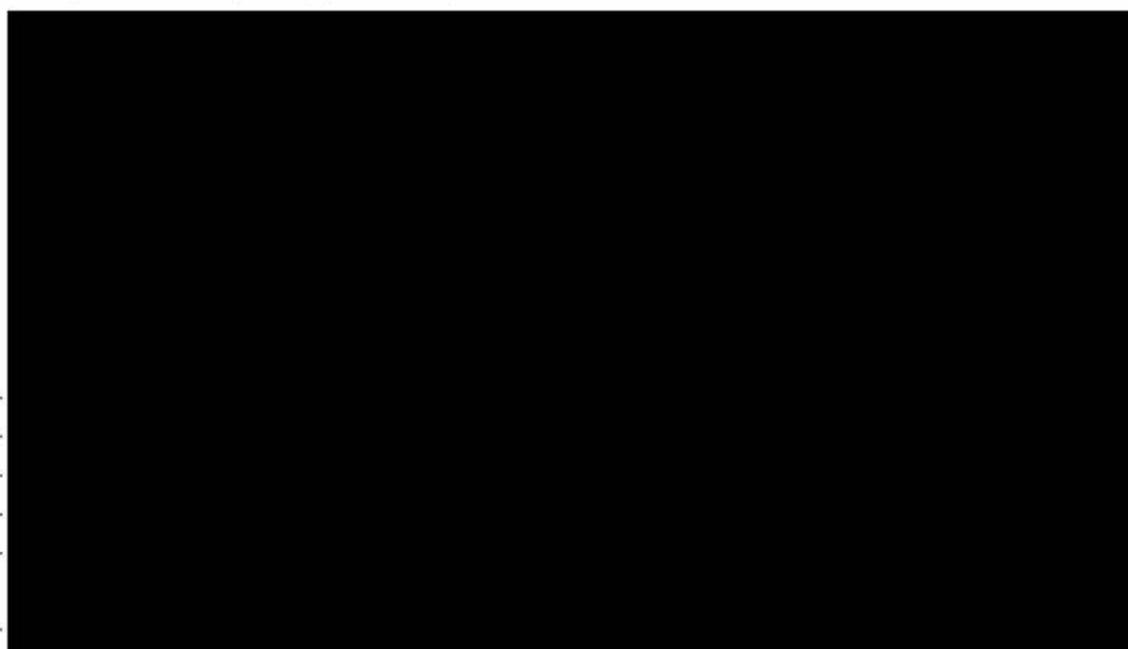
Ingrid Irwin

Date 20 March 2015

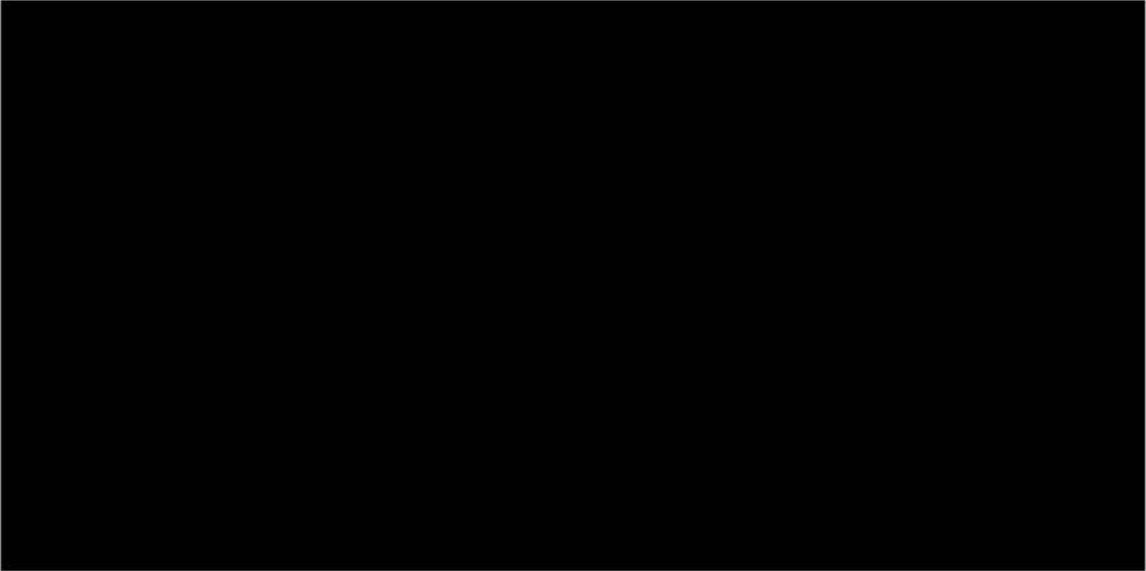
SUPPORTING DOCUMENTS:

The following is a summary of supplementary documents attached:

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CHRONOLOGY OF EVENTS:





ROYAL COMMISSION – FAMILY VIOLENCE

SUBMISSIONS – INGRID IRWIN

A) In the case of Criminal Matters:

1. **The victim in a criminal matter should be independently represented.**

One of the major failings of the system is that there is no provision for anyone to legally represent and advise the complainant/victim throughout the process once a complaint has been made to Police. The OPP is instructed by the Police informant, not the victim. The complainant/victim is merely the Police witness. The victim has no control over the case once they have made their complaint and their wishes are not paramount in any decision making by Police thereafter. If the Police and/or OPP want the case dropped but the victim doesn't, it's a case of too bad.

Assistance such as victim support services do not substantively assist victims. Offering Court Support and tissues masks the reality that victims are actually on their own at Court. Most victims do not understand what is said by lawyers and the Magistrate in a court room. Even as a lawyer I could not follow it, nor could my criminal lawyer husband at times.

I have attached the transcript of the audio recording of the legal proceeding on the day of the Committal Hearing. It illustrates perfectly just how murky the administration of justice all is.

2. **Victim's used as Investigators for Police**

Throughout the course of preparation for my matter, the police repeatedly required me to act as a 'detective' and gather information for them. The police put pressure on me to contact [REDACTED] and get them to give evidence, find addresses and phone numbers, organise police contact, and even try to convince [REDACTED] to make pretext calls like I had. This put great pressure on me and compromised my relationships with them.

3. **Victim's right to private prosecution**

The victim should be entitled to pay for and have access to the best barrister if they so wish, especially where the OPP drop the matter or initially refuse to prosecute. The Police dropped my case but their reasons for doing so are completely unsatisfactory.

The OPP should be answerable to someone. I wrote to the Attorney General and the DPP. The Attorney General at the time The Hon. Robert Clark M.P. said he does not

have the power to enquire into the prosecutorial discretion of the OPP. The DPP John Champion said he was satisfied with the OPP's decision to withdraw, based on his belief that they could not secure a conviction despite the existence of a taped confession and a sentencing indication from a Magistrate that a plea of guilty must result in a conviction with any sentence handed down. That leaves a victim silenced and with nowhere to go.

4. The legal concept of Dolli Incapax should be repealed

Today, any 14 year old knows the wrongness of their actions. The Children's Court is clogged with children knowingly committing offences. To enable a reliance on the concept of Dolli Incapax fixed at 14 years of age simply provides a loophole for child sex offenders. In matters of this nature such a defence should be denied or the age sufficiently lowered to recognise the greater level of understanding in young people today. Furthermore, Dolli Incapax should not be available as a defence when a sex offence committed when the victim was a child, comes before the Courts 20 or 30 years later when the parties are now adults and when there is a confession.

5. The Defendant's right to silence should be repealed

When a Defendant has admitted the offending to the Police or in a pretext call (taped confession), the Defendant should lose their right to silence in the remainder of the matter.

6. The Defendant's right to make a "no comment" interview should be repealed

When a Defendant has admitted the offending to the Police or in a pretext call (taped confession), the Defendant should lose their right to make a no comment interview or at the very least be compelled to give sworn evidence in Court. In these circumstances it may be appropriate for a judge when charging a jury to instruct that refusal to answer can be construed as an admission of guilt.

7. The Defendant should have to make a plea

When a Defendant has admitted the offending to the Police or in a pretext call (taped confession), the Defendant should lose their right to not have to make a plea. They should not have the luxury of deciding this after the committal has run. In my matter the accused was allowed to reserve his plea and in fact never provided a plea, yet the matter progressed to Committal where quite without any justification it was withdrawn.

8. Committal Hearings

The OPP should not have the power to prevent a Committal Hearing from running in circumstances when a defendant has made admissions of the offending to the Police or in a pretext call (taped confession). It must be a matter for the Court alone after initial testing of evidence to make such a determination.

It is the victim's right for the evidence to be tested by a Magistrate. The OPP should not have the power to override this for their own reasons, as that's where corruption breeds. Especially when the DPP wrote to me saying they will sue me if I disclose their

reasons. There is no right of appeal for a victim in this situation. Yet the defendant has a right to appeal in this very matter if he does not like the decision. This needs to be changed in fairness to victims.

Furthermore, I don't see why in the above circumstances, where there's admissions, the matter should not just proceed straight to a plea.

9. Pretext Calls

When a Defendant admits to the offending on a pretext call, those admissions alone should be enough for the matter to proceed.

I was told that in my matter it was not enough that I spoke of him sexually abusing me as a child. I was told that I needed to have gone into the specifics of the offending when I called him, rather than keeping it general.

There should be a guide to making pretext calls available to victims. The Police told me that they cannot assist in any way otherwise the call becomes inadmissible. That's fair enough but this means many victims will engage in this process by opting to make a pretext call and it will likely bear no fruit as they are unaware of what they are meant to ask and say.

In my case I made it clear to the perpetrator from the outset that I was talking about when he had sexually abused me as a child and he responded by saying words to the effect that he remembered and was sorry and regretted doing this. There was no ambiguity and he clearly understood what I was talking about, yet this apparently was not enough. The OPP told me "what is sexual abuse to you and what is sexual abuse to him can be two separate matters"!!

There is no risk to the Defendant in the same way at any stage in the process. They are advised at every point about the best way to do something.

10. Statements to Police

Issue of not particularising the statement enough. This was raised with me two (2) days before the Committal Hearing (nearly 1 year after my statement was made) and used as a basis to want to withdraw the matter. It was never raised as an issue with me any earlier. In fact the Police and OPP had told me I have a strong case with a taped confession, which is great because historic abuse can be hard to prove.

11. Party to the proceeding

The victim should be immediately joined as a party to the proceeding as without the involvement of the victim/complainant the matter has no standing in the first place.

In my matter, there was a Suppression Order made which I was subject to but I was never served or provided with a copy of it. The first time I became aware of it was by chance when I applied for the audio recording of my proceeding after it had been

withdrawn and was told I could not have it as there remained a Suppression Order in place.

How can you have an Order made that places conditions on a victim and yet that victim is not given a copy of it at any stage? Such an order in these circumstances prevents the victim from further disclosure about the offending to which they have been subjected. In my case I was threatened with it by the Defendant's legal team when I sought to clarify false accusations made against me upon which they sought to rely before a Court.

12. Police brief

The victim should have a copy of all Court documents including transcript of the pretext call, just as a defendant has access to this in the Hand up Brief.

13. Monthly update

The Police should have to contact the victim on a monthly basis with update on progress of the case. I seldom heard from anyone and I was constantly calling police about the progress of my matter.

14. SOCIT Units and OPP relationship

The OPP should check to ensure that all of the paperwork is correct and that the correct charges have in fact been brought. In my case two days before the Committal I was told they had wrongly charged the Defendant with incorrect charges of rape which was not correct as at the time in the mid-1980s it was called 'sexual assault of a minor under 16', and that there were also uncharged acts. If this is the case it needed to be corrected. This was the path preferred by Magistrate Holzer however the OPP did not follow His Honour's directions with regard to this as they withdrew the incorrect charges and then refused to bring the correct charges.

The Police are meant to be specialised and understand the issues surrounding disclosure for victims. They should not encourage people to come forward unless they will in fact prosecute. It further re-victimises when the system itself is not user friendly and does not prosecute often enough leading to low conviction rates.

B) In the case of Civil Matters:

15. Costs

Victims should not be liable for the costs of the removal of the Suppression Order once their matter has concluded. This is ridiculous, yet the Magistrate decided this in my matter [REDACTED]. At paragraph 34 of his decision, His Honour Magistrate [REDACTED] made it apparent that:

"Given her concerns about being restricted in pursuing her grievances against the DPP, Ms Irwin had no choice but to apply for the SO to be revoked or varied. Nonetheless, such applications are rare and clearly in this case, personal to her particular circumstances. In my view, therefore, her application ought be at her cost."

Having to apply for the removal of a Suppression Order is another barrier designed to silence the victim who may wish to come forward and advocate for change, like myself. It was certainly a far too difficult process, requiring 4 court hearings to make what should be quite a simple application.

16. Magistrates' Court Website

The Magistrate in my case said I applied for the Review of the Suppression Order under the wrong legislation (Open Courts Act, 2013).

If this is the case that Suppression Orders made under the old Magistrates' Court Act can only be reviewed under that same Act (rather than under the Open Courts Act which was my submission) then the Court website should have the old application form (if it existed) as well as the new one. Otherwise all victims/applicants will run into the same problem, using the same form as it's the only one available, and be liable for the defendant's costs in the event that the defendant (or the Magistrate) opposes the application and a new application has to be made.

17. Intervention Orders

Courts need to be more willing to enforce the breaches when they happen. They should be more willing to imprison offenders rather than just imposing a fine or a Community Based Order. If there's been a serious breach there should be a custodial penalty straight away, without suspending the sentence.

The Men's Behaviour Change Program, albeit great in theory, does not seem to be working in many cases. Often repeat offenders are reordered to participate but continue to behave in the same way and do not take it seriously.

All parties should see the social workers and other stakeholders prior to the court day, thereby reducing lengthy days. Often parties flare up over lunch and by the end of the day are less likely to agree to conditions suggested by the police and/or lawyers acting by way of negotiation.

i) Children on the Intervention Order

It should not be a bargaining chip to ask the children be taken off the order. It should be non-negotiable but sorted in the Federal Circuit Court as soon as possible. Asking the victim if they'd agree to remove the children places unfair pressure on a party on the day of court. Separating the issue of immediate safety and children's arrangements is very important. The exception clauses do address this, however, in practice, there is still a great deal of discussion around whether the children should remain on the Order or not.



INGRID TAMARA IRWIN
DATED: 20 March 2015

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 News BusinessThe Courier ⁽¹⁾

Search...

Betrayed by the legal system

By Fiona Henderson

April 25, 2015, 12:37 a.m.



Angry: Ingrid Irwin was left feeling betrayed by the legal system after she came forward against her abuser. PICTURE: KATE HEALY

INGRID Irwin was sexually abused over four years as a child. But when she finally came forward and had her assailant charged in 2013, she was left angry and betrayed by a legal system that victimised her all over again.

And the ironic twist is Ms Irwin is a lawyer.

"As a victim of childhood sexual abuse, I can't get the system to work for me and I'm a lawyer," Ms Irwin said.

"The (current) system re-victimises people. We shouldn't be asking women and children to have faith in the system and come forward unless we can support them in more meaningful ways.

"The system needs to change to serve the victims' needs. Trying to fit sexual abuse into the legal system is like Cinderella's ugly step sister trying to fit her foot into Cinderella's shoe. It doesn't fit no matter how hard you try."

When Ms Irwin turned 40, she realised she needed to finally tell the secret she had kept since she was just eight years old.

Over four years, she was repeatedly attacked by a male known to her.

She initially told her family before going to the police, who convinced her to ring her assailant and try to get a taped confession, known as a pretext call.

During the call, he admitted to the abuse, said he was sorry and that he had regretted it all his life. In 2013, he was charged with four counts of rape.

Two days before the committal hearing – and 12 months after she made her initial statement to police – the Office of Public Prosecutions said Ms Irwin's statement needed more detail of the offences and the charges should have been sexual assault of a minor under 10 years, not rape.

The day of the hearing, the OPP informed Ms Irwin they were withdrawing the charges and replacing them with one count of unlawful assault so the matter could be resolved by way of diversion, which is what the OPP agreed to with the defence lawyer.

She was told her assailant had agreed to this as long as no conviction was recorded.

Ms Irwin refused to have the charges dropped, but was told it was not her choice.

"The problem is it's their case, the police case, you are merely their witness. You have zero control over the case," she said.

However, when the hearing started, Ms Irwin stood up and asked the magistrate if she could personally address the court, which she did in the witness box.

After hearing her evidence, the magistrate agreed diversion was inappropriate and the matter should be resolved by way of conviction, with the OPP to come back with the correct charges.

The defendant then chose to go to a committal hearing on those charges rather than accept the magistrate's offer of a good behaviour bond with conviction.

Two weeks later at a special hearing, the OPP again asked that the remaining charge of unlawful assault be withdrawn, but did not replace it with new, correct charges, which was the whole reason for that special hearing.

This time, the same magistrate accepted the request.

The remaining charge was then dropped. Despite a taped confession, Ms Irwin's assailant walked free.

"I said it was an insult to me and to every woman for this matter to be recommended for diversion. "How can four counts of rape be reduced to one count of unlawful assault?" she said.

"It's a magistrate's role to decide if there's enough evidence for it to proceed to trial after the committal has actually run and they've heard the evidence, not for the OPP to cut me off at the courtroom door.

"Four years of offending reduced to one act? This can't be right. What message does this send to the community about men's violence towards women; my right to have my matter heard; the seriousness of the matter; the fact that I have never been told until now about any doubts or weaknesses in my case?"

"Now I have something I will regret for the rest of my life ... but for me, it's coming forward.

"It's impossible to navigate the system, yet I am a practising lawyer. What chance do women, including my clients, have if I can't understand or use it?"

Since her case, Ms Irwin has campaigned passionately for changes to the legal system, speaking at White Ribbon Day events and appearing before the Royal Commission into Family Violence.

Among the recommendations she made to the commission were that victims in a criminal matter should be independently legally represented, victims should have a right to private prosecution, and the defendant's right to silence should be repealed if they have admitted the offending.

She also said a defendant's right to make a "no comment" interview should be repealed if they have confessed; victims should always be a party to the proceedings; and the OPP should not have the power to prevent a committal hearing running when the defendant has made admissions.

She added victims should not be used as "investigators" by the police; that pretext calls where an admission is taped should be enough to proceed with the case; statements to police should be scrutinised by the OPP far earlier to ensure correct charges are laid; and victims should get copies of all court documents, as well as monthly case updates.

Ms Irwin also had some advice for sexual assault victims: "Do not go to the police while you are in crisis. Write a chronology and take that instead. Write out dates, times, places, ages, witnesses, evidence and in date order.

"I was overwhelmed by the process. Now, I know my statement suffered for it. I had no time for clear thought, chronology and details of all the offending."

Ms Irwin has also recently told her children about what happened to her.

"I'm a confident woman in my 40s – my kids can't believe it had happened to me. But I told them it happened when I was a vulnerable child. No child is immune.

"We can't live in denial. We must accept where sex abuse happens and when it happens and not sweep it under the carpet with all the other inconvenient truths.

"Stranger danger should not be the message. Sexual abuse and other forms of violence are going on everywhere at an alarming rate.

"Good people who know better must do better. Education won't stop abuse, especially when they get away with it so lightly in the court system."

Ms Irwin has only now been allowed to speak about her case after having successfully fought to revoke a suppression order that was made "until further order".

It was made on the defendant's application during the criminal proceeding and silenced her, yet she was never served with a copy as she was not a party to the proceeding.

"Victims should not have to fight and pay to get their right to freedom of speech returned to them. We do not need to face another layer of silencing after we fight so hard to break the silence."

fiona.henderson@fairfaxmedia.com.au

