

RCFV - ANONYMOUS

Introduction

This submission is from Hellena (not real name) and mostly relates to issues associated with judicial system processes and police investigations of Domestic or Family Violence- i.e. the needs for better system coordination and effective protections for those impacted by/reporting DV. These areas remain woefully inadequate.

Hellena is the name that will be used by the person providing input herein- she is a survivor of DV/Family violence. The name is chosen as it is symbolic; hell is what the perpetrator promised if the violence was reported and hell is what she has had/what she has lived with since reporting DV to police, since charges were laid, since the trial fell apart and the conviction squashed & since she has consequently had to change her identity.

Issues: Definition of Domestic Violence / Family Violence unclear.

Helena's case was referred to as a DV case but to her the guy involved wasn't family - she just shared a house temporarily with the guy. Hellena was renting a room from her boss who just wanted to "help her out" while she awaited prearranged accommodation to be available. The guy was the [REDACTED] Manager of the large corporation where she worked at the time.

Point/issue: people aren't aware that even a safety officer can be violent.

Upon first appearances the perpetrator was confident, charming and assumed safe; especially so because he had the label as [REDACTED].

Note - The Perpetrator explained his behaviours as being because he himself had been abused by a high school teacher (part of paedophile ring) at a school in [REDACTED]. Why do some grow up with that background to offend and others don't?? Is it a defence??

Point/issue- anyone despite their outward social status or workplace label can be violent towards women/others- a rapists, child abuser etc.

Hellena didn't report the violence at the time it occurred. She reports not knowing if it was rape or violence because the perpetrator blamed her for his actions- she also says being so shocked she wasn't clear how to digest what had happened. What happened was how violence is usually described. It wasn't in the dark back ally. It didn't leave her with broken limbs. But the violence did leave Hellena broken emotionally and the ongoing abuse tested and ta times broke her mental health.

Point/issue- Domestic Violence/rape and abuse isn't easily understood- people aren't always aware how to define it- what to look out for – what is crossing a line.

RCFV - ANONYMOUS

Hellena delayed reporting also because the perpetrator was in apposition of power- he was Hellena's boss – he had threatened to make her life "hell" if she went to the cops or left the rental room/house and caused questions to be asked.

Issue/Point - It is VERY hard to report – women need know it is hard but they can do it and it will be hard for differing reasons too!!

Professionals need be aware and supportive of this AND when it gets hard to continue to report- Hellena attempted to report a few times before she actually did – when she did it was because she had discovered others had been assaulted by the perp. Professionals need be aware that the reasons why one reports may seem odd- the survivor may know they need report but second guess themselves then rethinks reporting....it really is hard to report- Hellena says once DV is on the table its out and has to be dealt with and faced.

DV causes mental illness also and may interrupt brain processes- it makes it very hard for survivors to articulate what happened.

Issue/point: more needs to be understood about mental functioning and how trauma and violence impacts that and a survivor's ability to report/articulate and follow through on a court process.

Hellena reports her brain being unreliable at times and being unable to concentrate & mentally process what is going on during statement taking and court processes. That was misunderstood at times as being an unreliable witness - it's not that - it just mental illness and confusion - mental illness isn't considered in the court system!!

Reporting DV Processes

Point/issue: provide copies of reports to those reporting violence/DV. Get sign off so it clear the reporter agrees with facts etc. Allow reporter time to consider report contents though- especially if traumatised and mental health is at risk of being compromised.

Hellena initially reported the issue to a female police officer – that was very good to have a female. Hellena however wasn't given a copy of her first incomplete attempt to make a report.

It wasn't until later that Hellena gained a copy of her "first /original" report - she realised it wasn't accurate. The officer's impression of what had happened wasn't what had happened. Facts were missed too. When the matter went eventually to trial, and official statements had been made Hellena faced defence team attack for what they believed were inconsistencies in first and subsequent reports/testimony. In actuality there wasn't inconsistency but the defence attempted to derail Hellena anyways. An avoidable situation if police give copies of any comments or statement's to the complainant.

RCFV - ANONYMOUS

Police may need also be made aware that at the time of reporting DV issues/ rape and violence, the complainant can be emotionally distressed /charged, cognitively pressured and unable to fully report facts.

Point /issue Violence isn't just about laws- workplace can have an influence in shaping social values and actions at home

Point/issue- There are no protections for women(survivors of violence) against psychopaths or those alike when survivors do report – violence is fuelled by the need for power and getting that power isn't just about physical violence –

Hellena reports reluctance to report because she was aware of the angst it would bring her way- the perpetrator had described what he had done to other people that crossed him in the workplace or in sporting clubs socially. He would never do anything criminal or break any laws. He would bully, intimidate, harass and white ant people out of favour or even work positions.

Police and associated professionals need be aware this is a major tactic for keeping women under control. How can it be addressed though other than education about people that are manipulative and controlling at work, sport, socially or in the home so that we as a society can denounce this type of behaviour rather than applaud it as a good workplace tactic to climb career ladders etc. Workplace behaviour can actually reinforce violence in the home/domestic environment by rewarding bullying and psychopathic behaviours.

Hellena reports that the police had no way of addressing the non-law breaking behaviours- other than an AVO and to get one of those the "victim" had to provide an address for the perpetrator to keep away from- what if letting the Perpetrator know that address would make matters even worse.

Point/Issue- Police and Dept. Public Prosecutions –justice System – poor understanding of each other's operations

Hellena reports after significant investigative work by police and involvement in covert surveillance, charges were laid and a trial set. Hellena reports being advised that it was an open and shut case, the guy would take a plea (accepted guilt) to get a reduced sentence at a following sentencing hearing. Helena was advised by police to concentrate on putting her victim's statement together. The advice however was incorrect. The matter went to trial. The prosecutor with the DPP then advised that police often push hard to get an investigation to court and that they may only get 1 or 2 up in any one year. Hellena was advised that for police to get a matter accepted for trial was a career boosting achievement. The DPP also added that police don't always understand the court process.

Further to this point, Hellena made a statement. The officer she dealt with remove elements of Hellena's statement as irrelevant.

When it came to the trail, the defence didn't agree the material left off the statement was irrelevant and pursued it attempting to make Hellena look dishonest and not a credible witness. A court room tactic by defence lawyers that the police were apparently not aware of.

RCFV - ANONYMOUS

The police officer knew not of the negative consequences for the edits to the statement.

Issue/point- undertrained/resources police investigating cases

Police gathering covert surveillance materials (phone taps) believed that the recorded information they had involved Hellena in collected was clear evidence for a conviction. They believed that they had a confession to rape and violence. Police believed that they had also requested the correct warrant to collect the information that had- they hadn't and it wasn't admissible in court.

From the prosecutors viewpoint the taped conversations were not clear evidence for conviction anyways. Quoted DPP" police don't know how a good defence lawyer operates and how they can discredit what would seem clear evidence"

Police need training in evidence collection and court processes and SHOULD NOT be involved with such cases until they do have greater insights!@!

Point/issue: Court Support Staff Training and expertise insufficient

Hellena was advised by her court support officer "Lynda" that if she wasn't well enough to take the stand she could excuse self as witness and the trial could be rescheduled/set for another date.

This advice was incorrect but Hellena wasn't aware of such. She decided to take a break on advice from doctor and despite subpoenas. She didn't get another chance to give evidence though- The only way another hearing or trial could be set was if there was new evidence. Mental illness of witness is not considered or reason for a new trial. Court Staff/Support Staff need be accountable for advice they give too.

Point/issue- Support in Court - preparing for court in knowing how to prepare for attacks on one's credibility. Court process being adversarial is wrong approach

It is not uncommon for survivors of DV/violence to be traumatised and suffering a mental illness when they come to give evidence in court. More common is that the court system doesn't account for this!

Hellena know she was fragile sort to prepare herself mentally for what may be ahead- She requested information on what to expect going into court- the DPP court liaison person "Lynda" not her real name- sent a DVD of a child being interviewed by a supportive prosecutor. It talked about just being a situation where one was asked to tell the truth and tell the story. That is NOT how it worked for Hellena at all or how it works for other women reporting DV. The court process is quite adversarial and attacking so re-traumatising. Defence lawyers can be traumatising in how they proceed also.

RCFV - ANONYMOUS

Issue/point: Stressing victims/witnesses in court process shuts down their core thinking processes and ability to recall and present the full and accurate story.

DV and other violence against women cases should NOT go through the current adversarial jury system. They should be heard by a judge with skills and knowledge about the complex issues associated with DV and violence against women. It is NO wonder women don't report and far fewer go to trial/court. The court process creates mental illnesses.

Putting people under stress or re- traumatising victims negatively impacts their ability to give evidence also.

Issue/point: Unequal player field - Evidence briefings –

During the preliminary hearings – the prosecution has to put all their evidence in a brief of evidence- the defence does. The defence gets better the chance to prepare and ambush the victim. The prosecution doesn't get the same deal. The current approach also prolongs court processes and costs.

Issue/point: Independent legal representation available for defendant/perpetrator BUT NOT for the victim/survivor /complainants who are also witnesses

Hellena had no independent legal support because she was a witness. BUT she was a victim of crime also and should be protected/able to access legal support to know her rights and responsibilities. Especially so in an adversarial system. - Defence teams aim to discredit witnesses and their testimony. The power imbalance just reenergizes the perpetrator power base.

The court process aimed to make the perpetrator accountable and promote victim empowerment was totally disempowering, a waste of time & energy. It actually supported the perpetrator and no doubt reinforced his violent behaviours as acceptable – one sick puppy is left to roam the street inflicting harm on others.

Issue/ point: Protecting women during DV reporting, testifying and thereafter and ensuring systems are coordinated so protection easily attained AND guaranteed

The nature of the court process meant that the perpetrator had access to all Hellena's personal information; her medical history (because the defence tries to use information to discredit as per an adversarial system), income and financial information etc. etc. . . . The defence then uses this information tactically to play on social stigmas to subconsciously influence jury members. Jury members the perpetrator also gets to choose! The victim has no say in jury selection.

Allowing access to witness information by the defence and his "client" the perpetrator takes power from the victim- information is power. Hellena's reports another way that the victim is "invaded" violated! It is no wonder women don't report.

RCFV - ANONYMOUS

I have discovered so many women are forced to change their names after reporting DV- more so because it goes to court and the defence team can get access to all forms of information.

Hellena also was forced to change her name to keep safe. That incurs yet another loss and sense of disempowerment. Hellena reports a huge distress and onset of mental illness because her name too was taken. Hellena reports her identity was taken because she did the right thing socially/community wise and reported. It wasn't the right thing for her though

"Changing my name & identity should not have had to be the case!!!! It has been a huge loss for me. I spent many years creating a reputation in work, and profile in [REDACTED] - was previously a [REDACTED] [REDACTED] - building friendships. It's exceedingly hard starting a career later in life with no experience that you can mention. All these lost because I had to change my name to keep safe from someone else that was known to be dangerous but had a good defence lawyer, the benefit of undertrained police investigators that didn't know how to apply for the correct warrant to gather evidence, a system that just doesn't work" *"I lost my life and am now left to live in the same body but to rebuild a new life....sometime having the same body but a different name and identity is worse than having a new body and identity- Australia is a small place especially for someone that was once known in public. Life can be very different for you if you report.."*

Issue/point: Coordinated systems for to make security easily attained and kept

If complainants need change their names, make it easier for them- systems need communicate- if Medicare or the RTA, superannuation, banks, health insurance, professional memberships services, get a letter from the police or DV officer to say this person needs their previous name suppressed and inaccessible they need take it VERY seriously and have in place those systems to ensure protections!!!! Have safety measures in place so integrity of those systems can be checked regularly by the person with change in identity.

User friendly ways to submit to Royal Commission

Apparently there is no such thing as online security of information - IT Professionals say such. Yet the submissions to Royal Commission are all online – how do those worried about their security online and generally submit?

...end....