

MEDIA RELEASE

NEWS FROM THE UNIVERSITY OF TASMANIA

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Attention: Chiefs of Staff, News Directors



New Law Reform report: Protecting the Anonymity of Victims of Sexual Crimes

The Tasmania Law Reform Institute (TLRI) has released a new Final Report, *Protecting the Anonymity of Victims of Sexual Crimes*.

The Report recommends the replacement of s 194K of the *Evidence Act 2001* with a new statutory regime governing restrictions on the publication of information which identifies complainants in sexual assault cases.

Professor Kate Warner, Director of the TLRI, said the current law fails to provide appropriate protection to victims of crimes of sexual assault; largely due to the lack of certainty in relation to what information is prohibited by the section and who should be prevented from identifying the complainant.

“It is also unable to accommodate victims who do not seek anonymity, but who prefer that their voice be heard,” Prof Warner said.

“The public scrutiny of court proceedings plays a central role in promoting open and transparent justice and generating public confidence in the integrity of the courts, so it is important that restrictions on publishing details of court proceedings and participants are imposed cautiously.”

The Report makes a number of recommendations, which would only make a small impact on the fundamental principle of open justice.

The recommendations are designed to provide a comprehensive framework for the courts’ consideration of publication questions and to allow the interests of the court, the complainant and the media, as well as the public interest, to be taken into account.

The recommendations:

- The enactment of legislation to provide for the suppression not only of potentially identifying material, but also of material that is likely to be embarrassing or hurtful to the complainant.
- In determining whether material is likely to identify the complainant, the court should have regard to identification by a reader equipped with knowledge in the public domain. [The test of whether material is ‘potentially identifying’ is

whether a reader who is equipped with knowledge that already exists in the public domain is likely to make the identification.]

- That the publication of identifying material be permitted with the consent of the victim if they are 18 years or over.
- The sanction for breaching publication restrictions be a penalty imposed following summary prosecution for a criminal offence.
- The Report also makes a number of recommendations in relation to procedural aspects of the law, including granting the court the right to make or vary orders of its own motion and extending to any party with sufficient interest in the making of the order a broad right to apply for or to seek variation of a non-publication order.

The Report is available on the Institute's webpage:

www.law.utas.edu.au/reform

Information released by:

UTAS Communications and Media Office

Phone: (03) 6226 2691 or 0447 537 375

Email: Media.Office@utas.edu.au