



HOBART WOMEN'S HEALTH CENTRE

Response to Tasmanian Law Reform Institute Issues Paper
No 18

Protecting the Anonymity of Victims of Sexual Crimes

September 2012

Prepared for Hobart Women's Health Centre by

Shirley O'Toole M.App.Sci, B.A

September 2012

INTRODUCTION:

Hobart Women's Health Centre (HWHC) welcomes the invitation to comment on this issues paper, *Protecting the Anonymity of Victims of Sexual Crime* and contribute to discussion regarding law reform.

HWHC is aware of the contentiousness of this issue and understands the dilemmas faced in determining legislative reform that protects those complainants who wish to remain anonymous while challenging the stigma attached to victims of sexual crimes.

Hobart Women's Health Centre

HWHC has been operating since 1987. As well as delivering a range of health services, HWHC has a systems advocacy role. The centre works from a social model of health which recognises that:

- health is determined by a broad range of social, environmental, economic and biological factors
- differences in health status and health objectives are linked to gender, age, socio-economic status, ethnicity, disability, location and environment, racism, sex-role stereotyping, ageism, sexuality, sexual orientation and gender identity.
- alongside high quality illness treatment services, it is also necessary to address health promotion, disease prevention, equity of access to appropriate and affordable services and strengthening the primary health care system.
- information, consultation, advocacy and community development are important elements of the health process.

HWHC Principles

- The service is provided for women by women
- Women will be involved in, and have control of, decisions about their bodies.
- Women will have access to a wide range of information, and be assisted to fully comprehend this information, to enable them to make informed choices.
- Women have a right to dignity and respect.
- Women will be guaranteed confidentiality.
- Women will be offered affordable and accessible health care.
- Women will be offered a safe and supportive environment.

HWHC Vision Statement

Tasmanian women are informed, supported and active decision makers in their own health and wellbeing.

HWHC Mission Statement

To be a leader in advancing women's health in Tasmania

Hobart Women's Health Centre's Position on Sexual Crimes:

HWHC views sexual crimes as abhorrent. They are a gross human rights infringement perpetrated primarily against women and girls by males. When males are the victims of sexual assault, it is usually other males that perpetrate the violence (DPAC 2012)

HWHC is opposed to all forms of violence and actively advocates for a violence free Tasmania (see HWHC submission to the Department of Premier and Cabinet Primary Prevention Framework to Reduce Family Violence and Sexual Assault 2012-2015).

HWHC articulated the physical, emotional and social costs of sexual crimes in its response to the TLRI's Discussion Paper no. 17 Sexual Offences Against Young People PP4-6.

The stigma attached to sexual crimes is an ongoing issue and is best questioned in the following quote:

"Why does the stigma of rape lie with the victim and not the perpetrator? Why do we associate disgrace with the person whose vulnerability has been exploited and not the person willing to exploit that vulnerability? Why do we look at a victim's behaviour and circumstances to explain a crime's occurrence and not the choices made by the attacker? Why do we insist on silence, why do we knowingly turn away, when we witness a situation of abuse instead of calling out the abuser for their shameful behaviour? Why do we see the victim as being tarnished or damaged by an event over which they had no control and not the person who had control and used it to commit that abuse, that crime?" (16 Impacts of Sexual Assault – Stigma 2011)

OPTIONS FOR REFORM:

HWHC is not a legal service and does not attempt to offer a legal argument for our comments. Our responses are guided by our philosophy and vision statement.

HWHC believes that the current legislation does need reform. A number of the issues raised in section 4.3.1 for consideration clearly highlight that a complainant, having been a victim of a sexual crime, becomes entangled in a system that does nothing to give them control over their lives.

We believe:

- Consent of the complainant should be mandatory. The victims of sexual crimes should have choice about whether information is published about them. They also should have some control over what is published about them in the media, including their identity. Victims are all different and while some may wish to remain anonymous, others might want to share their stories and they should have the right to do this. HWHC has read the concerns listed about complainants' ability to make an informed consent, however with sufficient support in place these concerns would be ameliorated. The wording of s 36C (6) (b) of the *Evidence Act 1906* (WA) (p45) seems to offer an empowered solution to the complainant consent.
- The law should have a clearer frame-work for the types of information that is permissible to be published. For example, the media often publishes victims ages, focuses on the clothing victims wear, and what they were doing at the time the attack took place, whether or not they were under the influence of alcohol. HWHC does not believe any of this is relevant to justice and contributes to victim-blaming. It perpetuates the misconceived view that victims of sexual crime were "asking for it". This type of reporting is contrary to the aims of the **Tasmanian Primary Prevention Framework to Reduce Family Violence and Sexual Assault** and the **National Plan for Australia to Reduce Violence Against Women and Their Children**.

- In recognition of the various forms of media, it is imperative that any legislation applies equally to the internet, television, radio and print media.

CONCLUSION:

HWHC welcomes legislative reform that provides clarity about the protection of victims' identity while at the same time giving them choice and a voice.

<http://www.therapyworkshbs.org/traumastigma.html>

<http://16impacts.wordpress.com/2011/12/05/day-9-stigma/>

<http://www.secasa.com.au/assets/Documents/does-posting-in-an-online-community-encourage-young-people-to-disclose.pdf>

ABS (2004) *Sexual Assault in Australia – A Statistical Overview*

Hobart Women's Health Centre (2012) Response to the Tasmania Law Reform Institute Issues Paper no 17 SEXUAL OFFENCES AGAINST YOUNG PEOPLE

Hobart Women's Health Centre (2012) Submission to *Department of Premier and Cabinet Community Development Division* PRIMARY PREVENTION FRAMEWORK TO REDUCE FAMILY VIOLENCE AND SEXUAL ASSAULT IN TASMANIA 2012-2015

Miller Leisl (2011) *Domestic Violence in Australia – an overview of the issues* Social Policy Section Parliamentary Library

Tasmanian Department of Premier and Cabinet (2012) *A Primary Prevention Framework to Reduce Violence and Sexual Assault in Tasmania 2012-15* Discussion Paper

The National Council to Reduce Violence against Women and their Children (2009) *Time for Action: The National Council's Plan to Reduce Violence against Women, 2009 - 2021* Commonwealth of Australia