

WESTERN AUSTRALIAN FEDERATION OF SEXUAL
ASSAULT SERVICES (WAFSAS) FORUM
4 October 2005, Perth

**The Realities of the justice system for victims of sexual assault
and abuse from a remote / rural outlook.**

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Today's talk will focus on remote / rural issues in Western Australia. I will not, however, focus on specific issues that relate to the indigenous community as this area has been covered by the previous speaker.

I am here today to talk about some of the issues that our agencies and clients face within the justice system. I don't wish to sound too negative, instead what I am hoping to do is to raise awareness of some of the problems that we, and more importantly, our clients, face within the justice system. Some examples and problems may be isolated incidents, and that is always going to happen, however, there are a number of repeated experiences that we as grass roots workers are hearing repeatedly, and feel a need to give voice to.

Most of us are aware of the frightening statistics that have been bandied around for some time, that one in three women and one in seven men will experience sexual assault before they reach the age of 18. This would suggest then that sexual assault is a common crime, and yet it appears to be heavily under-reported. Of those cases that are reported, only around 10% get tried in court, and of those that do reach our courts, there is a shamefully low conviction rate.

A recent survey of over 6000 women in Australia found that 10% of the women surveyed had experienced one incident of sexual and/or physical violence in the past 12 months. The researchers reported, however, that they were not likely to

report the sexual violence to police. Some of the reasons that victims gave for not reporting to police include: the fear of threats to themselves or other family members; a lack of confidence in police and/or the criminal justice system; a lack of knowledge about the process; a fear of not being believed; humiliation; shame and the likes. Whether to report a sexual assault to the police will always be a personal choice however, those who do find the courage to report need all the support and protection that we can offer them.

I have been asked to raise issues of concern to the regional / remote agencies (these are not necessarily the only issues for workers in remote areas but ones which regional/remote workers have raised).

1. One counselor reported that her six-year old client who had recently been sexually assaulted had to be re-interviewed the next day by detectives because the police had not obtained all the information they needed in the first statement. So this highly traumatized child had to go through the same process all over again the next day. Do country police need more training in taking statements from children? When it is a young child maybe it could go straight through to a detective – so that this does not happen again.
2. We all have clients who have a mental illness diagnosis such as schizophrenia, (some have multiple diagnoses), or an intellectual disability. These clients tell us that when reporting a sexual assault to the police they are often informed that they would not make a credible witness and therefore it is unlikely that this matter will be referred to the DPP. Their only chance is if the alleged perpetrator pleads guilty. We understand that the police may be attempting to protect them from standing up in court and being subjected to relentless cross-examination that could re-traumatize them further, or even confuse them so that their

story may become inconsistent. They are often however, very distressed by this response because they see it as the alleged perpetrator “getting away with it”, or they are not believed by the police. These clients are often very angry and want action. I don’t have all the answers but commonsense might suggest that spending more time getting these clients ready for court might make a difference, rather than simply denying them the opportunity.

3. A cause for concern in Bunbury is that even when the cases have been referred to court, the conviction rate appears to be extremely low. Counsellors felt that this was a reflection on the lack of preparation time allocated the victims in country areas. On some occasions the victims only spoke with their lawyer on the day, or if they are extremely fortunate, the day before the court case. In Bunbury a screen can be applied for in order to screen off the alleged perpetrator from the victim’s view, but this needs to be ordered before the trial. In some cases prosecutors have not applied for screens when they had been requested by victims, and in other cases counsellors were asked to do the paper work to apply for the screens, which is not their job. In one case, a counsellor was asked to “talk her clients out of wanting a screen” because her lawyer had not arranged it in time. I know that these are isolated cases but it does highlight some of the difficulties we face in rural/remote areas.
4. One complaint that I and other counsellor’s hear time and time again is that the client feels like it is their character that is on trial and not the actions of the accused. Stereotypes and over generalizations are often not objected to during the trial by the prosecution. Comments such as, “why else would a women go out alone unless she was looking to be picked up?” are not addressed. Victims report they are not warned that they may be accused over and over again of lying. Again, more

preparation time and information may help clients to feel more confident to handle the situation.

5. Workers in Albany raised the issue of belonging to a small country town where the victim is more likely to see the accused going about his/her daily business in a rural community. They have had victims tell them that they have seen the accused in the streets during the course of the trial and that the accused has called out or laughed at them. It is also very difficult to be invisible in a country town after a trial as just about everyone knows the details.
6. We all agreed that our clients need to be more informed regarding the entire process early on, so that they can make informed decisions and choices regarding their own situation. The possibility of more victim support agencies throughout remote/regional areas could assist with this.
7. We also agreed that the time between charges and court is far too long. It often takes years, and for a small child or young person and their parents it is difficult to get on with life until the process is over. I am aware that in some states in Australia young children are prioritized so that their cases are heard promptly.
8. Another issue that we all feel very strongly about is that it appears that prosecutors receive no formal training in the area of the effects and/or the impact of trauma on our clients. For example, some clients see the prosecution and defense lawyers interacting informally with each other before, during and/or after the trial. This can be very disturbing for victims who often expect a clear dichotomy to exist, or for the prosecutor to share the same antipathy the victim feels towards the defense. For some clients, this can erode their confidence in the justice system. Clients often report a lack of sensitivity to their fears by the prosecution lawyers. One

client had the experience of being taken up to the courts in the same lift as the accused. Some are required to wait in the same room as the accused or the accused family. Many times the accused is a member of their own family.

9. We have all heard horror stories from our clients about cross-examination by defense lawyers. One of my own clients stated that her trial was more humiliating and traumatizing than the assault because it went on for days and days. Minor incidents and humiliating details had to be retold and challenged again and again. According to my client, even the eventual conviction did not make it worthwhile. She told me that if she had known going in what it would be like she would never have pursued it all the way to court, even if she knew that he would get convicted. She said the sentence that was eventually imposed (after he changed his plea to guilty) felt like a slap on the wrist. Most of the general public are not aware of the length of cross examinations and the focus on minute details. It would also appear that some prosecutors are very reluctant to interject to these bullying tactics by the defense for fear that the jury might think that the victim has some thing to hide or they are lying about what happened. If we want more victims of sexual assault to report the crime, and more perpetrators to be prosecuted we must do something to change whole system.