

## Lets Talk about Sex Conference – July 2007

**Presentation by: Karen Willis**  
**Manager NSW Rape Crisis Centre**

*'I can't believe he thought that that was what I wanted'.*

*'What makes men do things like that?'*

*'I feel like everyone is looking at me, that they know'.*

*'I am different now, I will never be the same again'.*

*'I can't think, I can't sleep, I can't eat. It just keeps going over and over in my mind. What could I have done, how could I have escaped, I feel so useless'.*

*'I thought he was my protector'.*

*'I thought he loved me'.*

Women who are sexually assaulted experience many emotions:

Shame, fear, anger, feeling dirty, feeling somehow to blame, and feeling like everyone knows.

Most will have trouble eating, sleeping and concentrating.

Nightmares and flashbacks are common. Many just want to hide away and many will never talk about what happened.

Of those who do talk, it is usually to a trusted friend or family member.

When the response is caring and supportive, when there are no blame questions, eg why did you go there, wear that, do that, and where the trusted confidant is clear about who is at fault, the first step to recovery is taken.

For women who do not tell, or where the person they tell indicates they are in some way to blame, or where the person gives excuses for the perpetrators actions, many will never speak of 'it' again.

Some will develop further trauma symptoms:

eg depression, self harming, drug and alcohol for self medicating, high risk behaviours to get a feeling of control and suicide.

If you are the person someone comes to, the most important things to say are:

- \* It was not your fault – you did nothing wrong, you survived.
- \* What happened is a crime – he is responsible.
- \* I will do whatever I can to help, you are not alone.

Encourage the person to contact sexual assault crisis and support services.

You can get help there as well. It's always hard to support someone who has been sexually assaulted and you cannot tell your friends. You must respect the confidentiality of the person who has been assaulted.

Sexual assault is a symptom of patriarchy. Sexual assault is about power and control. The aim of the event is to humiliate and degrade.

To believe that it is OK to treat someone in this way, the offender must believe the other person is of less value or worth or is in fact worthless.

While men are certainly sexually assaulted the vast majority of victims are women and children.

While women are sex offenders the overwhelming majority of perpetrators are men.

It is clear that patriarchy establishes an environment where at the extreme end such shocking violence can occur.

I must be very clear here. The fact is that it is only a small group of men who commit these shocking and criminal acts. The fact is that most men are just as appalled by sexual assault as we are.

In support of the violent end of patriarchy there are many sexual assault myths. These myths have two roles. They either excuse the perpetrator or blame the victim and some achieve both. While we continue to believe these myths sexual assault will continue to occur. These myths are imbedded in every discussion about sexual assault. You cannot read or listen to any report or debate on the issue without a myth influencing what is being said.

Of all the variations of myths there are two foundational myths. The first is that men have uncontrolled sexual desires and will, if given the opportunity, sex offend. The second is that the presentation or behaviour of women unleashed this inability to control.

*'Give me a break.'*

This leads to women being told it is their responsibility to manage men by controlling and restricting their own behaviours to avoid rape

When a person is sexually assaulted there are two systems which can be accessed. One is support services which help in recovery, and the criminal justice system which aims to achieve redress for the crime that has occurred.

The support services include injury management, STI and pregnancy checks, and counselling and support for the person who was assaulted, and where necessary their family and friends. Generally support services in NSW are of very high quality but they are considerably hampered in their work by under resourcing ie. not enough money to employ counsellors.

The criminal justice response is also hampered by under resourcing but it is hampered, at a considerably higher level, by a legal system which has no understanding of the causes of sexual assault, the impact of sexual assault trauma or sex offender tactics. Its laws are draconian and in many instances reflect attitudes which are hundreds of years old. The system is heavily weighted in favour of the offender.

It is no wonder that only 20% of sexual assaults are ever reported and that we have a 1% conviction rate in NSW.

To prevent sexual assault we certainly need to do something about the impact of patriarchy, get rid of the myths and be ethical in our sexual practices. While we are sorting that out we also need to make sure we have a criminal justice system which is responsive, is one in which victims can have some trust and one in which the truth of what occurred is the outcome of the process.

We need:

### **One stop shops**

Currently those who choose to report to Police need to attend up to 6 or 7 different locations in the first few months after sexual assault. They are required to remember times, places, locations, paperwork and who is doing what and why. They often need to advocate on their own behalf and can be subjected to considerable stuffing around. They are also required to front up to each new location and announce 'Hi I'm the sexual assault victim where do I go'. No wonder so many drop out. The most common thing women tell us is all they want to do is go home and hide under the doona.

At a one stop shop the victim/complainant goes to one location where they are known, where all their information is recorded and where services come to them. If they miss an appointment it is noticed and someone follows up.

### **Increased training for front line Police and better investigation resources for Detectives.**

### **Specialist unit in the DPP**

A specialist unit will develop a high level of expertise in prosecuting sexual assault and have the capacity to become involved in each matter at an earlier stage. This will allow for the prosecutor to gain a better understanding of what happened so that they can better represent the complainant's views in Court. It will also allow them to work with Police to ensure that evidence is complete and in Court acceptable format.

### **Specialist sexual assault courts**

Specialist Courts are not about bricks and mortar, they are about court culture. In a specialist sexual assault court every person would be trained in sexual assault law, impacts and responses. There would be improved information flow, specialist lists to decrease delay, a range of vulnerable witness protections including the option of giving evidence from a different location, closed courts and different waiting, entry and exit points for the complainant and their family and defendant and family. Importantly the Judge would be required to ensure that the evidence act is adhered to and that in cross examination the complainant is treated with dignity and respect. All effort would be made to decrease the trauma of the process as much as possible.

### **A Lawyer for the Complainant**

As it stands, when in Court, the defendant has a lawyer, the Crown has a lawyer, that is the Prosecutor - but the complainant is on their own. Whether in a specialist sexual assault court or in the generalist courts the complainant must have a lawyer who can ensure their rights are protected, that they are informed and consulted about the progress of their matter and that their matter is fairly represented.

## Law Reform

Law reform is essential if we are to increase reporting, improve conviction rates and decrease the trauma impact of reporting on the victim. There are a number of reforms needed. Following are some of the key reforms.

- We need a definition of Consent. That definition must include that the person gave their consent voluntarily, freely and had the capacity to do so.  
Note: The NSW Attorney General is currently considering this and plans to bring legislation to the September 2007 sitting of Parliament.
- There needs to be an expansion of the circumstances when consent is vitiated.
- The defendant needs to show what steps they took to ensure consent was given, ie objective fault.
- There continues to be warnings that Judges are required to give to a Jury which are clearly in favour of the defendant and often bias in their interpretation. These need to be eliminated or given only when relevant.
- Where there are multiple complainants against one offender there should be a mandatory joint trial.
- Evidence concerning the defendant's alleged serial offending should be made available to the jury.
- Complainants should not be required to give evidence at committal proceedings. Committal's should be paper hearings only.
- Cross examination intermediaries should be used in all sexual assault trials to decrease harassment and humiliation by defense lawyers.

This year the Courts have established procedures to ensure that from committal to trial will take no longer than 3 months in the city and 6 months in rural areas. There have also been a number of other procedures and requirements put in place to decrease delay. This is an excellent start as many complainants talk about how long it takes for their matter to go to trial. Time frames now need to be tied to laying of charges to committal and trial to appeal.

Further information about these matters can be found on the NSW Rape Crisis Centre's website under the heading "Rape: its time for change".

It is every person's basic human right to live their life free of violence and when violence occurs it is their right to receive compassionate, professional assistance in their recovery and full redress for the crime through the criminal justice system.

These basic rights are not yet afforded women but together we can, will and must change that.

Thank you