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Position Statement

I am writing in response to a June followup consultation meeting to discuss proposed changes to the - *Identification of deceased sexual offence victims - further reforms to JPRA* following feedback to the Consultation Paper in January 2021.

My name is Eileen Culleton and I am the sister of Anne-Marie Culleton who at 20 years old was raped and murdered in 1988 by Jonathan Bakewell who broke down her back door in the middle of the night to rape and murder her in her bed. This crime is every woman's worst nightmare.

I am a resident of NSW. The crime occurred in the NT and Bakewell was given a life sentence with no parole. However the laws were changed and Bakewell's sentence was reduced to just 20 years. Bakewell was transferred to SA while in prison and was recently paroled for the fifth time after having breached parole five times for taking drugs, the same drugs he took the night he raped and murdered my sister.

I am writing with the perspective of 33 years lived experience of the impact of the whole spectrum of political, legislative and judicial decisions in relation to the crime of murder with sexual assault. I am also writing with the perspective of extensive lived experience engaging with the media as a victim of crime and through my professional career in public relations, marketing, social media and advocacy.

While I am not a resident of Victoria, I have been campaigning against the proposed gag law in solidarity with murdered rape victim families in Victoria who would be impacted. I also campaigned to prevent the potential ripple effect the law changes could have across the nation in impacting the rights of all murdered rape victim families.

I trust this further submission will be given the serious consideration it requires and deserves.

Firstly I would like to express my great relief that the Victorian government has listened to our objections to the proposed gag law to criminalise the publication of deceased victims of sexual offences. I commend the government for their proposal to lift the prohibition and ensure that the default will be to allow victims to continue to have a voice and speak their murdered loved one's name publicly.

In relation to the new proposed victim privacy order, I support the enablement of victims of crime to apply to prohibit the publication of their name.

However I strongly object to this victim privacy order being applied to the publication of murder victim names because it would violate the civil rights, human rights and agency of victim family members who do not want the privacy order and who want to speak their murdered loved one's name publicly. All immediate family members of the murder victim are victims of crime and as adults they should all continue to have equal rights to speak about their loved one publicly.

I also object to this because it would involve pitting family members against each other, increasing the trauma they are already suffering. It would involve courts discriminating against and causing further trauma to family members who were unsuccessful in fighting a privacy order. It would also put an unfair cost burden on family members who want to continue to speak.

This proposed victim privacy law if applied to the publication of murder victim names, would mean erasing the murder victim from history and this is a travesty to the murder victim whose life was already tragically cut short.

Murder victims names need to be spoken and the stories of the crimes need to be told. For humanity, for justice and for community protection.

Victim families, the media and the public should maintain their right to freely publish the names of murder victims.

The award of 2021 Australian of the Year to Grace Tame who helped overturn victim gag laws in Tasmania with the support of the #LetHerSpeak campaign speaks volumes for the mood of Australia on the issue of victims rights to speak publicly and the importance of their stories being told. The Victorian government needs to be on the right side of history on this issue.

Key Recommendations

I have made two key recommendations which would assist murder victim family members to continue to have agency to publicly speak their murdered family members name, while respecting the privacy of other family members. I have outlined these in more detail in the "Recommendations" section.

Provide a family counselling and mediation support service for homicide victim families

For the government to provide a family counselling and family mediation service for homicide victim families. The counselling and mediation support service could provide valuable support for families dealing with the trauma of murder.

The support service could be focussed on keeping family bonds strong while helping them to understand how people process grief and trauma in different ways.

It could also help them to establish their individual privacy boundaries and make those clear to other family members who are speaking publicly through social media or mainstream media.

Provide a media tip guide for homicide victim families to empower them to engage social media and the media

For the government to provide a media tip guide for homicide victim families to empower those engaging with social media and the media to have greater agency over how they tell their stories and the stories of their murdered family member, while respecting the privacy of members who do not want to be publicly named.

I would be happy to provide input for the development of this media tip guide utilising my extensive experience engaging with the media as a victim of crime and through my professional career¹ in public relations, marketing, social media and advocacy.

¹ <https://www.linkedin.com/in/eileenculleton/>

My campaign to fight the Justice Legislation Amendment Bill 2020 to enable family members of murdered rape victims to continue to have the right to speak

I campaigned to fight the *Justice Legislation Amendment (Supporting Victims and Other Matters) Bill 2020* in October and November 2020.

I wrote requesting the bill wording be amended to allow murdered rape victim families, media and the public to continue to freely publish the names of deceased victims of sexual assault.

Prior to the bill being debated in the Legislative Assembly, I wrote to the former Attorney-General Jill Hennessy, to no response. Hennessy has since resigned. I also published an open letter to the Victoria Labor ministers, again, to no avail. The bill was passed through the lower house.

I then wrote a letter to all the members of the legislative assembly enclosing copies of my previous two letters providing further perspectives on the negative impacts of the bill. These three letters are included in the appendix.

I also contacted Nina Funnell, Director of the #LetUsSpeak campaign to lend my support and we collaborated to campaign together. Nina assisted me with getting media coverage on Victoria ABC radio news, TV and online² and we were also jointly interviewed on Triple J Hack radio program.

I made a written submission on 29 January 2021 in response to the Victoria Consultation Paper.

I participated in a meeting on 23 June to discuss further proposed legislative changes in response to the Consultation Paper.

This further submission is in response to the revised proposed legislation.

² <https://www.abc.net.au/news/2020-10-28/victoria-law-change-opposed-by-rape-murder-victim-families/12819732>

Violation of victim civil rights, human rights and agency

I strongly object to this victim privacy order being applied to the publication of murdered victims names because it would violate the civil rights, human rights and agency of victim family members who do not want the privacy order and who want to speak their murdered loved one's name publicly.

I cannot imagine the trauma of having to face a court to argue why I should be able to publicly speak my dead sister's name and speak of the crime.

To have to fight for the right to honour Anne-Marie Culleton's birthday on Facebook or the anniversary of when she was brutally taken from us. For her friends to also be denied that right.

To have to fight for the right to speak out about her crime in my campaign to have her rapist murderer's parole cancelled. To have to fight for the right to speak Anne-Marie Culleton's name and to speak about her rape and murder in my advocacy and law reform campaigns.

Victims of crime have a human right to have a voice and tell our stories if we choose to. We have a right to campaign for justice. Gagging victims of crime robs us of agency and control over our own stories.

We have already been robbed of so much in having our loved one taken from us so brutally.

Pitting family members against each other in the court room

I oppose the victim privacy order being applied to the publication of murdered victims names because it will potentially pit family members against each other, further exacerbating the trauma they are already suffering.

Any homicide victim support group, victim of crime counsellor or psychologist will tell you that family members process the trauma of having a loved one murdered in many different ways. Some members may want to speak to the media while others won't. Some family members may want to seek comfort in sharing their grief and anguish on social media, while others won't.

Speaking publicly about their murdered loved one needs to be each individual adult family member's choice. People don't need to speak to the media if they don't wish to. And they can choose not to share on social media.

Under the proposed victims privacy law they could apply to have their own name prohibited from publication, which I support, as stated earlier.

Discriminating against family members

This privacy order would result in discriminating against family members by giving one member precedence. All immediate family members are victims of crime and as adults they should all have equal rights to continue to speak about their loved one publicly.

Putting a cost burden on victims of crime to fight a court order

To force a murdered rape victim family member to have to spend time and money to fight a privacy court order by another family member in order to publicly speak about their loved one is putting a cost burden on victims who may not be able to afford it.

It also gives preferential treatment to the family member who has the financial capacity to apply for the court order. Many victims of crime of the murder of a loved one suffer from Post Traumatic Stress Disorder. In many cases this may mean the victim is unable to work fulltime or unable to work at all and would be in

no financial position to apply for a court order. Therefore that victim of crime would be disadvantaged and further victimised by the system.

Abuse by the system

Family members of murder victims are victims of crime. This law would re-victimise victims of crime.

To rob a murder victim family member of the right to say their loved one's name publicly and to make it a crime is abuse by the system.

To retraumatise a murder victim family member by forcing them to fight a privacy court order by another family member to publicly say their loved one's name is abuse by the system.

This abuse and victimisation of victims of crime by the system under this proposed law must not be allowed.

Having to prove it is in the public interest for a murdered victim family member to publicly say their loved one's name

I object to forcing a murdered rape victim family member to have to fight a court order by another family member for the right to publicly say their loved one's name by having to prove it is in the public interest.

The rape and murder of a person in the community is automatically a matter of massive public interest because it is the most heinous of crimes.

When a person is raped and murdered in our community it impacts the whole community because the victim is someone's sister, daughter, partner, mother, aunt, cousin, friend, work colleague, community member.

Rape and murder is a gender hate crime which strikes fear into the hearts of all women in the community.

We have a national crisis of violence against women.

- 1 in 5 women in Australia are sexually assaulted.³
- One woman a week is murdered.⁴
- We don't have statistics for the rape and murder of women because the government doesn't collect them - because rape and murder is not a specific crime. It needs to be.
- One in four women don't feel safe walking the streets in their local area alone at night⁵
- One in four women don't feel safe waiting for public transport after dark⁶
- One in 10 women don't feel safe home alone at night⁷

The Personal Safety Australia 2016 survey with statistics above was undertaken before the rape and murder of Aiiia Maasarwe in January 2019 and Eurydice Dixon in June 2019 - crimes which shocked and outraged the nation and have made women feel even more unsafe.

Men and women in Victoria and around the country, held public vigils after the murders to express their horror and outrage. The Prime Minister Scott Morrison described the rape and murder of Aiiia Maasarwe as "sickening".

"This was a disgusting crime. It is sickening this sort of violence against a woman was committed in Australia," he said on Twitter.⁸

The March 4 Justice rallies in Victoria and around the country on 15 March 2021 further demonstrate the outrage of women and men about the national crisis of violence and sexual violence against women.

3

<https://www.abs.gov.au/ausstats/abs@.nsf/Lookup/by%20Subject/4906.0~2016~Main%20Features~Key%20Findings~1>

4 <https://www.ourwatch.org.au/understanding-violence/facts-and-figures>

5

<https://www.abs.gov.au/ausstats/abs@.nsf/Lookup/by%20Subject/4906.0~2016~Main%20Features~Feelings%20of%20General%20Safety~10005>

6

<https://www.abs.gov.au/ausstats/abs@.nsf/Lookup/by%20Subject/4906.0~2016~Main%20Features~Feelings%20of%20General%20Safety~10005>

7

<https://www.abs.gov.au/ausstats/abs@.nsf/Lookup/by%20Subject/4906.0~2016~Main%20Features~Feelings%20of%20General%20Safety~10005>

8 <https://www.theaustralian.com.au/nation/aiaa-maasarwes-killer-codey-herrmann-to-learn-his-fate/news-story/ca5ef154e25b206dfe7a0792f3762ad8>

I spoke at a March 4 Justice rally in Mullumbimby in NSW to call for law reform for the crime of murder with sexual assault to be made a separate crime carrying a mandatory life sentence of life with no parole.⁹
¹⁰ ¹¹ ¹² Over 1000 women and men turned out in the rain to rally and to march. I received strong support for my call for law reform. And I listened to the voices of women who spoke and marched protesting this national crisis of sexual violence against women.

When women don't feel safe walking the streets at night, we have a national crisis.

When women don't feel safe being alone at home at night, we have a national crisis.

It is in the public interest that the rapist murderer is caught and receives justice. Justice for the victim, justice for the victim's family and justice for the community.

It is in the public interest that justice is not only done but is seen to be done.

It is in the public interest that the sentence reflects society's condemnation of this horrific crime.

It is in the public interest that the sentence deters future rapist murderers.

It is in the public interest that the community is kept safe from this rapist murderer.

It is for these public interest reasons that the murdered rape victim's name must be spoken and for them to be humanised and for all family members to be able to freely speak about them, the crime, appeals, sentencing and parole.

⁹ <https://www.echo.net.au/2021/03/rain-doesnt-stop-far-north-coast-march-4-justice/>

¹⁰ <https://www.dailytelegraph.com.au/news/nsw/byron-shire/police-courts/eileen-culleton-calls-for-new-charge-for-rapistmurderers-and-mandatory-life-sentences-after-loss-of-her-sister/news-story/3ae800a1c5d5c7a02c2b7075630dc5e7>

¹¹ <https://www.nbnnews.com.au/2021/03/15/hundreds-battle-the-rain-in-the-mullumbimby-march4justice/>

¹² <https://youtu.be/bPhzRi7u0Is>

This law is dehumanising to the murder victim and to their family members

To prohibit the publication of the names and faces of a murder victim is to dehumanise them. We all should have the dignity of our name and our face being publicly remembered.

Our loved ones have already suffered the dehumanisation of being murdered. This proposed law would also mean erasing the murder victim from history and this is a travesty to the murder victim whose life was already tragically cut short.

Murdered rape victims names need to be spoken and the stories of the crimes need to be told. For humanity, for justice and for community protection.

Think about why we as a society honour the people who have been tragically killed in war or in acts of terrorism. We have public memorials to them. We list their names. We read out their names. We honour their lives that have been tragically cut short. And we say “Lest we forget”. We need to continue to pay the same honour to those in our community who have been murdered.

The Red Heart Campaign

The RED HEART Campaign^{13 14} is an online Memorial to Women and Children Lost to Violence. This Memorial is designed to commemorate lives lost while providing a respectful interactive forum highlighting the impact of violence on our community.

It tracks every known Australian woman and child killed as a result of murder, manslaughter or neglect.

This project was created by journalist Sherele Moody to honour the memories of nine-year-old Stacey-Ann Tracy and five-year-old Sandra Dorothy Bacon who were raped and murdered by Sherele Moody’s step father Barry Gordon Hadlow.

“It is a tribute to their young lives, their unfulfilled futures and the bravery of their families and friends who were forced to navigate the distress and darkness that only those touched by murder can understand.

“This project is also a pledge to every Australian woman and child lost to violence – our nation cannot change your stories, but collectively, we can change the stories of those who follow in your footsteps.

After violence, hope is all that remains.”

Counting Dead Women Australia project

Advocacy group Destroy the Joint also honours murdered women by memorialising them through the Counting Dead Women Australia project^{15 16}. A post is made for each woman who is murdered to share what is known and to honour the life and memory of the victim. The project updates an annual toll of known deaths due to violence against women. As at 30 June 2021 the death toll stands at 21.

¹³ <https://theredheartcampaign.org>

¹⁴ <https://www.couriermail.com.au/truecrimeaustralia/police-courts/red-heart-campaign-launches-online-memorial-for-violence-victims/news-story/467ffafd0019d7963c603146c45a4c40>

¹⁵ <https://www.facebook.com/418382174876199/posts/4219273674787011/?d=n>

¹⁶ <https://www.sbs.com.au/news/counting-dead-women-the-project-keeping-toll-of-australia-s-hidden-epidemic>

Dehumanising victim family members

To prohibit the publication of the name of a murder victim also dehumanises murder victim family members because it prevents us from using our identity to speak to the media because it would identify the murder victim. I would no longer be able to speak under my name or show my face. This is utterly wrong and would take away my civil rights.

Shaming murder victim family members by silencing them

By enabling a family member to prohibit the publication of a murdered family victim's name, this law will have the impact of shaming all other victim family members by silencing them.

No family member should ever feel ashamed that their loved one was murdered. The shame should be on the murderer - not the victim or their family who are also victims of crime.

If a family member feels a sense of shame, for cultural or religious reasons, at the murder of their family member, that is unfortunate, but it should not be used as a weapon to shame and silence all other family members of the victim, or their friends or the media.

It is important to note this concept of shame at having a loved one raped and murdered was raised in the consultation paper. In my January submission I did not agree this is a valid argument because there are already media protocols in place to address cultural and religious protocols. I have addressed this argument in more detail in the section "Cultural and religious protocols relating to murdered rape victims."

Preventing murder victim family members and loved ones from grieving and healing

By enabling a family member to prohibit the publication of a murdered family victim's name, this law will prevent all other family members and the victim's loved ones from grieving and healing by honouring the victim publicly.

All victim family members and their loved ones should continue to have the right to grieve publicly and honour their loved one publicly if they so choose.

They should continue to have the right to speak to the media to honour their loved one whom they have lost so brutally.

They should continue to have the right to grieve on their social media pages for their loved one and honour them.

Denying family members of murdered rape victims agency

By enabling a family member to prohibit the publication of a murdered family victim's name, this law will deny all other family members and the victim's loved ones from having agency.

When we lost our loved ones to the horrific crime of murder we lost agency and control. We could not prevent the crime. We have no control over the criminal trial or appeals. We have no control over parole applications by the offender.

But we should all be allowed to continue to have agency and control over speaking publicly about our loved one if we so choose and whenever we so choose.

We should all be allowed to continue to have agency and control over publicly fighting for justice for our loved one.

We should all be allowed to continue to publicly fight parole applications by the murderer of our loved one.

Paternalistic and condescending to murder victim family members

By enabling a family member to prohibit the publication of a murdered family victim's name, this law will be paternalistic and condescending to all other victim family members.

It is paternalistic and condescending to a murder victim family member to make them apply to a magistrate for permission to speak publicly about our loved one. That a magistrate would have the power to decide if we can speak. All adult victim family members should continue to be free to decide for themselves if they want to speak publicly.

Preventing justice

It is critical for all members of the public to be able to reference sexual homicide crimes when advocating for justice. Gagging family members, the media, politicians and advocates from publishing murder victim names will prevent justice from being done.

It is critical that justice must not only be done but be seen to be done. This requires all victim family members, the media, politicians, advocates and the general public being able to continue to freely speak about trials, sentences, appeals and parole applications.

Injustice occurs when the murder victim's name is erased along with the rape

I wish to share my lived experience of how badly wrong judicial decisions can go when the murder victim's name and the details of the crime are not spoken in the media or in the courtroom.

The High Court of Australia erased Anne-Marie Culleton and her rape and murder

I believe injustice occurred when my sister Anne-Marie Culleton's rapist murderer Jonathan Bakewell's appeal to the High Court of Australia had the impact of having the rape offence of his murder sentence erased.

The High Court Transcripts did not mention Anne-Marie Culleton's name. They did not state that the offender Jonathan Bakewell raped and murdered her. They said:

"It is not necessary to describe in any detail the facts which lead to the appellant being sentenced to life imprisonment."¹⁷

They then just listed his crimes like it was a shopping list:

"It is enough to record only the following matters. In April 1989, an indictment was filed in the Supreme Court of the Northern Territory charging the appellant with aggravated unlawful entry of a dwelling house[11], aggravated sexual assault[12], murder[13] and stealing[14]. He pleaded not guilty to the charge of murder but guilty to the other three charges. At trial on the count of murder, the appellant was found guilty."

It beggars belief the court took this approach considering it was the five year sentence for the rape that Bakewell was appealing, despite having plead guilty.

By taking this action the High Court erased the reality of the horror of Bakewell's rape and murder of Anne-Marie Culleton. It was a horrific, sadistic, cold blooded murder. Anne-Marie died a terrifying, cruel, torturous, degrading death at Bakewell's hands.

Yet the sole focus of the High Court seemed to be on the rapist murderer Jonathan Bakewell and his 'rights'.

It is important to note that disgraced former High Court Justice Dyson Heydon, who in 2020 was found by a High Court investigation to have sexually harassed multiple female colleagues, was on the bench making the decision.

I have read the transcripts of the other rapist murderer appeal cases cited by the High Court in relation to Bakewell's case – such as that of Martin Leach who raped and murdered eighteen-year-old Janice Carnegie

¹⁷ http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/HCA/2009/24.html?context=1;query=bakewell;mask_path=

and murdered her fifteen-year-old cousin, Charmaine Aviet at a picnic spot in the Northern Territory. And that of Allan Baker and Kevin Crump who abducted, raped and murdered NSW woman Virginia Morse.

These rapist murderers appealed to the High Court to get their sentences reduced and they were unsuccessful. The key difference is that the murdered rape victims names and the details of their rape and murders were referenced in the High Court Appeal transcripts cited.

Bakewell eventually won his appeal on the technicality that the laws of the Northern Territory no longer applied to him because he had transferred to a South Australia prison. But that was not the original argument put before the High Court of Australia.

What the High Court did in this case should serve as a powerful reminder that when the victim's name is no longer spoken and the crime of rape and murder is no longer spoken, injustice occurs.

I believe Bakewell's High Court appeal win was largely due to the fact that the High Court of Australia erased Anne-Marie Culleton and they erased the crime of her rape and murder.

They erased the 20 year old woman who only five and a half weeks before her murder had moved out of home into her flat. A young woman who had just got her drivers licence and a car and a new job. A young woman with hopes and dreams to become an artist, and to hang-glide and to travel to Greece. A young woman who did a First Aid Course so she could save lives. A young woman who contributed to her community by voluntarily teaching English to new migrants.

They erased this young woman who was my sister, Anne-Marie Culleton. And they erased the fact that Anne-Marie Culleton died a terrifying, cruel, torturous degrading death at Bakewell's hands.

The South Australia Parole Board erased Anne-Marie Culleton and the crime of rape and murder
The South Australia Parole Board also erased Anne-Marie and the crime of her rape and murder. In their correspondence with me they did not mention her name or the crime.

I was referred to in correspondence as "a victim of the crime committed by Jonathon Peter Bakewell".

This erasure was reflected in the parole board's dismissive attitude towards myself and my family.

I had to fight for months to get an official letter informing me that they had released Bakewell on parole, which was their obligation and my right as a victim of the crime. And even then they refused to give me any useful information about his parole conditions.

When Bakewell breached parole the first time the Parole Board did not even inform our family as was their obligation, nor did they put him back in jail.

After his third breach, when I decided to call for Bakewell's parole to be revoked I was treated with contempt. From the SA Parole Board, the SA Premier Steven Marshall, Attorney General Vickie Chapman and the former Police Minister Corey Wingard.

It was only once I campaigned publicly to the media¹⁸ that I received any kind of response.

However, the die was set.

¹⁸ https://www.adelaidenow.com.au/truecrimeaustralia/sister-of-annemarie-culleton-who-was-raped-and-murdered-in-1988-by-jonathon-bakewell-urges-parole-board-to-cancel-his-release/news-story/ac034390f9f68c9afc1c0138147717d9?utm_source=The%20Advertiser&utm_medium=email&utm_campaign=editorial

Despite my 53 page submission and submissions of other concerned members of the community who had come in contact with him during his parole, the Parole Board insisted on releasing him.

This was despite his four parole breaches due to taking drugs, the same drugs he took the night he raped and murdered Anne-Marie Culleton. They released him for a fifth time in 2019¹⁹. Bakewell failed another drug test this year (this time while in custody) however despite this the Parole Board released him for the sixth time on 15 June 2021.^{20 21 22}

For the record, the SA Parole Board recently started referencing Anne-Marie Culleton and her rape and murder in correspondence to me. However they continue to refuse to acknowledge that Bakewell took drugs the night he raped and murdered my sister and keep releasing him saying his drug taking does not make him a threat. The sole focus seems to be on the offender's rights with no serious consideration for community safety.

When the victim is erased the offender receives sole consideration

An impact of erasing the murder victim's name and the nature of the crime is that the sole focus is on the offender's 'rights' with no consideration for justice for the victim or their family. And with no serious consideration for community safety.

2021 Australian of the Year Grace Tame recently told Time Magazine²³ after being named among its global Next Generation Leaders predators thrive when we erase history:

"Predators thrive in silence. Our best learning resource is history – when you erase history, when you silence history you enable evil."

¹⁹ <https://www.9news.com.au/national/jonathan-bakewell-released-from-prison-after-1988-rape-and-murder-of-anne-marie-culleton-adelaide-news/ba81ab57-b2c8-4078-b24e-3948801de337>

²⁰ <https://www.adelaidenow.com.au/truecrimeaustralia/police-courts-sa/sa-parole-board-must-publish-decisions-online-to-regain-public-trust-says-sister-of-murder-victim-annemarie-culleton/news-story/7b33d4b6a2f23d6e918f9b3694bae70e>

https://twitter.com/10NewsFirstAdl/status/1404708016432295936?ref_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwterm%5E1404708016432295936%7Ctwgr%5E%7Ctwcon%5Es1_c10&ref_url=https%3A%2F%2Ffeileenculleton.com%2Fmedia%2F 10 News Adelaide 15 June 2021

²¹ <https://youtu.be/eaN4fJTzxnI> 7 News Adelaide 15 June 2021

²² <https://omny.fm/shows/david-and-will/david-and-will-podcast-15-june-2021>

²³ <https://time.com/collection/next-generation-leaders/6047435/grace-tame-next-generation-leaders/>

Putting community safety at risk

Preventing any victim family member from speaking publicly about their loved one's rape and murder will prevent them from publicly opposing parole and will have the impact of putting community safety at risk.

Silencing victim families protects the rapist murderers and gives them a get out of jail card

Silencing victim families protects the rapist murderers and ensures they receive preferential treatment by the judicial system including parole boards.

It means victim family members will not be able to successfully mount public bids to have the perpetrator's parole denied. Silencing murdered rape victim families will give the rapist murderer a get out of jail card. There is plenty of anecdotal evidence that there is a far greater chance that a rapist murderer's parole application will be refused if the public oppose it and there is a big enough outcry.

Victim family members should continue to have the right to publicly oppose parole applications by their loved one's rapist murderer.

I add that any member of the community should continue to have the right to publicly oppose parole applications by rapist murderers, because the safety of the community is impacted, and that involves everybody.

It is also often the case that other members of the community launch the petitions because the families often don't have the strength, or have run out of strength to keep fighting parole applications year after year.

For example the successful petition and media campaign²⁴ calling for child rapist murderer Dante Arthurs parole application to be denied was run by Paul Litherland, the parent of a child who attended the same school as murder victim 8 year old Sofia Rodriguez.²⁵

Preventing advocacy

Preventing advocacy by murder victim family members

By enabling the prohibition of murder victim names, this law will prevent advocacy by their family members, because as well as being prevented from publicly speaking the name of their loved one, it would also prevent them from using their own name and face if it would identify the victim.

Whether the murdered victim family member is advocating to prevent violence against women, for law reform or for homicide victim rights, they need to be able to use their own name and that of their loved one.

An anonymous advocate is not an effective advocate. People relate to people they can see and hear. The media are far less likely to give a platform to an anonymous person and the power of their message is greatly diminished when they are anonymous.

Worse still, their name will be replaced by the murderers name because that is the only way they will be able to be identified. In my case it would be:

"Rapist murderer Jonathan Bakewell's victim's sister is calling for law reform."

²⁴ <https://www.perthnow.com.au/news/crime/evil-child-killer-dante-arthurs-refused-parole-ng-b881237322z>

²⁵ <https://www.change.org/p/john-quigley-do-not-release-dante-arthurs>

Eileen Culleton Further Submission to *Victoria Consultation - Identification of deceased sexual offence victims - further reforms to JPRA* 07 July 2021

This is just plain wrong. I have a name, Eileen Culleton. My sister has a name, Anne-Marie Culleton. Our names must be spoken.

Preventing advocacy by other advocates

It is critical for all advocates to be able to continue to reference murders, particularly advocates campaigning against violence against women, because as outlined earlier, Australia has a national crisis of violence against women with a woman murdered on average every week.

The crucial role of the media must not be gagged

The media must not be gagged from telling the stories of murder victims. Our Watch, a national leader in the primary prevention of violence against women and their children in Australia, outlines the crucial role of the media on its website media page:

“The media can use its influence to change the culture and attitudes that drive violence against women”²⁶

Our Watch created media guidelines for national media and Victoria media. *“How to report on violence against women and their children: 2019 Victoria edition”²⁷* developed in close consultation with senior leaders in the Victorian media and from Aboriginal communities, as well as those representing older women, migrant and refugee women, women living with a disability and women who identify as LGBTIQ+. The guidelines state the importance of the role of media in helping to address violence against women:

“Research tells us that the media is a powerful driver of social change and can positively influence the culture, behaviours and attitudes that drive violence against women and their children.”²⁸

2021 Australian of the Year Grace Tame, who spearheaded the fight for law reform to enable sexual assault survivors to speak publicly, supported by the #LetHerSpeak/#LetUsSpeak campaign, stated in her acceptance speech²⁹:

“Lived experience informs structural and social change.”

“Hear me now, using my voice, among a growing chorus of voices that will not be silenced.”

As outlined on page 1 of the Victoria media guidelines:

- Strong media reporting on violence against women and their children can help readers, listeners and viewers understand how widespread it is, who is affected, what drives it, and how it can be prevented.
- The media can shape the way women and their children understand their own experiences of violence and influence decisions on whether to speak out, take action or seek support.
- The media can influence the way perpetrators understand their own choices to use violence and whether to seek support to change their behaviour.
- The media can influence public policy and legislation by investigating violence against women and their children (for example, the New South Wales Government referred the state’s consent laws to the Law Reform Commission following a Four Corners investigation into a high-profile rape trial)
- The media can help society reframe how violence is talked about – particularly violence experienced by women who face multiple forms of discrimination and oppression – and champion the belief that this violence is never acceptable or excusable³⁰

²⁶ <https://media.ourwatch.org.au/>

²⁷ https://media-cdn.ourwatch.org.au/wp-content/uploads/sites/2/2019/06/04042437/How-to-report-on-violence-against-women-and-their-children_2019-Victorian-Edition-FINAL_AA.pdf

²⁸ Ibid. p1

²⁹ <https://www.facebook.com/abcnews.au/videos/695885757761191>

³⁰ https://media-cdn.ourwatch.org.au/wp-content/uploads/sites/2/2019/06/04042437/How-to-report-on-violence-against-women-and-their-children_2019-Victorian-Edition-FINAL_AA.pdf p1

My overall experience with the media has been positive and empowering

I am writing with the perspective of extensive lived experience engaging with the media as a victim of crime and my overall experience has been positive and empowering.

My first experience with the media was as a 19 year old when my sister Anne-Marie Culleton, 20, was raped and murdered in 1988. Our family were so devastated we were unable to speak to the media. The media respected this and never bothered us.

Yet I am so grateful that the media enabled others to speak for justice for Anne-Marie Culleton when our family couldn't.

The media enabled the NT Police Commissioner Palmer to publicly express outrage at Justice Kearney's decision to refuse showing the jury Anne-Marie's rapist murderer Jonathan Bakewell's video confession and rape and murder re-enactment due to a legal technicality. A judicial decision that nearly resulted in the rapist murderer Jonathan Bakewell 'walking on a technicality'.

That public outrage and subsequent parliament debate on the issue lead to law reform.

Anne-Marie's case lead to three law reforms, two of which had national impact.

The first law reform with national impact related to Police Administration Acts. It pertained to the time allowed for the police to detain a suspect before bringing them to a magistrate to be officially charged. The catalyst for this was the public uproar over Bakewell's successful appeal to get his video confession and re-enactment evidence of the crime disallowed to be put before the jury, based on a technicality. The technicality was that Bakewell claimed his rights were violated because he was not brought before a magistrate and charged in the middle of the night on a weekend.

Bakewell claimed his rights were violated because he was flown from Alice Springs (where he was apprehended) to Darwin on the weekend to do the video re-enactment in Anne-Marie's flat, before being brought before a magistrate on Monday morning to be officially charged. Bakewell also made up wild stories that the police forced him at gunpoint to do the video re-enactment and gave him over 20 cans of beer.

Despite Justice Kearney finding that Bakewell's stories were fabricated, the judge still disallowed the video evidence to be put before the jury.

I am so grateful to the NT Police Commissioner Palmer who, through the media, publicly slammed Justice Kearney's decision to disallow the video re-enactment evidence being presented to the jury. A decision that meant that Bakewell could have walked. The Police Commissioner said then, the judiciary is more concerned with technicalities and legalities than the truth. How true he was then and now today. The Chief Minister Mr Perron said in parliament on 28 February 1990:

"The Commissioner of Police believed very strongly and continues to believe very strongly – and I support his view – that the courts should not deny a jury evidence of such quality and should allow the jury to make up its mind whether such evidence was obtained voluntarily and without coercion."

I am so grateful to the politicians who responded to the public uproar and debated this issue in parliament to enact law changes which resulted in changes to Police Administration Acts across Australia enabling the police to have more time to detain the offender to conduct police interviews and video re-enactments. More time to gather evidence crucial in helping to get successful convictions and guilty verdicts.

During this parliament debate, Anne-Marie Culleton's name was spoken and her brutal rape and murder was referenced. It had to be. This served to remind legislators that there is a human face to the laws they pass. To remind them that they serve to uphold justice for the community and for victims of crime and their families, who are also victims of crime.

The second law change with national impact related to Prisoner Interstate Transfer Acts. Bakewell was originally sentenced to life without parole. However, when the law was changed to enable life sentence prisoners to be given parole, Bakewell was re-sentenced to a nonparole period of 25 years. 20 years for the murder and 5 years for the rape. After transferring to a South Australia prison, Bakewell fought this re-sentence to only serve 20 years for the murder and no time for the rape, despite the rape being the only crime he pleaded guilty to. Bakewell appealed all the way to the High Court of Australia and won on a technicality which was that because he had transferred to a prison in South Australia, the laws of the Northern Territory no longer applied to him.

This resulted in nationwide changes to legislation around interstate prison transfers ensuring the offender's sentence went with them.

It was 31 years after Anne-Marie's murder that my family decided we need to speak to the media. In 2019 I launched a media campaign to call for Bakewell's parole to be revoked after his repeated breaches for taking drugs. Bakewell took the same drugs the night he raped and murdered Anne-Marie, and we were alarmed that the SA Parole Board was ignoring this fact by repeatedly releasing him.

I am so grateful that I was freely able to speak to the media as is my right.

I found the South Australia media (print, radio, TV and online) to be compassionate, respectful and professional in helping me to tell the story of Anne-Marie's rape and murder and of Jonathan Bakewell's repeated parole breaches and why I believe Bakewell is as dangerous today as the day he raped and murdered my sister.

While my campaign to have Bakewell's parole revoked was unsuccessful and he was released for the fifth time back into the community, I found the experience of telling my story through the media greatly empowering.

While the politicians and parole board ignored my pleas, the media responded and gave me a voice to speak to the public. (see media page on my website³¹).

And it was the response from the public to the media stories that encouraged me that the public cares about community safety. That the public want women and children in their community to be safe from rapist murderers like Jonathan Bakewell.

And it was that response that encouraged me to decide to launch a national petition³² on 25 November 2020, calling for law reform for the crime of murder with sexual assault to be made a separate offence, carrying a mandatory life sentence with no parole.

³¹ <https://eileenculleton.com/media/>

³² <https://www.change.org/Life-For-Rapist-Murderers>

My experience with Victoria media was in October/November 2020, fighting the Victoria government proposed law to gag murdered rape victim families

I heard about the proposed gag law through a Facebook post sharing a media article and I was shocked and outraged that the Victorian Labor Government could do something so cruel, disgraceful and appalling as to plan to gag murdered rape victim families from publicly speaking their loved ones name.

I wrote to then Victorian Attorney General Jill Hennessy (who has since resigned) with an urgent plea to amend the wording to allow victim families media and the public to freely publish the names of deceased victims of sexual assault. (see appendix)

I then spent my sister Anne-Marie Culleton's birthday, 27 October, contacting the media in a desperate bid to get coverage before Parliament sat on the 28th October to debate the bill.

I also contacted Nina Funnell, Director of the #LetUsSpeak campaign to lend my support and we collaborated to campaign together. Nina assisted me with getting media coverage and we were also jointly interviewed on Triple J Hack radio program.

As with the SA media, I found the Victorian media to be equally compassionate, respectful and professional in helping me to share my story and perspective on why the proposed laws to gag murdered rape victim families were so wrong.

My experience with national media was when I launched my national petition on 25 November 2020, calling for all states to introduce new legislation for mandatory life sentencing without parole for rapist murderers.³³

I also called for the crime of murder with sexual assault to be a separate offence to reflect the nature and gravity of the crime and to enable specific sentencing.

My law reform petition was covered by the national media including The Project³⁴ and all the News Ltd mastheads³⁵ across the nation including the Australian³⁶, The ABC³⁷, and women's online media^{38, 39}. Again, I have found the media to be compassionate, respectful and professional.

It is my lived experience that families of murdered rape victims will, on the whole, be treated with compassion, respect and professionalism by the media and that they will find the experience empowering.

I will note that I am relatively media savvy, having worked in my professional career in public relations for charities, government and business. However 2019 was the first time that I told my personal story of my sister's rape and murder to the media and I was naturally feeling very emotionally vulnerable, hence my

³³ <https://www.change.org/Life-For-Rapist-Murderers>

³⁴ <https://10play.com.au/theproject/exclusives/2020/seeking-life-sentences/tpv201125yrcfh>

³⁵ <https://www.heraldsun.com.au/truecrimeaustralia/crimeinfoocus/sister-of-murder-victim-annemarie-culleton-launches-petition-to-keep-killer-rapists-in-jail/news-story/f244a5e7d1199a5b18ec12db277c5450?fbclid=IwAR3JZNAoashAlvPlzNeK9NLei8jH9SvrzjH3do3Nv-4B1tyhxTVjHdGEKKc>

³⁶ <https://www.theaustralian.com.au/business/legal-affairs/call-for-mandatory-life-without-parole-for-murder-with-sexual-assault/news-story/bedf9b0a10f3265b3969e64951c79a5a>

³⁷ <https://www.abc.net.au/news/2021-05-04/sister-of-anne-marie-culleton-speaks-out-on-bakewell-parole/100113948>

³⁸ <https://womensagenda.com.au/latest/national-petition-calls-for-mandatory-life-sentencing-without-parole-for-rapist-murderers/>

³⁹ <https://www.mamamia.com.au/anne-marie-culleton-murder/>

relief with the compassion with which I was treated. I was also very clear on my messaging and how I wanted Anne-Marie's story told, including the details of her rape and murder.

Recommendation

A key recommendation I would make on the topic of media is for the government to provide a media tip guide for homicide victim families to empower those engaging with social media and the media to have greater agency over how they tell their stories and the stories of their murdered family member, while respecting the privacy of members who do not want to be publicly named.

I have discussed this media tip guide in further detail in the "Recommendations" section.

Cultural and religious protocols relating to murdered rape victims

The consultation paper put forward the argument of cultural and religious protocols being the premise for criminalising murdered rape victim families from publicly speaking their loved ones name or identifying them as a victim of sexual assault. For this law to force all murdered rape victim families in Victoria to have to apply for a court order to enable them to speak publicly:

“Others, for personal, cultural or religious reasons, may not wish to have their loved one publicly identified as a victim of a sexual offence, and might experience distress where this occurs against their wishes. For example, Aboriginal, multifaith and culturally linguistically diverse communities may have specific cultural practices or religious obligations relating to those who have died, such as modifying the deceased person’s name or suppressing their image...” Consultation paper p4

In my January submission I did not agree this is a valid argument because there are already media protocols in place for these groups (see below).

While I am greatly relieved the government have listened to push back and are now ensuring the default will be for victims to continue to speak publicly, I am deeply concerned this premise will be used by a family member to apply for a court order to prohibit the publication of the murdered rape victim’s name and that this will impact the rights of other victim family members to speak about their loved one publicly. And as stated earlier this will also prevent advocates and the media reporting on a crime that has impacted the community.

Our Watch guidelines How to report on violence against women and their children | 2019 Victorian Edition

Our Watch guidelines *How to report on violence against women and their children | 2019 Victorian Edition*⁴⁰ were developed in close consultation with senior leaders in the Victorian media and from Aboriginal communities, as well as those representing migrant and refugee women, women living with a disability, older women and women who identify as LGBTIQ+.

The Guidelines in Chapter 2 “Understand how discrimination affects violence” state that

“Women who are disproportionately affected by violence include but are not limited to women who identify as:

- Aboriginal and Torres Strait Islander, as well as*
- migrant and refugee*
- living with disability,*
- LGBTIQ+, and*
- older women.⁴¹”*

The guidelines recommend ways the media can be part of the solution in reducing violence against women in these groups through educating the community about the systemic power imbalances that can create discrimination that can affect violence.

Nowhere does it state that the media should not report sexual violence against these groups or crimes where the murder victim was sexually assaulted.

⁴⁰ https://media-cdn.ourwatch.org.au/wp-content/uploads/sites/2/2019/06/04042437/How-to-report-on-violence-against-women-and-their-children_2019-Victorian-Edition-FINAL_AA.pdf

⁴¹ Ibid. p2

Aboriginal and Torres Strait Islander women

In chapter 4, the section “Reporting on violence experienced by Aboriginal and Torres Strait Islander women”⁴² it deals with cultural protocols around naming or using the image of a deceased person.

It recommends the reporter seek advice from community members from that particular Aboriginal community.

The guidelines state that “no one voice’ speaks on behalf of the whole of the Aboriginal and Torres Strait Islander community.”

Nowhere does it state the media should not report sexual violence or crimes where the murder victim was sexually assaulted.

In fact it references the brutal rape and murder of Aboriginal woman, Lynette Daley as an example of the importance of media naming the rape:

“For a long time, violence against Aboriginal women has been minimised, justified or ‘invisible’ in media reporting.

By failing to name the alleged rape, the article shifts accountability away from the perpetrators and ignores the non-consensual and brutal nature of Lynette Daley’s rape and death.”

By emphasising that violence against Aboriginal women has been ‘invisible’ in media reporting, these guidelines actually encourage media reporting of crimes of rape and murder against Indigenous women, as long as they are accurate and do not use damaging stereotypes.

In fact in the case of Lynette Daley, her family launched a media campaign to fight for justice for Ms Daley because the Department of Public Prosecutions refused to bring the two rapist murderers to trial. A Four Corners Documentary in 2016⁴³ on the case was the catalyst that sparked public outrage and resulted in the criminal trial in 2017 that found the two men guilty⁴⁴.

⁴² https://media-cdn.ourwatch.org.au/wp-content/uploads/sites/2/2019/06/04042437/How-to-report-on-violence-against-women-and-their-children_2019-Victorian-Edition-FINAL_AA.pdf p7

⁴³ <https://www.abc.net.au/4corners/callous-disregard-promo/7388056>

⁴⁴ <https://www.abc.net.au/news/2017-09-06/lynette-daley-trial-delivers-guilty- verdicts/8878848>

Women of Islamic faith

As stated earlier, in the Our Watch guidelines *How to report on violence against women and their children | 2019 Victorian Edition* which was developed in close consultation with senior leaders in the Victorian media and from migrant and refugee women, nowhere does it state that the media should not report sexual violence against these groups or crimes where the murder victim was sexually assaulted.

While not mentioned specifically when this Consultation paper was referencing other faiths, I feel it is important to reference the Islamic faith and the high profile case of international student Aiiia Maasarwe who was raped and murdered in Melbourne in 2019.

When the proposed gag laws were being debated in parliament last year, Ms Maasarwe's father who is of Islamic faith and lives in the Middle East, Mr Saaed Maasarwe, slammed the injustice and insensitivity of the laws saying they re-victimised victim families and countered efforts to prevent violence against women. The Herald Sun on 11 November 2020⁴⁵ reported:

"Aiiia Maasarwe's heartbroken dad slams 'injustice' surrounding proposed gag laws

The father of Aiiia Maasarwe, who was raped and murdered in Melbourne, has said Victoria's proposed gag laws are highly insensitive and an "injustice" to victims' families.

The father of rape and murder victim Aiiia Maasarwe said gag laws that would have banned him speaking about his daughter were highly insensitive and countered efforts to prevent violence toward women.

Saaed Maasarwe told the Herald Sun the proposed legal changes, which were put on hold at the eleventh hour in parliament on Tuesday, would punish grieving families.

"I think it would be an injustice to victims and families," he said.

"I do not understand why a family should be hurt twice. Once in the loss of a loved one and once again by the society."

Ms Maasarwe, a 21-year-old Israeli student, was murdered in a random attack in January last year.

Mr Maasarwe said politicians in favour of the gag law ought to rethink their humanity.

"(He is) to be a human being before he is a politician," he said.

Mr Maasarwe added silencing victims' stories was no way to address the issues of respect toward women.

"If society hides the truth I do not think it can deal with the problems within it," he said."

⁴⁵ <https://www.heraldsun.com.au/news/aiaa-maasarwes-heartbroken-dad-slams-injustice-surrounding-proposed-gag-laws/news-story/4596064997aca6e606e2ef83a82a7123>

Recommendations

I have made two key recommendations which would assist murder victim family members to continue to have agency to publicly speak their murdered family members name, while respecting the privacy of other family members.

Provide a family counselling and mediation support service for homicide victim families

For the government to provide a family counselling and family mediation service for homicide victim families. The counselling and mediation support service could provide valuable support for families dealing with the trauma of murder. The support service could be focused on keeping family bonds strong while helping them to understand how people process grief and trauma in different ways.

It could also help them to establish their individual privacy boundaries and make those clear to other family members who are speaking publicly through social media or mainstream media. The service could also help family members to work together to develop a narrative for media portrayal of the murder victim and the circumstances of their murder.

The service could also support family members advocating for justice for their murdered loved one, campaigning against parole release or for law reform.

Provide a media tip guide for homicide victim families to empower them to engage social media and mainstream media

For the government to provide a media tip guide for homicide victim families to empower those engaging with social media and mainstream media with greater agency over how to tell their stories and stories of their murdered loved one, while respecting the privacy of family members who don't wish to be publicly named.

The guide could include tips for sharing on social media to enable the family member to honour their loved one and share their grief, while establishing privacy boundaries (their own privacy and the privacy of other family members).

The tip guide could also include strategies for managing social media responses of others to their posts, including respectful boundary setting.

In regard to mainstream media, the tip guide could empower them to leverage the media to achieve their goals, whether that is fighting for justice for their loved one, advocating for awareness on key issues or campaigning for law reform. It could inform them how best to collaborate with print, tv, radio and online media, understanding the priorities of each medium.

It could also provide them with an understanding of best practice media reporting on violence against women, including women who identify as Aboriginal and Torres Strait Islander, migrant and refugee, living with a disability, LGBTIQ+ and older women. It could provide a link to the Our Watch guidelines⁴⁶ to empower family members to insist media follow these standards when reporting their stories.

I would be happy to provide input for the development of this media tip guide utilising my extensive experience engaging with the media as a victim of crime and through my professional career⁴⁷ in public relations, marketing, social media and advocacy.

⁴⁶ https://media-cdn.ourwatch.org.au/wp-content/uploads/sites/2/2019/06/04042437/How-to-report-on-violence-against-women-and-their-children_2019-Victorian-Edition-FINAL_AA.pdf

⁴⁷ <https://www.linkedin.com/in/eileenculleton/>

Appendix

Submission to Victoria Consultation paper – Identification of deceased sexual offence victims – further reforms to JPRA 29 January 2021

Letter to the Victoria Attorney General 27 October 2020

Open Letter to Victoria Labor politicians 28 October 2020

Letter to members of the Victoria Legislative Assembly 9 November 2020

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Position Statement

I am writing in response to the *Victoria Consultation paper - Identification of deceased sexual offence victims - further reforms to JPRA*.

My name is Eileen Culleton and I am the sister of Anne-Marie Culleton who at 20 years old was raped and murdered in 1988 by Jonathan Bakewell who broke down her back door in the middle of the night to rape and murder her in her bed. This crime is every woman's worst nightmare.

I am a resident of NSW. The crime occurred in the NT and Bakewell was recently parolled in SA where he was transferred while in prison, despite being given a life sentence with no parole.

While I am not a resident of Victoria I am campaigning against this proposed law in solidarity with murdered rape victim families in Victoria who will be impacted.

I am writing with the perspective of 32 years lived experience of the impact of the whole spectrum of political and judicial decisions in relation to the crime of rape and murder.

It is my sincere hope that sharing my experience and insights will help you to understand that this proposed law to criminalise murdered rape victim families from speaking their loved one's name publicly is a gross violation of victim civil rights, human rights and dignity. It is unjust, discriminatory and damaging to victims and would also have a detrimental impact on violence against women, justice and community safety.

Victim families, the media and the public should maintain their right to freely publish the names of murdered rape victims.

Murdered rape victims names need to be spoken and the stories of the crimes need to be told. For humanity, for justice and for community protection.

This week's award of 2021 Australian of the Year to Grace Tame who helped overturn sexual assault victim gag laws in Tasmania with the support of the #LetHerSpeak campaign, who fought Victoria's gag laws last year and who are opposing this law, speaks volumes for the mood of Australia on this issue. Be on the right side of history. Stop this proposed archaic law and Let Us Speak.

My previous campaign to fight the Justice Legislation Amendment Bill 2020

I campaigned to fight the *Justice Legislation Amendment (Supporting Victims and Other Matters) Bill 2020* in October and November last year.

I wrote requesting the bill wording be amended to allow victim families, media and the public to freely publish the names of deceased victims of sexual assault.

Prior to the bill being debated in the Legislative Assembly, I wrote to the then Attorney-General Jill Hennessy, to no response. Hennessy has since resigned.

I also published an open letter to the Victoria Labor ministers, again, to no avail. The bill was passed through the lower house.

I then wrote a letter to all the members of the legislative assembly enclosing copies of my previous two letters providing further perspectives on the negative impacts of the bill. These three letters are attached.

I also campaigned in the media. Coverage included Victoria ABC radio news, TV and online¹.

¹ <https://www.abc.net.au/news/2020-10-28/victoria-law-change-opposed-by-rape-murder-victim-families/12819732>

Violation of victim civil rights, human rights and dignity

To gag family members of murdered rape victims from speaking out using their loved ones name and speaking of the crime is a gross violation of victim civil rights, human rights and dignity.

I cannot imagine the trauma of having to face a court to argue why I should be able to publicly speak my dead sister's name and speak of the crime.

To have to fight for the right to honour Anne-Marie's birthday on Facebook or the anniversary of when she was brutally taken from us. For her friends to also be denied that right.

To have to fight for the right to speak out about her crime in my advocacy and law reform campaigns.

This is beyond wrong. It's evil.

As Victoria murdered rape victim Aiiia Maasarwe's father, Saaed Maasarwe, told the media last year, these gag laws are unjust and insensitive and re-victimised victim families.

The Herald Sun on 11 November 2020² reported:

"Aiiia Maasarwe's heartbroken dad slams 'injustice' surrounding proposed gag laws

The father of Aiiia Maasarwe, who was raped and murdered in Melbourne, has said Victoria's proposed gag laws are highly insensitive and an "injustice" to victims' families.

The father of rape and murder victim Aiiia Maasarwe said gag laws that would have banned him speaking about his daughter were highly insensitive and countered efforts to prevent violence toward women.

Saaed Maasarwe told the Herald Sun the proposed legal changes, which were put on hold at the eleventh hour in parliament on Tuesday, would punish grieving families.

"I think it would be an injustice to victims and families," he said.

"I do not understand why a family should be hurt twice. Once in the loss of a loved one and once again by the society."

Ms Maasarwe, a 21-year-old Israeli student, was murdered in a random attack in January last year.

Mr Maasarwe said politicians in favour of the gag law ought to rethink their humanity.

"(He is) to be a human being before he is a politician," he said.

Mr Maasarwe added silencing victims' stories was no way to address the issues of respect toward women.

"If society hides the truth I do not think it can deal with the problems within it," he said."

² <https://www.heraldsun.com.au/news/aiia-maasarwes-heartbroken-dad-slams-injustice-surrounding-proposed-gag-laws/news-story/4596064997aca6e606e2ef83a82a7123>

We have a human right to have a voice and tell our stories if we choose to. Gagging victims of crime robs us of agency and control over our own stories.

We have already been robbed of so much in having our loved one taken from us so brutally.

[This law is discrimination against murdered rape victim families](#)

The law is discrimination against murdered rape victim families, because it is not being proposed for all murder victim families.

Criminalising murdered rape victim families for identifying their loved ones and themselves publicly is discrimination and it is unjust.

Families of murdered rape victims are victims of crime. A crime of the rapist murderer. We have done nothing wrong and we should not be criminalised for speaking our loved ones name publicly. This is our right.

[Abuse by the system](#)

To rob a murdered rape victim family member of the right to say their loved one's name publicly and to make it a crime is abuse by the system.

To force a murdered rape victim family member to have to spend time and money to apply for a court order to say their loved one's name is abuse by the system.

To retraumatise a murdered rape victim family member by forcing them to apply for a court order to publicly say their loved one's name is abuse by the system.

Families of murdered rape victims are victims of crime. This law would re-victimise the victims.

This proposed abuse and victimisation of victims by the system is disgraceful and it must not be allowed.

Having to prove it is in the public interest for murdered victim family members to publicly say their loved one's name

It is beggars belief that a murdered rape victim family member would have to apply for a court order and have to convince a judge that it is in the public interest to allow the murdered rape victim's name to be publicly spoken.

The rape and murder of a person in the community is automatically a matter of massive public interest because it is the most heinous of crimes.

When a person is raped and murdered in our community it impacts all of us because the victims are someone's sister, daughter, partner, mother, aunt, cousin, friend, work colleague.

Rape and murder is a gender crime which strikes fear into the hearts of all women in the community.

We have a national crisis of violence against women.

- 1 in 5 women in Australia are sexually assaulted.³
- One woman a week is murdered.⁴
- We don't have statistics for the rape and murder of women because the government doesn't collect them - because rape and murder is not a specific crime. It needs to be.
- One in four women don't feel safe walking the streets in their local area alone at night⁵
- One in four women don't feel safe waiting for public transport after dark⁶
- One in 10 women don't feel safe home alone at night⁷

The Personal Safety Australia 2016 survey with statistics above was undertaken before the rape and murder of Aiiia Maasarwe in January 2019 and Eurydice Dixon in June 2019 - crimes which shocked and outraged the nation and have made women feel even more unsafe.

Men and women around the country, held public vigils after the murders to express their horror and outrage. The Prime Minister Scott Morrison described the rape and murder of Aiiia Maasarwe as "sickening".

*"This was a disgusting crime. It is sickening this sort of violence against a woman was committed in Australia," he said on Twitter.*⁸

3

<https://www.abs.gov.au/ausstats/abs@.nsf/Lookup/by%20Subject/4906.0~2016~Main%20Features~Key%20Findings~1>

4 <https://www.ourwatch.org.au/understanding-violence/facts-and-figures>

5

<https://www.abs.gov.au/ausstats/abs@.nsf/Lookup/by%20Subject/4906.0~2016~Main%20Features~Feelings%20of%20General%20Safety~10005>

6

<https://www.abs.gov.au/ausstats/abs@.nsf/Lookup/by%20Subject/4906.0~2016~Main%20Features~Feelings%20of%20General%20Safety~10005>

7

<https://www.abs.gov.au/ausstats/abs@.nsf/Lookup/by%20Subject/4906.0~2016~Main%20Features~Feelings%20of%20General%20Safety~10005>

8 <https://www.theaustralian.com.au/nation/aiaa-maasarwes-killer-codey-herrmann-to-learn-his-fate/news-story/ca5ef154e25b206dfe7a0792f3762ad8>

As the men and women of Australia have clearly demonstrated through their outrage and nationwide public vigils in response to the rape and murder of Aiiia Maasarwe, Eurydice Dixon and Jill Meagher, we have a national crisis.

When women don't feel safe walking the streets at night, we have a national crisis.

When women don't feel safe being alone at home at night, we have a national crisis.

It is in the public interest that the rapist murderer is caught and receives justice. Justice for the victim, justice for the victim's family and justice for the community.

It is in the public interest that justice is not only done but is seen to be done.

It is in the public interest that the sentence reflects society's condemnation of this horrific crime.

It is in the public interest that the sentence deters future rapist murderers.

It is in the public interest that the community is kept safe from this rapist murderer.

It is for these public interest reasons that the murdered rape victim's name must be spoken and for them to be humanised and for their family members to be able to freely speak about them, the crime and sentencing.

[This law is dehumanising](#)

To take away the name and face of our raped and murdered loved one is to dehumanise them. To take away the name and face of the victim family members dehumanises us too. We all should have the dignity of our name and our face.

[Shaming the victim family members by silencing them](#)

This law will shame the murdered rape victim family members by silencing them. No family member should ever feel ashamed that their loved one was raped and murdered. The shame should be on the perpetrator – the rapist murderer - not the victim or their family who are also victims of crime.

[Preventing murdered rape victim families from grieving and healing](#)

This law will prevent families from grieving and honouring the victim publicly. Victim families should have the right to grieve publicly if they so choose.

They should have the right to speak to the media to honour their loved one whom they have lost so brutally.

They should have the right to setup social media memorial pages for their loved one.

They should have the right to setup public crowdfunding pages to seek help with funeral expenses.

[Denying family members of murdered rape victims agency](#)

When we lost our loved ones to the horrific crime of rape and murder we lost agency or control. We could not prevent the crime. We have no control over the criminal trial or appeals. And we have no control over parole applications by the offender.

But we should be allowed to have agency and control over speaking publicly about our loved one if we so choose.

Paternalistic and condescending

It is paternalistic and condescending to the murdered rape victim family to have to apply to a magistrate for permission to speak publicly about our loved one. That a magistrate would have the power to decide if we can speak. Adult victim family members should be free to decide for themselves if they want to speak publicly.

The issue of family members having disagreements over speaking to the media

The consultation paper raised the issue of family members of a murdered rape victim having disagreements over speaking to the media as an argument for creating a law gagging all victim families.

This is a ridiculous argument.

Any Homicide Victim Support Group, Victim of Crime Counsellor or psychologist will tell you that family members deal with the trauma of having a loved one murdered in many different ways.

Some members may want to speak to the media while others won't. That needs to be each individual adult family member's choice. People don't need to speak to the media if they don't wish to.

Also as stated earlier, it is discrimination to create a law for family members of murdered rape victims and not family members of all murder victims. No doubt they would have disagreements within the family too.

One recommendation I would suggest is for Victims of Crime Victoria to offer a family counselling and mediation service for all homicide victim families regardless of the nature of the murder.

This law discriminates against women

This proposed law discriminates against women because rape and murder is a gendered crime. The victims are primarily women and girls.

This law perpetuates inequality and is oppressive to women.

Australia is a signatory to The United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).⁹ This law would mean Australia would be contravening the Convention.

This law would make sexual assault a taboo issue

This law would make sexual assault a taboo issue and send us back into the 19th century. We are in the 21st century and we need to make progress with addressing the issue of sexual assault in our society, not send us backwards.

The #metoo movement has been such a powerful phenomenon because it involved women around the world, en masse, disclosing sexual abuse.

Australian of the Year 2021 Grace Tame won her award due to her legal fight to have the gag laws changed in Tasmania to allow her speak publicly about her sexual assault, and for her advocacy to remove shame from victims.

As signatory to The United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), Australia has a National Action Plan to reduce violence against women.

There is nowhere in the The National Plan to Reduce Violence against Women and their Children 2010-2022¹⁰ an action to take away the right of murdered rape victim family members to speak their loved one's name.

Making sexual assault a taboo issue is also not one of the actions. In fact it's the very opposite.

⁹ <http://www.austlii.edu.au/au/other/dfat/treaties/1983/9.html> Convention on the Elimination of All Forms of Discrimination Against Women

¹⁰ https://www.dss.gov.au/sites/default/files/documents/08_2014/national_plan1.pdf

Preventing justice

It is critical for all members of the public to be able to reference sexual homicide crimes when advocating for justice. Gagging family members, the media and advocates will prevent justice from being done.

It is critical that justice must not only be done but be seen to be done. This requires the victim family, the media and the general public being able to freely speak about trials, sentences, appeals and parole applications.

Injustice occurs when the rape victim's name is erased along with the rape

I wish to share my perspective of how badly wrong judicial decisions can go when the murdered victim's name and the details of the crime are not spoken in the media or in the courtroom.

The High Court of Australia erased Anne-Marie Culleton and her rape and murder

I believe injustice occurred when my sister Anne-Marie Culleton's rapist murderer Jonathan Bakewell's appeal to the High Court of Australia had the impact of having the rape offence of his murder sentence erased.

The High Court Transcripts did not mention Anne-Marie Culleton's name. They did not state that the offender Jonathan Bakewell raped and murdered her. They said:

*"It is not necessary to describe in any detail the facts which lead to the appellant being sentenced to life imprisonment."*¹¹

They then just listed his crimes like it was a shopping list:

"It is enough to record only the following matters. In April 1989, an indictment was filed in the Supreme Court of the Northern Territory charging the appellant with aggravated unlawful entry of a dwelling house[11], aggravated sexual assault[12], murder[13] and stealing[14]. He pleaded not guilty to the charge of murder but guilty to the other three charges. At trial on the count of murder, the appellant was found guilty."

It beggars belief the court took this approach considering it was the five year sentence for the rape that Bakewell was appealing, despite having plead guilty.

The sole focus of the High Court seemed to be on the rapist murderer Jonathan Bakewell and his 'rights'.

It is important to note that disgraced former High Court Justice Dyson Heydon, who was recently found by a High Court investigation to have sexually harassed multiple female colleagues, was on the bench making the decision.

I have read the transcripts of the other rapist murderer appeal cases cited by the High Court in relation to Bakewell's case – such as that of Martin Leach who raped and murdered eighteen-year-old Janice Carnegie and murdered her fifteen-year-old cousin, Charmaine Aviet at a picnic spot in the Northern Territory. And that of Allan Baker and Kevin Crump who abducted, raped and murdered NSW woman Virginia Morse.

These rapist murderers appealed to the High Court to get their sentences reduced and they were unsuccessful. The key difference is that the murdered rape victims names and the details of their rape and murders were referenced in the High Court Appeal transcripts cited.

¹¹ http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/HCA/2009/24.html?context=1;query=bakewell;mask_path=

Bakewell eventually won his appeal on the technicality that the laws of the Northern Territory no longer applied to him because he had transferred to South Australia. But that was not the original primary premise put before the High Court of Australia.

What the High Court did in this case should serve as a powerful reminder that when the victim's name is no longer spoken and the crime of rape and murder is no longer spoken, injustice occurs.

I believe Bakewell's High Court appeal win was largely due to the fact that the High Court of Australia erased Anne-Marie Culleton and they erased the crime of her rape and murder.

They erased the 20 year old woman who only five and a half weeks before her murder had moved out of home into her flat. A young woman who had just got her drivers licence and a car and a new job. A young woman with hopes and dreams to become an artist, and to hang-glide and to travel to Greece. A young woman who did a First Aid Course so she could save lives. A young woman who contributed to her community by voluntarily teaching English to new migrants.

They erased this young woman who was my sister, Anne-Marie Culleton.

The South Australia Parole Board erased Anne-Marie Culleton and the crime of rape and murder. Years later the South Australia Parole Board also erased Anne-Marie. In their correspondence with me they did not mention her name or the crime – the fact that Bakewell raped and murdered her.

I was referred to in correspondence as “a victim of the crime committed by Jonathon Peter Bakewell”.

This erasure was reflected in the parole board's dismissive attitude towards myself and my family.

I had to fight for months to get an official letter informing me that they had released Bakewell on parole. And even then they refused to give me any useful information about his parole conditions.

When Bakewell breached parole the first time the Parole Board did not even inform our family as was their obligation, nor did they put him back in jail.

After his third breach, when I decided to call for Bakewell's parole to be revoked I was treated with contempt. From the parole board, the Premier, the Attorney General and the Police Minister.

It was only once I campaigned publicly to the media¹² that I received any kind of response.

However, the die was set.

Despite my 53 page submission and the submission of other concerned members of the community who had come in contact with him during his parole, the Parole Board insisted on releasing him.

This was despite his four parole breaches due to taking drugs, the same drugs he took the night he raped and murdered Anne-Marie Culleton. They released him for a fifth time in 2019¹³.

¹² https://www.adelaidenow.com.au/truecrimeaustralia/sister-of-annemarie-culleton-who-was-raped-and-murdered-in-1988-by-jonathon-bakewell-urges-parole-board-to-cancel-his-release/news-story/ac034390f9f68c9afc1c0138147717d9?utm_source=The%20Advertiser&utm_medium=email&utm_campaign=editorial

¹³ <https://www.9news.com.au/national/jonathan-bakewell-released-from-prison-after-1988-rape-and-murder-of-anne-marie-culleton-adelaide-news/ba81ab57-b2c8-4078-b24e-3948801de337>

When the victim is erased the offender receives sole consideration

An impact of erasing the victim is that the sole focus is on the offender's 'rights' with no consideration for justice for the victim or the victim's family. And with no consideration for community safety.

Putting community safety at risk

Preventing victim family members from speaking publicly about their loved one's rape and murder will prevent them from publicly opposing parole and will have the impact of putting community safety at risk.

Silencing victim families protects the rapist murderers and gives them a get out of jail card

Silencing victim families protects the rapist murderers and ensures they receive preferential treatment by the judicial system.

It means the victim's family members will not be able to successfully mount public bids to have the perpetrator's parole denied.

Silencing murdered rape victim families will give the rapist murderer a get out of jail card.

There is plenty of anecdotal evidence that there is a far greater chance that a rapist murderer's parole application will be refused if the public oppose it and there is a big enough outcry.

Victim family members should have the right to publicly oppose parole applications by their loved one's rapist murderer.

I add that any member of the community should have the right to publicly oppose parole applications by rapist murderers, because the safety of the community is impacted, and that involves everybody.

It is also often the case that other members of the community launch the petitions because the families often don't have the strength, or have run out of strength to keep fighting parole applications year after year.

A case of a community member campaigning against a rapist murderer parole application is the successful petition and media campaign¹⁴ calling for 8 year old Sofia Rodriguez rapist murderer Dante Arthurs parole to be revoked. Paul Litherland, the parent of a child that went to the same school as Sofia launched the petition.¹⁵

¹⁴ <https://www.perthnow.com.au/news/crime/evil-child-killer-dante-arthurs-refused-parole-ng-b881237322z>

¹⁵ <https://www.change.org/p/john-quigley-do-not-release-dante-arthurs>

Preventing advocacy

This law will prevent advocacy by family members of murdered rape victims because as well as being prevented from publicly speaking the name of their loved one, it would also prevent them from using their own name and face if it would identify the victim.

Whether the murdered rape victim family member is advocating to prevent violence against women, for law reform or for homicide victim rights, they need to be able to use their own name and that of their loved one.

An anonymous advocate is not an effective advocate. People relate to people they can see and hear. The media are far less likely to give a platform to an anonymous person and the power of their message is greatly diminished when they are anonymous.

Worse still, their name will be replaced by the rapist murderers name because that is the only way they will be able to be identified. In my case it would be:

“Rapist murderer Jonathan Bakewell’s victim’s sister is calling for law reform.”

This is just plain wrong. I have a name, Eileen Culleton. My sister has a name, Anne-Marie Culleton. Our names must be spoken.

Preventing advocacy by other advocates

It is critical for all advocates to be able to reference sexual homicide crimes.

For example, in advocating for law reform, my petition calling for mandatory life sentencing without parole for rapist murderers¹⁶ references my sister Anne-Marie, but also a number of other victims from around the country in order to illustrate key arguments and to engage people who care about those crimes.

¹⁶ <https://www.change.org/Life-For-Rapist-Murderers>

The crucial role of the media must not be gagged

The media must not be gagged from telling the stories of murdered rape victims. Our Watch, a national leader in the primary prevention of violence against women and their children in Australia, outlines the crucial role of the media on its website media page:

“The media can use its influence to change the culture and attitudes that drive violence against women”¹⁷

Our Watch created media guidelines for national media and Victoria media. *“How to report on violence against women and their children: 2019 Victoria edition”* was developed in close consultation with senior leaders in the Victorian media and from Aboriginal communities, as well as those representing older women, migrant and refugee women, women living with a disability and women who identify as LGBTIQ+.

The guidelines state the importance of the role of media in helping to address violence against women:

“Research tells us that the media is a powerful driver of social change and can positively influence the culture, behaviours and attitudes that drive violence against women and their children.”¹⁸

2021 Australian of the Year Grace Tame who spearheaded the fight for law reform supported by the #LetHerSpeak/#LetUsSpeak campaign to enable sexual assault survivors to speak publicly, stated in her acceptance speech¹⁹:

“Lived experience informs structural and social change.”

“Here me now, using my voice, among a growing chorus of voices that will not be silenced.”

As outlined on page 1 of the Victoria media guidelines:

- Strong media reporting on violence against women and their children can help readers, listeners and viewers understand how widespread it is, who is affected, what drives it, and how it can be prevented.
- The media can shape the way women and their children understand their own experiences of violence and influence decisions on whether to speak out, take action or seek support.
- The media can influence the way perpetrators understand their own choices to use violence and whether to seek support to change their behaviour.
- The media can influence public policy and legislation through its investigation of violence against women and their children (for example, the New South Wales Government has referred the state’s consent laws to the Law Reform Commission following a Four Corners investigation into a high-profile rape trial)
- The media can help society reframe how violence is talked about – particularly violence experienced by women who face multiple forms of discrimination and oppression – and champion the belief that this violence is never acceptable or excusable²⁰

¹⁷ <https://media.ourwatch.org.au/>

¹⁸ https://media-cdn.ourwatch.org.au/wp-content/uploads/sites/2/2019/06/04042437/How-to-report-on-violence-against-women-and-their-children_2019-Victorian-Edition-FINAL_AA.pdf p1

¹⁹ <https://www.facebook.com/abcnews.au/videos/695885757761191>

²⁰ https://media-cdn.ourwatch.org.au/wp-content/uploads/sites/2/2019/06/04042437/How-to-report-on-violence-against-women-and-their-children_2019-Victorian-Edition-FINAL_AA.pdf p1

My experience with the media has been positive and empowering

My first experience with the media was when my sister Anne-Marie Culleton was raped and murdered in 1988. Our family were so devastated we were unable to speak to the media. The media respected this and never bothered us.

Yet I am so grateful that the media enabled others to speak for Anne-Marie Culleton when our family couldn't.

To speak for justice for Anne-Marie.

The media enabled the NT Police Commissioner Palmer to publicly express outrage at Justice Kearney's decision to refuse showing the jury Anne-Marie's rapist murderer Jonathan Bakewell's video confession and rape and murder re-enactment due to a legal technicality.

A judicial decision that nearly resulted in the rapist murderer Jonathan Bakewell 'walking on a technicality'.

That public outrage and subsequent parliament debate on the issue lead to law reform.

Anne-Marie's case lead to three law reforms, two of which had national impact.

The first law reform with national impact related to Police Administration Acts. It pertained to the time allowed for the police to detain a suspect before bringing them to a magistrate to be officially charged. The catalyst for this was the public uproar over Bakewell's successful appeal to get his video confession and re-enactment evidence of the crime disallowed to be put before the jury, based on a technicality. The technicality was that Bakewell claimed his rights were violated because he was not brought before a magistrate and charged in the middle of the night on a weekend.

Bakewell claimed his rights were violated because he was flown from Alice Springs (where he was apprehended) to Darwin on the weekend to do the video re-enactment in Anne-Marie's flat, before being brought before a magistrate on Monday morning to be officially charged. Bakewell also made up wild stories that the police forced him at gunpoint to do the video re-enactment and gave him over 20 cans of beer.

Despite Justice Kearney finding that Bakewell's stories were fabricated, the judge still disallowed the video evidence to be put before the jury.

I am so grateful to the NT Police Commissioner Palmer who, through the media, publicly slammed Justice Kearney's decision to disallow the video re-enactment evidence being presented to the jury. A decision that meant that Bakewell could have walked. The Police Commissioner said then, the judiciary is more concerned with technicalities and legalities than the truth. How true he was then and now today. The Chief Minister Mr Perron said in parliament on 28 February 1990:

"The Commissioner of Police believed very strongly and continues to believe very strongly – and I support his view – that the courts should not deny a jury evidence of such quality and should allow the jury to make up its mind whether such evidence was obtained voluntarily and without coercion."

I am so grateful to the politicians who responded to the public uproar and debated this issue in parliament to enact law changes which resulted in changes to Police Administration Acts across Australia enabling the

police to have more time to detain the offender to conduct police interviews and video re-enactments. More time to gather evidence crucial in helping to get successful convictions and guilty verdicts.

During this parliament debate, Anne-Marie Culleton's name was spoken and her brutal rape and murder was referenced. It had to be.

This served to remind legislators that there is a human face to the laws they pass. To remind them that they serve to uphold justice for the community and for victims of crime and their families, who are also victims of crime.

The second law change with national impact related to Prisoner Interstate Transfer Acts. Bakewell was originally sentenced to life without parole. However, when the law was changed to enable life sentence prisoners to be given parole, Bakewell was re-sentenced to a nonparole period of 25 years. 20 years for the murder and 5 years for the rape. After transferring to a South Australia prison, Bakewell fought this re-sentence to only serve 20 years for the murder and no time for the rape, despite the rape being the only crime he pleaded guilty to. Bakewell appealed all the way to the High Court of Australia and won on a technicality which was that because he had transferred to a prison in South Australia, the laws of the Northern Territory no longer applied to him.

This resulted in nationwide changes to legislation around interstate prison transfers ensuring the offender's sentence went with them.

My second experience with the media was 31 years later, in 2019, when the time came that our family decided we needed to speak, to call for Bakewell's parole to be revoked after his repeated breaches.

I am so grateful that I was freely able to speak to the media.

I found the South Australia media (print, radio, TV and online) to be compassionate, respectful and professional in helping me to tell the story of Anne-Marie's rape and murder and of Jonathan Bakewell's repeated parole breaches and why I believe Jonathan Bakewell is as dangerous today as the day he raped and murdered my sister.

While my campaign to have Bakewell's parole revoked was unsuccessful and he was released for the fifth time back into the community, I found the experience of telling my story through the media greatly empowering.

While the politicians and parole board ignored my pleas, the media responded and gave me a voice to speak to the public. (see media page on my website²¹).

And it was the response from the public to the media stories that encouraged me that the public cares about community safety. The public want women and girls in their community to be safe from rapist murderers like Jonathan Bakewell.

²¹ <https://eileenculleton.com/media/>

My third experience with the media was in October/November 2020, fighting this very gag law being discussed in this consultation.

I heard about the proposed gag law through a Facebook post sharing a media article and I was shocked and outraged that the Victorian Labor Government could do something so cruel, disgraceful and appalling as to plan to gag murdered rape victim families from publicly speaking their loved ones name.

I wrote to the Victorian Attorney General Jill Hennessy (who has since resigned) with an urgent plea to amend the wording to allow victim families media and the public to freely publish the names of deceased victims of sexual assault. (see appendix)

I then spent my sister Anne-Marie Culleton's birthday, 27 October, contacting the media in a desperate bid to get coverage before Parliament sat on the 28th October to debate the bill.

I also contacted Nina Funnell, Director of the #LetUsSpeak campaign to lend my support.

As with the SA media, I found the Victorian media to be equally compassionate, respectful and professional in helping me to share my story and perspective on why these proposed laws to gag murdered rape victim families are so wrong.

My most recent and broadest experience with the media was when I launched my national petition on 25 November 2020, calling for all states to introduce new legislation for mandatory life sentencing without parole for rapist murderers.²²

I also called for the crime of murder with sexual assault to be a separate offence to reflect the nature and gravity of the crime and to enable specific sentencing.

My law reform petition was carried by the national media including The Project²³ and all the News Ltd²⁴ papers across the nation, along with women's online media. Again, I have found the media to be compassionate, respectful and professional.

It is my lived experience that families of murdered rape victims will, on the whole, be treated with compassion, respect and professionalism by the media and that they will find the experience healing and empowering.

I will note that I am relatively media savvy, having worked with media in the past as a public relations consultant and in charity roles. However 2019 was the first time that I told my personal story of my sister's rape and murder to the media and I was naturally feeling very emotionally vulnerable, hence my relief with the compassion with which I was treated. I was also very clear on my messaging and how I wanted Anne-Marie's story told, including the details of her rape and murder.

One recommendation I would make on the topic of media is that I think it could be helpful for Victims of Crime Victoria to develop a tip guide for murdered rape victim families to help them work with the media and ensure they have greater agency over how they tell their stories. This guide could also include navigating social media.

²² <https://www.change.org/Life-For-Rapist-Murderers>

²³ <https://10play.com.au/theproject/exclusives/2020/seeking-life-sentences/tpv201125yrcfh>

²⁴ <https://www.heraldsun.com.au/truecrimeaustralia/crimeinfocus/sister-of-murder-victim-annemarie-culleton-launches-petition-to-keep-killer-rapists-in-jail/news-story/f244a5e7d1199a5b18ec12db277c5450?fbclid=IwAR3JZNAoashAlvPlzNeK9NLei8jH9SvrzjH3do3Nv-4B1tyhxTVjHdGEKkc>

Cultural and religious protocols

This consultation paper put forward the argument of cultural and religious protocols being the premise for criminalising murdered rape victim families from publicly speaking their loved ones name or identifying them as a victim of sexual assault. For this law to force all murdered rape victim families in Victoria to have to apply for a court order to enable them to speak publicly:

“Others, for personal, cultural or religious reasons, may not wish to have their loved one publicly identified as a victim of a sexual offence, and might experience distress where this occurs against their wishes. For example, Aboriginal, multifaith and culturally linguistically diverse communities may have specific cultural practices or religious obligations relating to those who have died, such as modifying the deceased person’s name or suppressing their image...” Consultation paper p4

I do not agree this is a valid argument because there are already media protocols in place for these groups.

Our Watch guidelines *How to report on violence against women and their children | 2019 Victorian Edition*

Our Watch guidelines *How to report on violence against women and their children | 2019 Victorian Edition* was developed in close consultation with senior leaders in the Victorian media and from Aboriginal communities, as well as those representing migrant and refugee women, women living with a disability, older women and women who identify as LGBTIQ+.

The Guidelines in Chapter 2 “Understand how discrimination affects violence” state that

“Women who are disproportionately affected by violence include but are not limited to women who identify as:

- Aboriginal and Torres Strait Islander, as well as*
- migrant and refugee*
- living with disability,*
- LGBTIQ+, and*
- older women.²⁵”*

The guidelines recommend ways the media can be part of the solution in reducing violence against women in these groups through educating the community about the systemic power imbalances that can create discrimination that can affect violence.

Nowhere does it state that the media should not report sexual violence against these groups or crimes where the murder victim was sexually assaulted.

²⁵ https://media-cdn.ourwatch.org.au/wp-content/uploads/sites/2/2019/06/04042437/How-to-report-on-violence-against-women-and-their-children_2019-Victorian-Edition-FINAL_AA.pdf p2

Aboriginal and Torres Strait Islander women

In chapter 4, the section “Reporting on violence experienced by Aboriginal and Torres Strait Islander women”²⁶ it deals with cultural protocols around naming or using the image of a deceased person.

It recommends the reporter seek advice from community members from that particular Aboriginal community.

The guidelines state that “no one voice’ speaks on behalf of the whole of the Aboriginal and Torres Strait Islander community.”

Nowhere does it state the media should not report sexual violence or crimes where the murder victim was sexually assaulted.

In fact it references the brutal rape and murder of Aboriginal woman, Lynette Daley as an example of the importance of media naming the rape:

“For a long time, violence against Aboriginal women has been minimised, justified or ‘invisible’ in media reporting.

By failing to name the alleged rape, the article shifts accountability away from the perpetrators and ignores the non-consensual and brutal nature of Lynette Daley’s rape and death.”

By emphasising that violence against Aboriginal women has been ‘invisible’ in media reporting, these guidelines actually encourage media reporting of crimes of rape and murder against Indigenous women, as long as they are accurate and do not use damaging stereotypes.

In fact in the case of Lynette Daley, her family launched a media campaign to fight for justice for Ms Daley because the Department of Public Prosecutions refused to bring the two rapist murderers to trial. A Four Corners Documentary in 2016²⁷ on the case was the catalyst that sparked public outrage and resulted in the criminal trial in 2017 that found the two men guilty²⁸.

²⁶ https://media-cdn.ourwatch.org.au/wp-content/uploads/sites/2/2019/06/04042437/How-to-report-on-violence-against-women-and-their-children_2019-Victorian-Edition-FINAL_AA.pdf p7

²⁷ <https://www.abc.net.au/4corners/callous-disregard-promo/7388056>

²⁸ <https://www.abc.net.au/news/2017-09-06/lynette-daley-trial-delivers-guilty-verdicts/8878848>

Women of Islamic faith

As stated earlier, in the Our Watch guidelines *How to report on violence against women and their children | 2019 Victorian Edition* which was developed in close consultation with senior leaders in the Victorian media and from migrant and refugee women, nowhere does it state that the media should not report sexual violence against these groups or crimes where the murder victim was sexually assaulted.

While not mentioned specifically when this Consultation paper was referencing other faiths, I feel it is important to reference the Islamic faith and the high profile case of international student Aiiia Maasarwe who was raped and murdered in Melbourne in 2019.

When the proposed gag laws were being debated in parliament last year, Ms Maasarwe's father who lives in the Middle East, Mr Saaed Maasarwe, slammed the injustice and insensitivity of the laws saying they re-victimised victim families and countered efforts to prevent violence against women. The Herald Sun on 11 November 2020²⁹ reported:

"Aiiia Maasarwe's heartbroken dad slams 'injustice' surrounding proposed gag laws

The father of Aiiia Maasarwe, who was raped and murdered in Melbourne, has said Victoria's proposed gag laws are highly insensitive and an "injustice" to victims' families.

The father of rape and murder victim Aiiia Maasarwe said gag laws that would have banned him speaking about his daughter were highly insensitive and countered efforts to prevent violence toward women.

Saaed Maasarwe told the Herald Sun the proposed legal changes, which were put on hold at the eleventh hour in parliament on Tuesday, would punish grieving families.

"I think it would be an injustice to victims and families," he said.

"I do not understand why a family should be hurt twice. Once in the loss of a loved one and once again by the society."

Ms Maasarwe, a 21-year-old Israeli student, was murdered in a random attack in January last year.

Mr Maasarwe said politicians in favour of the gag law ought to rethink their humanity.

"(He is) to be a human being before he is a politician," he said.

Mr Maasarwe added silencing victims' stories was no way to address the issues of respect toward women.

"If society hides the truth I do not think it can deal with the problems within it," he said."

²⁹ <https://www.heraldsun.com.au/news/aiaa-maasarwes-heartbroken-dad-slams-injustice-surrounding-proposed-gag-laws/news-story/4596064997aca6e606e2ef83a82a7123>

Eileen Culleton Submission to *Victoria Consultation paper - Identification of deceased sexual offence victims - further reforms to JPRA* 29 January 2021

Appendix

Letter to the Victoria Attorney General 27 October 2020

Open Letter to Victoria Labor politicians 28 October 2020

Letter to members of the Victoria Legislative Assembly 9 November 2020

27 October 2020

Hon. Jill Hennessy, Attorney-General

Re: Justice Legislation Amendment Bill 2020 – urgent plea to amend wording to allow victim families, media and the public to freely publish the names of deceased victims of sexual assault

Dear Minister,

My name is Eileen Culleton. I am the sister of murder victim Anne-Marie Culleton who was raped and murdered in 1988 by Jonathan Bakewell who broke down her locked door in the middle of the night to attack her in her bed while she was sleeping.

I am horrified by the proposed Justice Legislation Amendment Bill 2020 which will make it a crime to publish the name of any deceased sexual assault victim from Victoria.

This would gag victim family members like myself from speaking about my sister's rape and murder. **This is a gross violation of victims civil rights and dignity.**

Even though I do not reside in Victoria, this bill impacts my current fight for law reform in this country. I made a submission to the NSW Review into Sentencing for Murder and Manslaughter calling for life sentencing for the crime of rape and murder, in which I referenced trial sentencing remarks and media reports related to Victoria rape and murder victims Jill Meagher, Eurydice Dixon and Aiiia Maasarwe.

It is critical for all members of the public to be able to reference sexual homicide crimes when advocating for justice or for law reform.

There are also many other **serious detrimental impacts** of this bill including:

Preventing justice from being done - It is critical that justice must not only be done but be seen to be done. This requires the victim family, the media and the general public being able to freely speak about trials, sentences and appeals.

Preventing the victim family from publicly opposing parole – victim family members should have the right to publicly oppose parole applications by their loved one's rapist murderer.

Preventing grieving and honouring the victim – victim families should have the right to grieve publicly if they so choose. They should have the right to speak to the media to honour their loved one whom they have lost so brutally. They should have the right to setup social media memorial pages for their loved one. They should have the right to setup public crowdfunding pages to seek help with funeral expenses.

Please do not silence families of rape and murder victims. We have been through enough. Please do not take away our voice.

Please urgently amend this bill to allow victim families, the media and the public to freely publish the names of deceased victims of sexual assault.

Yours sincerely,

Eileen Culleton

Address and contact details supplied in email

Open Letter to Victoria Labor government re the Justice Legislation Amendment Bill 28/10/2020

Today's debate on this bill has now been adjourned. I ask all Victoria Labor politicians to take the time tonight to reflect on the voices of rape and murder victims who have been quoted today. Like Jill Meagher's mother. And to also listen to my voice because in the past 32 years since my sister Anne-Marie Culleton was raped and murdered I have experienced the impact of the whole spectrum of judicial decisions.

From justice being served with the original sentence of life without parole, to justice being ripped away with a law change to enable parole for life sentence murderers, to the offender's appeals all the way to the High Court of Australia to get his non-parole period reduced, his release on parole, his breaching parole four times, my unsuccessful fight to have his parole revoked after his four breaches and his latest release for the fifth time on parole in October 2019. Even if Jonathan Bakewell's parole is finally revoked, I face a lifetime of fighting, because he can reapply for parole every 12 months.

My sister Anne-Marie was raped and murdered in 1988. Our family were so devastated, for 31 years we never spoke to the media. **And the media respected us and never bothered us.**

Yet I am so grateful that others spoke for Anne-Marie Culleton when our family couldn't.

I am so grateful for the NT Police Commissioner who spoke for Anne-Marie Culleton when the trial judge refused to allow Bakewell's murder video re-enactment footage be put before the jury because Bakewell claimed his rights were violated in not being brought before a magistrate and charged in the middle of the night on a weekend.

I am so grateful for the NT politicians who spoke for Anne-Marie Culleton by acting on this injustice and changing the laws to enable the police the time to do their job in gathering evidence to convict murderers. Laws which were then enacted across Australia.

This rapist murderer nearly walked on a technicality. The Police Commissioner said then, the judicial system is more interested in legal procedure than the truth. How true he was then and now today.

I am so grateful for the NT politicians who spoke for Anne-Marie Culleton when Bakewell appealed his re-sentencing after the laws were changed to allow murderers to be granted parole. When Bakewell fought his re-sentencing from life with no parole to 25 years because he refused to serve time for the rape (which was the only crime he had admitted to). When he fought to only serve 20 years.

I am so grateful for the politicians who spoke for Anne-Marie Culleton in amending the laws to close the legal loophole for Bakewell and other rapist murderers after his appeal.

I am so grateful for the politicians who spoke for Anne-Marie Culleton when Bakewell appealed all the way to the High Court of Australia – and got off again on a legal loophole.

I am so grateful to the South Australia politicians who spoke for Anne-Marie Culleton and the safety of the women in the community in opposing Bakewell's parole applications.

And I am so grateful to the media who gave the politicians the voice to speak for justice for Anne-Marie Culleton, for our family and for the community.

I am so grateful that I had the voice to freely speak at any time in all of this.

I am so grateful that I was able to freely speak after 31 years to publicly oppose Bakewell's parole release after he breached it four times for taking drugs – the same drugs he took the night he raped and murdered my sister.

I cannot imagine the trauma of having to face a court to argue why I should be able to speak my dead sister's name.

I am so grateful today that I do not live in Victoria. But I will fight for those rape and murder victim families, and the media and everyone in Victoria to be able to speak the names of those rape and murder victims who were taken so brutally and cannot speak.

Victoria Labor, I am not party political. I am just fighting for the rights of rape and murder victim families like my own.

We have lost so much. Please don't take away our voice.

Please do not push this unjust bill through.

Please let rape and murder victim families keep their voice.

Yours sincerely,

Eileen Culleton

Sister of rape and murder victim Anne-Marie Culleton

9 November 2020

Dear Minister,

I am writing in relation to the **Justice Legislation Amendment (Supporting Victims and Other Matters) Bill 2020**.

I am writing in regard to the proposed changes which will prevent the names of murdered rape victims being publicised in any way – such as through social media, the media, or the internet. And which will also prevent their loved ones speaking publicly about them using their own names, because this could identify the murdered rape victim.

I am writing as the sister of murdered rape victim Anne-Marie Culleton to ask you to oppose this amendment to the bill.

My name is Eileen Culleton and I am the sister of Anne-Marie Culleton who at just 20 years old was raped and murdered in 1988 when Jonathan Bakewell broke down her back door in the middle of the night to rape and murder her in her bed. This crime is every woman's worst nightmare.

Prior to this bill being debated in the Legislative Assembly, I wrote to the Attorney-General, to no avail. I also published an open letter to the Victoria Labor ministers, again, to no avail. These letters provide further perspectives on the negative impacts of the bill and I have attached them for your reference.

I am writing to you as a victim family member who in the past 32 years has experienced the impact of the whole spectrum of political and judicial decisions in relation to the crime of rape and murder.

I am also writing to you as a legislator, because this crime of rape and murder, although it happened in the Northern Territory, had an impact on changing a number of pieces of legislation – including two laws that were applied across the country, including Victoria.

These important nationwide legislation changes would not have happened if the name of the murdered rape victim Anne-Marie Culleton was not allowed to be publicly spoken and the details of her rape and murder suppressed.

I am also writing to share with you the perspective of how badly wrong judicial decisions can go when the murdered victim's name and the details of the crime are not spoken in the media or in the courtroom.

While our family was too shattered to speak to the media after Anne-Marie's murder and for the next 31 years, **I am so grateful to those who did speak for justice for Anne-Marie, for justice for society and for community safety, when her own family couldn't.**

The first law change with national impact related to Police Administration Acts. It pertained to the time allowed for the police to detain a suspect before bringing them to a magistrate to be officially charged. The catalyst for this was the public uproar over Bakewell's successful appeal to get his video confession and re-enactment evidence of the crime disallowed to be put before the jury, based on a technicality. The technicality was that Bakewell claimed his rights were violated because he was not brought before a magistrate and charged in the middle of the night on a weekend.

Bakewell claimed his rights were violated because he was flown from Alice Springs (where he was apprehended) to Darwin on the weekend to do the video re-enactment in Anne-Marie's flat, before being brought before a magistrate on Monday morning to be officially charged. Bakewell also made up wild stories that the police forced him at gunpoint to do the video re-enactment and gave him over 20 cans of beer.

Despite Justice Kearney finding that Bakewell's stories were fabricated, the judge still disallowed the video evidence to be put before the jury.

I am so grateful to the NT Police Commissioner Palmer who, through the media, publicly slammed Justice Kearney's decision to disallow the video re-enactment evidence being presented to the jury. A decision that meant that Bakewell could have walked. The Police Commissioner said then, the judiciary is more concerned with technicalities and legalities than the truth. How true he was then and now today. The Chief Minister Mr Perron said in parliament on 28 February 1990:

"The Commissioner of Police believed very strongly and continues to believe very strongly – and I support his view – that the courts should not deny a jury evidence of such quality and should allow the jury to make up its mind whether such evidence was obtained voluntarily and without coercion."

I am so grateful to the politicians who responded to the public uproar and debated this issue in parliament to enact law changes which resulted in changes to Police Administration Acts across Australia enabling the police to have more time to detain the offender to conduct police interviews and video re-enactments. More time to gather evidence crucial in helping to get successful convictions and guilty verdicts.

During this parliament debate, Anne-Marie Culleton's name was spoken and her brutal rape and murder was referenced. It had to be.

This served to remind legislators like yourselves that there is a human face to the laws that you pass. To remind you that you serve to uphold justice for the community and for victims of crime and their families, who are also victims of crime.

The second law change with national impact related to Prisoner Interstate Transfer Acts. Bakewell was originally sentenced to life without parole. However, when the law was changed to enable life sentence prisoners to be given parole, Bakewell was re-sentenced to a nonparole period of 25 years. 20 years for the murder and 5 years for the rape. After transferring to a South Australia prison, Bakewell fought this re-sentence to only serve 20 years for the murder and no time for the rape, despite the rape being the only crime he pleaded guilty to. Bakewell appealed all the way to the High Court of Australia and won on a technicality which was that because he had transferred to a prison in South Australia, the laws of the Northern Territory no longer applied to him.

This resulted in nationwide changes to legislation around interstate prison transfers ensuring the offender's sentence went with them.

However, what the High Court did in this case should serve as a powerful reminder that when the victim's name is no longer spoken and the crime of rape and murder is no longer spoken, injustice occurs.

I believe injustice occurred when my sister Anne-Marie Culleton's rapist murderer Jonathan Bakewell's appeal to the High Court of Australia had the impact of having the rape offence of his murder sentence erased.

The High Court of Australia erased the victim and they erased the crime of rape and murder.

The High Court Transcripts did not mention Anne-Marie Culleton's name. They did not state that the offender Jonathan Bakewell raped and murdered her. They said:

"It is not necessary to describe in any detail the facts which lead to the appellant being sentenced to life imprisonment."¹

They then just listed his crimes like it was a shopping list:

"It is enough to record only the following matters. In April 1989, an indictment was filed in the Supreme Court of the Northern Territory charging the appellant with aggravated unlawful entry of a dwelling house[11], aggravated sexual assault[12], murder[13] and stealing[14]. He pleaded not guilty to the charge of murder but guilty to the other three charges. At trial on the count of murder, the appellant was found guilty."

It beggars belief the court took this approach considering it was the five year sentence for the rape that Bakewell was appealing, despite having plead guilty.

The sole focus of the High Court seemed to be on the rapist murderer Jonathan Bakewell and his 'rights'.

It is important to note that disgraced former High Court Justice Dyson Heydon, who was recently found by a High Court investigation to have sexually harassed multiple female colleagues, was on the bench making the decision.

I have read the rapist murderer appeal cases cited by the High Court in relation to Bakewell's case – such as that of Martin Leach who raped and murdered eighteen-year-old Janice Carnegie and murdered her fifteen-year-old cousin, Charmaine Aviet at a picnic spot in the Northern Territory. And that of Allan Baker and Kevin Crump who abducted, raped and murdered NSW woman Virginia Morse.

These rapist murderers appealed to the High Court to get their sentences reduced and they were unsuccessful. The murdered rape victims and the details of their rape and murders were referenced in the High Court Appeal transcripts cited.

¹ http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/HCA/2009/24.html?context=1;query=bakewell;mask_path=

As stated earlier, Bakewell eventually won his appeal on the technicality that the laws of the Northern Territory no longer applied to him because he had transferred to South Australia. But that was not the original primary premise put before the High Court of Australia.

I believe Bakewell's High Court appeal win was largely due to the fact that the High Court of Australia erased Anne-Marie Culleton and they erased the crime of her rape and murder.

They erased the 20 year old woman who only 5 and a half weeks before her murder had moved out of home into her flat. A young woman who had just got her drivers licence and a car and a new job. A young woman with hopes and dreams to become an artist, and to hang-glide and to travel to Greece. A young woman who did a First Aid Course so she could save lives. A young woman who contributed to her community by voluntarily teaching English to new migrants.

They erased this young woman who was my sister, Anne-Marie Culleton.

Years later **Anne-Marie Culleton and her rape and murder seemed to be erased from the SA parole system**, which resulted in Bakewell's release and repeated release despite his four parole breaches due to taking drugs, the same drugs he took the night he raped and murdered Anne-Marie Culleton. They released him for a fifth time in 2019 despite my appeal to the SA Parole Board and appeals to politicians to revoke his parole release. The Parole board resisted mentioning Anne-Marie Culleton's name or the fact that Bakewell raped and murdered her.

I was referred to in correspondence as "**a victim of the crime committed by Jonathon Peter Bakewell**". **This will be the fate of Jill Meagher's mother and Eurydice Dixon and Aiaa Maasarwe's families if this bill is passed.**

I hope my story of my sister Anne-Marie Culleton who was raped and murdered 32 years ago and the positive impact that using her name and the details of her rape and murder had on legislation, and the negative impact that the silencing of her name and the details of her crime had on justice and community safety, will help you to understand the long term negative impacts of this Bill.

Murdered rape victims names and their stories need to be told. For humanity, for justice and for community protection.

I ask you to oppose the clause in this bill which will gag murdered rape victim families and prevent the names of murdered rape victims and the details of the crimes being publicised.

I am happy to discuss this further with you and have included my phone number in my cover email.

Yours faithfully,

Eileen Culleton

Sister of murdered rape victim Anne-Marie Culleton

Attachments

- Letter to the Attorney-General 27 October 2020
- Open Letter to Victoria Labor Government 28 October 2020