

14th February 2025

To Whom It May Concern:

I am writing to the Sentencing Council to make a submission regarding the 'Consultation Paper: Good Character at Sentencing' released in December 2024.

It is critical for the council to understand the harmful impact that references to a perpetrator's 'good character' have on the victim/s, victim-survivors in general and more broadly, society at large.

Whilst most of us know a victim of childhood sexual assault, sexual assault or domestic violence, time and time again it has been shown that we are not yet prepared to consider those we know and love to be perpetrators of these crimes. Theoretically we can grasp the statistics, however when a person in our family, workplace or community is accused of such a crime we can observe an interesting bias occurring within our brains to protect our sense of self within our world.

To illustrate this point, there can be no clearer example than the trial of Dominique Pelicot and the fifty-one other men who could be identified in the video recorded rapes of Gisèle Pelicot. Despite explicit video evidence of the sexual assaults and admissions of guilt, it was reported that some of the partners of the fifty-one men were still in denial:

Many of the women who were in relationships with the defendants while they were allegedly raping Gisèle are sharing their disbelief that a person they love could be capable of such heinous behaviour. They're in such a state of disbelief that they actually don't believe it, even after some of the men confessed to them... "He had always been respectful, when it was no, it was no, he never insisted. So I absolutely don't understand why he's here today," she said.¹

I would ask you to consider the biases at play in this example. Firstly, there is a **cognitive dissonance** created by the juxtaposition of two vastly different sets of information regarding the person we believe we know. Of course, this is a vast simplification, however our brains' role is to protect us and to keep us safe, so it chooses to believe the version that maintains the current worldview and allows the family member, colleague or community acquaintance to continue holding on to the belief that the perpetrator is in fact a good person.

Secondly, the example above illustrates **confirmation bias**, whereby our views of a person and their behaviour and character is informed by our own personal experiences with that person. The woman above maintained her partner had always been respectful to her so she cannot fathom that he would sexually assault someone else.

¹ <https://www.marieclaire.com.au/news/who-is-gisele-pelicot-the-horrific-french-rape-case-explained/>

Having an awareness of these biases and understanding these phenomena allows us to recognise why family, colleagues and community members struggle to accept and come to terms with accusations, charges and verdicts of CSA, SA and DV. It also helps to explain why they would wish to share a good character reference and why they choose to believe perpetrators versions of events.

Choosing to believe that the victim is lying is a much easier cognitive load than re-evaluating every interaction and happy memory we have ever shared with the perpetrator. The example above shows that this phenomenon occurs even when there is explicit video evidence and admissions of guilt.

When family, colleagues and community members are allowed to share evidence concerning 'good character' or a lack of previous convictions at sentencing, it fails to consider that the perpetrator has presented **one version of themselves** to family, colleagues and community members whilst presenting **another version of themselves** to their victim/s. As the Your Reference Ain't Relevant campaign has highlighted, it is this very ability of the perpetrator to come across a 'good person' and 'trustworthy' that allows them to commit the abuse.

Having submissions of 'good character' shared at sentencing perpetuates the view in our society that you will be able to recognise a perpetrator because, presumably, they will have an obviously 'bad character'. This further perpetuates harmful victim-blaming narratives and allows perpetrators to avoid experiencing the shame and self-reflection that should rightly accompany a guilty verdict, because those family, colleagues and community members still think he is a 'good bloke' who has been wronged, or a 'good person' who made a mistake.

When taking into consideration a lack of previous convictions we also fail to grapple with the fact that the conviction rates for CSA, SA and DV are so low that they have effectively been decriminalised in Australia. One victim who has had the courage and circumstances to enable a conviction is enough. And there may well be others that we will never know about.

I believe the criminal justice system as it currently stands is ill equipped to deal with cases of CSA, SA and DV, not only because it is traumatising to victims (forget re-traumatising – it is traumatising in and of itself make no mistake), but most importantly because every unreported case, every case that doesn't make it to trial, every case that ends in an acquittal and every case in which the verdict is overturned on appeal means that there is a perpetrator who has not been given the opportunity and support to **change their behaviour**. And for those perpetrators for whom reform is not a viable option, that means another paedophile, sex offender and abuser who is in our community inflicting harm.

Whilst we are working within the system as it currently stands, every effort must be made to protect the mental, physical and emotional health of victims. The damage caused by allowing 'good character' references at sentencing to be heard is impossible to overstate. It is harmful to the victim/s, victim-survivors generally and our society at large.

I hope that an awareness of the biases we are confronted with when a person we know and love is convicted of one of these crimes will help us understand why some people may wish

to make 'good character' submissions at sentencing, but that the Sentencing Council will choose to prioritise the **safety and well-being of the victim/s** over the narratives that perpetuate misunderstandings of these crimes in our community and reduce the accountability that perpetrators who choose to commit these crimes should rightly face.

Thank you for your time and consideration of these complex, difficult and important issues.

Best wishes,

Dr Marianne Edwards