

6 December 2022

PUBLIC STATEMENT

Termination of the Trial of Bruce Lehrmann

Central Victoria's leading specialist family violence response agency, the Centre for Non-Violence stands in solidarity with Brittany Higgins and all survivors of sexual violence.

This comes in response to the announcement made by ACT Director of Prosecutions, Shane Drumgold, that the retrial of the case against Bruce Lehrmann, who is accused of raping his former colleague will be dropped in light of the "unacceptable risk to the life of the complainant [Ms Higgins]".¹

The Centre for Non-Violence acknowledges the harmful and gendered nature of public scrutiny on victim survivors of sexual violence, and that much needed change must occur in our justice system to prevent further trauma during the prosecution process. Higgins had already endured a cross examination during the first trial. A new trial would have forced her to stand, yet again under cross examination, to endure another round of questioning where the victim survivor is treated as guilty until proven innocent. Higgins herself stated that questioning by the accused lawyer, Steven Whybrow was 'deeply insulting' in suggesting the assault had not occurred and she raised the issue to keep her job and was motivated by money.² This is all part of the rape myth narrative.³ This is not acceptable. It is harmful and traumatising.

The Centre for Non-Violence renews calls for action for ongoing law reform to ensure perpetrators are held to account and remain in view, while maintaining victim survivor safety and justice in reporting their experiences.

¹ Drumgold S 2022. Media Announcement, 2 December. Media statement available from [embedded video]: <https://www.sbs.com.au/news/article/brittany-higgins-says-justice-system-fails-complainants-in-first-statement-since-lehrmann-charges-dropped/zrexlboor> [Accessed: 5 December 2022]

² Foden B 2022. 'Brittany Higgins describes Steven Whybrow's Cross Examination as 'deeply insulting' in Bruce Lehrmann rape trial', *Canberra Times*, 7 October. Available from: <https://www.canberratimes.com.au/story/7933570/so-incorrect-higgins-hits-back-at-deeply-insulting-cross-examination/> [Accessed: 6 December 2022] and Thompson A 2022. 'Lehrmann Trial', Live Updates, *Sydney Morning Herald*, 19 October. Available from: <https://www.smh.com.au/politics/federal/lehrmann-trial-live-updates-closing-submissions-continue-in-canberra-20221018-p5bqt2.html?post=p5492a> [Accessed: 6 December 2022]

³ For further analysis of rape myth narratives and impacts on judicial systems read: Leahy S 2014 'Bad Laws or Bad Attitudes? Assessing the Impact of Societal Attitudes upon the Conviction Rate for Rape in Ireland', in *Irish Journal of Applied Social Studies*, Vol. 14(1): 18-29. Also, the recent ANROWS research report: Minter, K Carlisle, E & Coumarelos, C 2021 "Chuck her on a lie detector"—*Investigating Australians' mistrust in women's reports of sexual assault* (Research report, 04/2021).

The accused, Lerhmann, had pleaded not guilty to a single count of rape and denied that any sexual activity occurred during the first trial. Without the retrial, the case against him was not proven.

This is despite Drumgold stating that he had ‘[...] formed the clear view that there was a reasonable prospect of conviction [...]’.⁴

And so here we stand, with a precedent set that is nothing short of a backwards step for all women and victims of violence who bravely speak out in the pursuit of justice.

It is a miscarriage of justice.

It tells us that the justice system is broken. But it is not just the system that is broken; it’s also us. Our society continues to blame the victim, to accuse the victim survivor of behaviour that ‘led him on’ and to mistrust the allegation altogether. In a 2017 survey⁵ it was reported that as many as four in 10 respondents ‘mistrusted women’s reports of sexual violence [...]’.

And what we have witnessed time and time again in these public, high-profile cases is a determined community response defined by mistrust, by myths and misconceptions. And we know that this results in adverse effects, for example, on jurors and their ‘perceptions about the seriousness and credibility of the sexual assault allegations’.⁶

For many, it is known as the ‘Higgins Trial’. This is not the case. The case was against the accused Bruce Lerhmann for his alleged rape of his colleague. Language is important.

It must not stand that victim survivors of violence - including sexual violence - be forced to endure this level of scrutiny and be themselves placed on trial - rather it must remain in view that it is the accused who is standing trial.

As clearly detailed by Higgins in her media statement made to the press on 27 October 2022:

“He never faced one question in court about his story and the criminal charges. I was required to surrender my telephones, my passwords, messages, photos, and my data. He was not required to produce his telephone, his passwords, messages, photos and data.

“My life has been publicly scrutinised, open for the world to see. His was not. Many of you in the media have been called out for labelling the last few weeks ‘the Higgins trial’. But I don’t blame you because it’s very clear who has been on trial. He hasn’t had to be publicly accountable for his actions or any part of his story.

⁴ *ibid*

⁵ NCAS 2018 *National Community Attitudes towards Violence against Women Survey* (NCAS; Webster et al., 2018)

⁶ Minter, K Carlisle, E & Coumarelos, C 2021. “Chuck her on a lie detector”—*Investigating Australians’ mistrust in women’s reports of sexual assault*”, Research Report, (04/2021). Available from: <https://www.anrows.org.au/publication/chuck-her-on-a-lie-detector-investigating-australians-mistrust-in-womens-reports-of-sexual-assault/read/> [Accessed 5 December 2022]

“This is the reality of how complainants in sexual assault cases are treated. Their lives are torn apart, their friends and families are called to the witness stand and the accused has the legal right to say absolutely nothing.

“Like all women who experience sexual violence, I knew the odds were stacked against me. The criminal justice system has long failed to deliver outcomes to victims of sexual assault.⁷

And there are many of us. The statistics tell us that 1 in 6 women in Australia have experienced sexual assault⁸ – but we know those numbers do not represent the whole picture, we know from experience that violence against women is underreported – not every assault victim survivor is able to come forward, or will feel, or be safe enough, to speak out.

And we can see why. With only 2 per cent of all rape charges resulting in conviction, women and survivors of violence are understandably deterred and prevented from seeking justice, and all the while perpetrators of violence walk free.

It is just not good enough. We are failing as a society in protecting victim survivors in their pursuit of justice.

We know, from experience, that this decision will increase the demand on our service systems, with victim survivors reaching out for and needing support in these times. And it’s understandable. This is when we witness community values playing out with gendered judgements, rigid stereotypes and rape myths.

The Centre for Non-Violence calls on community to be active bystanders, to call out and challenge victim blaming, rape myths and judgement. We encourage people to seek support, and to use our collective experience of injustice and inequality to call out and improve systems that are meant to protect. In doing so we can, and will, create a just and fair society for all.

Enough is enough.

Centre for Non-Violence can be contacted on 1800 884 292 | The Orange Door Loddon can be contacted on 1800 512 359 | The 24-hour statewide safe steps family violence crisis response line is 1800 015 188 | Men’s Referral Service 1300 766 491 | In an emergency, call 000 | For information, visit: www.cnv.org.au/we-are-here-to-help

Further Information, please contact:

Clare Shamier, Head of Business Development and Advocacy.
Contact Information: clares@cnv.org.au

⁷ SBS 2022. ‘Brittany Higgins says justice system fails complainants in first statement since Lehrmann charges dropped <https://www.sbs.com.au/news/article/brittany-higgins-says-justice-system-fails-complainants-in-first-statement-since-lehrmann-charges-dropped/zrexlboor> [Accessed: 5 December 2022]

⁸ Australian Bureau of Statistics 2016. *Personal Safety, Australia*. ABS. <https://www.abs.gov.au/statistics/people/crime-and-justice/personal-safety-australia/latest-release> Accessed: [5 December 2022]