

The importance of victim credibility in prosecuting adult sexual assault cases

According to Crown Prosecutors interviewed for a recent Australian Institute of Criminology study, a number of factors determine whether to proceed with or discontinue an adult sexual assault case. The most important of these is credibility, which encompasses various personal characteristics, including whether the victim is genuine and trustworthy, for example, not embellishing facts such as how much she or he had been drinking. Perceptions of credibility are also influenced by demeanour, such as a victim being calm and not argumentative towards the defence. Memory and communication skills also play an important role, as the victim is required to recall and relate what happened. However, the study found that the most important factor in Crown Prosecutors' assessments of victim credibility was consistency in the victim's statements at various times, between statements given by the victim and witnesses, and in the victim's post-assault behaviour. The thematic analysis below captures practical, victim-related factors that may influence prosecutors' decisions.

Victim related factors that may influence prosecutor's decisions to proceed with or discontinue adult sexual assault cases

Proceed	Discontinue
Credible, reliable	Defence has access to material that will undermine victim's credibility, for example, psychiatric history of delusions
Willing to proceed; able to withstand trial processes	Reluctant - makes informed decisions not unduly influenced by the defendant. This would not apply where there are strong public interest reasons to proceed, for example schoolteacher and pupil, serial offender
Consistency, although some degree of discrepancy is understandable	<i>Inexplicable</i> internal inconsistencies in the victim's story
Can recall and relate the facts	Memory affected by drug or alcohol use, or even the shock of the attack
Distress	Vindictiveness or other circumstances that could indicate motive to lie
Corroboration: visible injuries, bruises, eyewitnesses, medical evidence	Victim's account conflicts with other evidence or eyewitness accounts

SOURCE: Lievore D 2004. Victim credibility in adult sexual assault cases. Trends and issues in crime and criminal justice no. 288 Australian Institute of Criminology: Canberra

Full report available on the AIC web site: <http://www.aic.gov.au/publications/tandi2/tandi288.html>