

# Bravehearts Position Statement



## Statute of Limitations in Child Sexual Assault Matters

Bravehearts advocates that Australian governments **review current *statute of limitations* legislation** to consider the profound and complex consequences of child sexual assault and to **rescind these restrictions on survivors of child sexual assault to civil recourse.**

When the *statute of limitations* is considered in the context of child sexual assault, it is often argued that the traditional balance between the rights of the alleged offender and the survivor, and those of society, should be altered in favour of the survivor and more particularly that no limitation period should apply.

It is Bravehearts' stance that in cases involving the sexual assault of children, the application of any limitation provisions to deny adult survivors of abuse access to redress is theoretically, practically and morally unjustifiable. **It is Bravehearts position that limitations to redress for survivors of child sexual assault should be abolished.**

Survivors of child sexual assault face enormous barriers in disclosing. The impacts of child sexual assault typically mean that the victim does not disclose until they feel safe to do so, and this frequently does not occur until some time has passed.

In Queensland, the Project Axis survey found that of 212 adult survivors:

- 25 took 5-9 years to disclose it;
- 33 took 10-19 years; and
- 51 took over 20 years.

Where the perpetrator is a relative, research shows an even more prolonged process. A Criminal Justice Commission analysis of Queensland Police Service data found that of 3721 reported offences committed by relatives:

- 25.5% of survivors took 1-5 years to report the acts;
- 9.7% took 5-10 years;
- 18.2% took 10-20 years, and
- 14.2% took more than 20 years.

(Professor Ben Mathews, 2003)

Having been, in many cases, completely disempowered by an offender, the psychological consequences of child sexual assault have far reaching consequences: shame and guilt can often mean that survivors are unable to disclose until parents have passed away; many survivors are simply not ready to disclose as they may still be processing the psychological trauma and impacts of the sexual assault; and victims may experience post-traumatic stress disorder (essentially this means that a victim is aware of the harm they experienced but disassociate themselves from any reminders of the traumatic event, including litigation).

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The relevance of these descriptions of the psychological effects is that even if a survivor is aware of the possibility of legal action they may decide that to take such action would revive traumatic memories and may even be destructive and therefore delay proceeding with the matter.

Identifying that it can take many years for victims to be ready to recognise and confront what happened to them, many States in America are currently reviewing statute of limitations laws, with some states such as Arkansas (<http://forward.com/articles/172412/new-york-may-ease-statute-of-limitations-for-decad/?p=all>) and Minnesota ([http://www.twincities.com/crime/ci\\_23200129/minnesota-senate-passes-bill-removing-civil-statute-limitation](http://www.twincities.com/crime/ci_23200129/minnesota-senate-passes-bill-removing-civil-statute-limitation)) eliminating statutes of limitations for victims of child sexual assault.

*As Australian society witnesses an increasing number of revelations of child sexual abuse, and as more cases come before the courts, the question of legal redress for adult survivors of abuse becomes ever more pressing. Due to the psychological sequelae of abuse, adult survivors are often unable to institute proceedings within statutory time limits, and case law demonstrates significant difficulties in obtaining an extension of time in which to proceed. The statutory time limits and the courts' application of extension provisions often operate to deny legal remedies to these plaintiffs. (Associate Professor Ben Mathews, 2003)*

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