

MEDIA RELEASE

NEWS FROM THE UNIVERSITY OF TASMANIA

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ATTENTION: Chiefs of Staff, News Directors



TLRI recommends changes to sex trial laws

The UTAS Tasmania Law Reform Institute (TLRI) will tomorrow release a final report that makes recommendations for fundamental changes to the laws that govern the conduct of sexual assault cases where an accused is charged with offences against multiple complainants.

The report recommends changes about how allegations of concocted evidence are dealt with in the trial process where there are several complainants.

TLRI Board member, Terese Henning, who co-authored the report with Dr Rebecca Bradfield, said in cases where complainants are in some way connected – such as family, school or sports group – it may be alleged that the complainants have got together and made up their account.

“It could also be suggested that a complainant has invented an account after becoming aware in some way of the account of another complainant,” Ms Henning said.

“Currently, an allegation of concoction in Tasmania usually means that complainants are required to give evidence on several occasions.

“There is a preliminary hearing where the complainant gives evidence before a judge, who makes a ruling on whether there is a likelihood of concoction. If the matter proceeds to trial, the complaint then gives evidence again at trial.

“Having to give evidence on several occasions raises serious concerns about the impact of the trial process on the complainant.”

In 2009, the Institute released an Issues Paper asking for public comment. Numerous submissions were received that all supported changing the current law.

Ms Henning said that the Institute agreed that the law should be changed.

The report recommends that questions of concoction should not be determined by a judge in a preliminary hearing but should be determined by the jury at the trial.

This allows the jury as fact-finder to determine whether the complainants have concocted their accounts and provides the jury with a more complete picture of the circumstances of the offence.

She said this change aims to strike a more appropriate balance between the competing interests of the community: that the accused receive a fair trial and that complainants are protected from unnecessary trauma.

Final report No 16 details: *Evidence Act 2001 sections 97, 98 & 101 and Hoch's case: Admissibility of 'tendency' and 'coincidence' evidence in sexual assault cases with multiple complaints*, can be downloaded from www.law.utas.edu.au/reform/

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