

# JUDICIAL OFFICERS' BULLETIN

Published by the Judicial Commission of NSW

March 2022 | Volume 34 | No 2

## Research on sexual assault to inform the courts and legal professionals

Professor Judy Cashmore AO \* and Professor Rita Shackel †

This article provides an overview of research included in the Judicial Commission's recently updated *Sexual Assault Trials Handbook*. The Handbook aims to inform the courts, legal professionals and others about a range of issues that influence how sexual abuse and sexual assault are perceived and dealt with in the prosecution process, based on recent peer-reviewed research that can provide valuable insights or guidance.

### Introduction

It is a truism that sexual assault matters, involving child or adult complainants, are some of the most difficult crimes to investigate and prosecute. These cases involve offences that are often committed in secrecy and without witnesses. The main evidence, and in many cases the only evidence, is the complainant's account of events. Most victims of sexual offences know the perpetrator, many will not disclose their assault or seek assistance or support, and if they do, this will often take months, years or even longer.<sup>1</sup> Most sexual assault victims do not officially report their victimisation to police,<sup>2</sup> and only a low proportion of such reports result in prosecution and conviction.<sup>3</sup> Victims of sexual assault often experience complex trauma and a myriad of short- and long-term effects and sequelae that may influence how they respond to such victimisation and their needs as participants in legal processes.<sup>4</sup>

Understanding and perceptions of adult and child sexual assault have changed markedly over the last few decades. To some extent this is based on increasing knowledge and research about the nature, dynamics and characteristics of sexual assault offending and the lived experience of victims, and the way in which the criminal justice system deals with victims and the experiences and difficulties for complainants reporting and testifying in these matters.<sup>5</sup>

While some attitudes persist that are not well aligned with the empirical evidence, there have been significant strides in assumptions about children's evidence, for example, among legal professionals over the last few decades. In 1990, Cambridge legal scholar John Spencer and psychologist Rhona Flin cited Heydon's "neat summary of the specific reasons which were [then] often adduced to justify legal suspicion of children's testimony":<sup>6</sup>

First, a child's powers of observation and memory are less reliable than an adult's. Secondly, children are prone to live in a make-believe world, so that they magnify incidents which happen to them or invent them completely.



## FEATURES

Research on sexual assault to inform the courts and legal professionals

Professor Judy Cashmore  
AO and Professor Rita Shackel . 15

The Honourable TF  
Bathurst AC, Chief Justice  
of NSW, retires ..... 21

Ms Cheryl Condon,  
Executive Assistant,  
Judicial Commission,  
retires ..... 21

Retirement of Mr Ernest  
Schmatt AM PSM ..... 22

## REGULARS

Case updates ..... 23

Judicial moves ..... 26

Thirdly, they are also very egocentric, so that details seemingly unrelated to their own world are quickly forgotten by them. Fourthly, because of their immaturity they are very suggestible and can easily be influenced by adults and other children. One lying child may influence others to lie; anxious parents may take a child through a story again and again so that it becomes drilled in untruths. Most dangerously, a policeman taking a statement from a child may without ill will use leading questions so that the child tends to confuse what actually happened with the answer suggested implicitly by the question. A fifth danger is that children often have little notion of the duty to speak the truth, and they may fail to realise how important their evidence is in a case and how important it is for it to be accurate. Finally, children sometimes behave in a way evil beyond their years. They may consent to sexual offences against themselves and then deny consent. They may completely invent sexual offences. Some children know that the adult world regards such matters in a serious and peculiar way, and they enjoy investigating this mystery or revenging themselves by making false accusations.

A number of these statements and assumptions are inconsistent with the findings of empirical research and also with more recent legislative developments, particularly in relation to children's consent to sexual offences against them.<sup>7</sup> The tide has also turned against other misconceptions, and the view that children "behave in a way evil beyond their years" is unlikely to be accepted or even expressed now. Spencer and Flin systematically challenged and articulated the arguments and evidence against each of these statements in their book, several decades ago.<sup>8</sup>

However, in other ways, attitudes and understandings of sexual assault have not changed as much as might be expected, particularly in relation to attitudes about sexual assault of women and a lack of recognition of sexual assaults counter to gender stereotypes, such as child sexual abuse perpetrated by women, and the sexual assault of men and boys.<sup>9</sup> There is also inadequate understanding of sexual assault of LGBTQIA+ individuals.<sup>10</sup> The National Community Attitudes towards Violence against Women Survey (NCAS) in 2017, for example, explored the knowledge and attitudes of a large representative sample of Australians aged 16 and over towards different forms of sexual assault.<sup>11</sup> While there were some positive changes in attitudes, more in relation to domestic violence, "some negative attitudes around sexual assault against women persist" in the general population, likely reflecting the views of some potential and actual jurors, such as:<sup>12</sup>

- 2 in 5 (43%) agreed that "it was common for sexual assault accusations to be used as a way of getting back at men" (p 86)
- 1 in 3 (31%) agreed that "a lot of times, women who say they were raped had led the man on and then had regrets" — 38% in 2013 (p 7)

- 1 in 3 (33%) believed that "rape resulted from men not being able to control their need for sex" — 35% in 2009 and 43% in 2013 (p 7)
- 1 in 9 (11%) believed that "women who wait weeks or months to report sexual assault are probably lying" (p 84)
- 1 in 6 (16%) believe that many allegations of sexual assault made by women are false (contrary to research showing that such claims are rare) (p 8).

As Royal Commissioner Justice Peter McClellan noted in 2016, the suspicious treatment of the evidence of children and various assumptions about the way that victims of sexual offences report the incidents have "turned out, with the benefit of empirical research, to be erroneous".<sup>13</sup> For example, it is clear from a substantial body of research that it is common, contrary to the assumptions in various judgments, for a child or adult complainant of sexual assault to delay telling anyone about the incident/s or to delay reporting it to police for weeks, months, years or even decades. As Spigelman CJ commented<sup>14</sup> in relation to the observations of High Court judges, Deane J and McHugh J in *Longman v The Queen*:<sup>15</sup>

Their Honour's observations are based on assumptions about child psychology which are widely held but which are not necessarily well founded. Many judges share a conventional wisdom about human behaviour, which may represent the limitations of their background. This has been shown to be so in sexual assault cases (See *R v Johnston* (1998) 45 NSWLR 362 at 367–368).

Legislative intervention was required to overcome the tendency of male judges to treat sexual assault complainants as prone to be unreliable. The observations of Deane J and McHugh J in *Longman* reflect a similar legal tradition that treated children as unreliable witnesses. In the past both categories of witnesses required corroboration.

Despite this and similar more progressive judgments<sup>16</sup> and some positive changes to the *Evidence Act* 1995 to limit assumptions about the unreliability of children's evidence<sup>17</sup> and the credibility of sexual assault complainants, changing attitudes and legal approaches takes time and needs to be based on legal scholarship and solid research evidence. This is where judicial and legal professional education is so important, taking up the point that what is regarded as within "common knowledge" may in fact not be so common and perhaps not well understood both within the legal profession and broader society.<sup>18</sup> An accurate understanding of the nature of sexual assault, its potential impacts and victim-complainant responses, is important to ground and inform relevant legislative reform, legal processes and decision-making at every stage in sexual assault matters. This includes managing trial processes and the questioning of complainants, in line with s 41 of the *Evidence Act* 1995. Understanding the trauma experienced by victims of sexual assault is key to providing appropriate support to complainants in the

legal process so that they are able to provide the best quality evidence possible without undue stress, re-traumatisation or re-victimisation.<sup>19</sup>

To this end, the Child Sexual Offence Evidence Program in NSW has introduced two key initiatives — pre-recording the whole of children’s evidence and witness intermediaries to assess and assist child and vulnerable witnesses’ accurate communication with the police and the courts.<sup>20</sup>

## The updated Sexual Assault Trials Handbook

The Judicial Commission’s updated *Sexual Assault Trials Handbook* (Handbook) provides a substantial resource for judicial officers, legal professionals and others involved in the criminal prosecution of sexual offences against children and adults. The Handbook aims to inform about a range of issues that influence how sexual abuse and sexual assault are perceived and dealt with in the prosecution process, based on recent peer-reviewed research and other articles that continue to provide valuable insights or guidance.

In recent years, significant case law and legislative developments have had an impact on the investigation and trial process in sexual assault matters. The Royal Commission into Institutional Responses to Child Sexual Abuse (Royal Commission) provided a rich trove of research, case studies and a review of the criminal justice response to child sexual abuse. A number of the issues of concern and the recommendations also apply more generally to adult sexual assaults.

The resources included in the updated Handbook were selected following an assessment of the relevance and rigour of recent research.<sup>21</sup> These include peer-reviewed journal articles reporting research on the key legal and non-legal issues as well as reports and other research from the Royal Commission’s work. The extracts were compiled under the supervision of legal academics and Judicial Commission staff.

The resources are contained in two broad categories: Legal and Non-legal, and within each, under sub-headings. The abstracts provide a quick outline of the content, and links to the full text are provided where available.

### Legal articles

The legal materials included in the Handbook focus on three key aspects of sexual assault trials — evidentiary matters, the judicial role and procedural considerations.

Since there is commonly little or no corroborative evidence to support sexual assault allegations, the prosecution of such offences often gives rise to complex evidentiary considerations and arguments at trial particularly regarding the complainant’s credibility and character. The veracity of the complainant and the accused and their account of events are usually pitted against each other. The section dealing with evidence in the Handbook at [7-000]–[7-495] focuses

heavily on recent scholarship addressing the use and admissibility of tendency and coincidence evidence, particularly in child sexual assault matters. Tendency and coincidence evidence are well recognised as “among the more complicated and controversial areas of evidence law in criminal cases”<sup>22</sup> and have evolved significantly in recent times.<sup>23</sup> Some articles on the use of expert psychological evidence and expert evidence to counteract jury misconceptions in child sexual assault trials are also included in this section.<sup>24</sup>

The use and admissibility of expert psychological and counterintuitive evidence in sexual assault cases continues to be highly contested in NSW and other jurisdictions. This section of the Handbook also includes key articles to assist in understanding the role of witness intermediaries in sexual assault matters. Witness intermediaries play a key role in assisting the police, lawyers and the court to communicate in the best ways possible with child complainants and vulnerable witnesses. The use of witness intermediaries in child sexual assault matters has overwhelmingly been viewed as a positive development in NSW.<sup>25</sup>

The role of judicial officers in sexual assault trials is explored at [7-160]–[7-220] of the Handbook. The articles in this section include an article by his Honour Judge Ellis on judicial activism in child sexual assault cases, which argues “that appropriate judicial activism is a positive thing. Trial judges should be more hands-on in their approach to child sexual assault cases in pre-trial management and trial process”.<sup>26</sup> This connects with some of the other articles in this section on judicial directions and intervention in sexual assault trials including the duty of the court in relation to improper questions.<sup>27</sup> Although judicial directions in sexual assault trials have been streamlined, this continues to be a complex and challenging area for judges. The articles highlight the fundamental responsibility of judges in sexual assault trials to ensure “that all witnesses are treated equally and to create a movement away from the tacit acceptance of improper behaviours [and arguably improper assumptions] that cut across fundamental fair-trial principles”.<sup>28</sup> This goes to the heart of judicial impartiality and the role of judges in ensuring that through directions, interventions and judicial decision-making “the specific requirements of justice” are met in every case.<sup>29</sup>

The Handbook also includes a section on procedural considerations in sexual assault matters at [7-240]–[7-320], with a focus on current legislative requirements, practical problems and recent reforms related to the use of technology and special measures for the giving of evidence by complainants in sexual assault trials including, the use of CCTV, pre-recorded evidence and witness intermediaries. The articles included consider the benefits and challenges of recent procedural reforms in sexual assault trials highlighting the delicate balance that needs to be struck between complainant needs, court imperatives and the right of the accused so as to ensure that justice is done and seen to be done in such matters.

Some suggestions for further general reading at [7-495] are also included that discuss the role of evidence more generally in criminal trials including some epistemic considerations.

Many of the legal articles included in the Handbook highlight the many changes introduced over the last decade in the conduct and management of sexual assault trials, and the importance of maintaining ongoing high quality academic and empirically informed judicial and legal professional development in order to ensure efficiency and just outcomes in such matters.

### Non-legal articles

The focus in the non-legal section of the Handbook is currently more on child sexual abuse and related criminal proceedings than on sexual offending against adults, but many of the same considerations — about delayed reporting, the nature of memory, the impacts of trauma and the challenges of providing evidence and testifying in proceedings, jury reasoning and common assumptions about complainants — pertain. It is important to acknowledge that the nature, circumstances of, impacts and responses by adults and children to different types of sexual offences may vary. In particular, it is important to be aware of cultural differences; several articles specifically address violence against Aboriginal and Torres Strait Islander women and children.<sup>30</sup>

The non-legal resources include research and peer-reviewed articles that highlight the short-term and longer-term impacts of child sexual abuse, the ways in which children may disclose sexual abuse, the factors that “prevent, prompt and delay disclosures”<sup>31</sup> and the ways in which children are interviewed by police and in cross-examination. A collection of articles focuses on various evidentiary issues including medical examinations and how to cross-examine forensic scientists.

Understanding the ways in which victim-complainants may react to child sexual abuse and sexual assaults is key to a fair process which is respectful to complainants, and able to elicit reliable evidence while providing due process to those accused of these offences. So, also, is an understanding of how memory works and how police, legal professionals and jurors think memory works.

### Memory research

Important new research by Jane Goodman-Delahunty and colleagues, Mark Nolan and Evianne Van Gijn-Grosvenor for the Royal Commission is “particularly relevant for police officers, legal practitioners, judges and juries who must assess child sexual abuse victims’ memory capabilities and the reliability of their memories”.<sup>32</sup> This research draws on the findings of more than 650 recent empirical studies, reviewed by 23 Australian and New Zealand academics and clinical practitioners with expertise in this area. It addresses 10 issues raised by the Royal Commission

“where legal expectations seemed at odds with victims’ memory capabilities”,<sup>33</sup> including: common misconceptions about memory; victims’ ability to provide details and core memories of events; the reliability of child victims’ memory; suggestibility and false memories; the impact of delay on memory recall; memory for traumatic events and persistent sexual abuse offences; and children’s memory during cross-examination. The research “summarises what victims can be expected to remember about experiences of child sexual abuse, how they can be assisted to optimally remember those experiences, and how these experiences affect their reporting to police and their evidence in legal proceedings”.<sup>34</sup>

Several new articles in the Handbook also discuss child sexual abuse perpetrators whose offending has been under-recognised: juvenile offenders (at [7-3000]ff) female offenders, including the intersection between them, and juvenile female offenders.

### Peer-to-peer offending

The Royal Commission found that juvenile sexual offending by children over the age of criminal responsibility and sexually harmful behaviours by younger children are more common than expected, particularly in institutions (such as schools). Volume 10 of the Royal Commission’s Final Report provides useful contextual background about the nature and extent of these behaviours and the factors that may contribute to children sexually abusing other children.<sup>35</sup> Several new articles in the Handbook also provide some context about children who engage in sexually abusive behaviours and juvenile sex offenders.<sup>36</sup>

### Female offenders

As McIvor pointed out, “women and girls make up a small proportion of convicted sex offenders, although victimization studies suggest higher levels of female involvement in abuse”, often with a male partner.<sup>37</sup> As with other types of sexual offending, the level of unreported victimisation is unknown but “professionals often fail to recognize or underplay the harm occasioned by female sexual abuse, yet victims experience long-lasting effects”<sup>38</sup> with female perpetrators receiving shorter sentences.<sup>39</sup>

### Online exploitation

A new section at [7-4000]ff includes several peer-reviewed articles and chapters which deal with online sexual exploitation, an exploding area of offending which includes grooming a child for sexual purposes and accessing, possessing, producing or sharing child exploitation material.<sup>40</sup> The study by Leclerc and colleagues at the Australian Institute of Criminology provides important insights, using “crime script analysis to reconstruct step-by-step how offenders operate on the darknet”.<sup>41</sup> Increasing penalties for child abuse material offences and online sexual exploitation of children reflects growing recognition of the harm caused by these offences.

## Royal Commission into Institutional Responses to Child Sexual Abuse

A section of the Handbook at [8-000]ff deals with the Royal Commission. It includes the *Criminal Justice Report* as well as several research reports on jury reasoning, the effects of child sexual abuse on memory and complainants' evidence, the impact of delayed reporting on the prosecution of child sexual abuse, and the impact of child sexual abuse, as per the *Bugmy Bar Book*.<sup>42</sup> This section provides important perspectives that are particularly useful in understanding the unique challenges in investigation and prosecution of historical child sex offences.<sup>43</sup>

### Other online references and resources

The Handbook also provides a collection of resources including information about the sexual assault communications privilege at [9-000]ff; general directions in sexual assault trials at [10-500], and relevant District Court Criminal Practice Notes.

The Handbook is an online resource which also provides easy and accessible reference to sexual offences involving child victims and other sexual offences, as below:

- **Table 1** at [1-000] contains both current and historic NSW and Commonwealth sexual offences which refer specifically to children including information about the period of operation of each offence and the maximum penalties for offences where the offences are dealt with on indictment according to law.
- **Table 2** at [1-010] contains current sexual offences in the *Crimes Act 1900* other than those which specifically refer to children. It sets out the maximum penalties (on indictment) for each of these offences and specifies those which attract a SNPP. It also specifies whether offences are "prescribed sexual offences" and/or "serious children's indictable offences".

Both Tables 1 and 2 also provide links to Judicial Commission resources including recent law, cases, research, statistics and the *Criminal Trial Courts Bench Book* and *Sentencing Bench Book*.

**Recent sexual assault law (on JIRS) at [6-000]** includes condensed summaries with links available on JIRS (further filtered for relevance to sexual assault trials) and are presented in relation to evidence, sentencing, procedure, directions, offences and appeals and other headings. The links take the reader from the condensed description to full text cases/legislation.

## Conclusion

The updated *Sexual Assault Trials Handbook* is a rich resource for judicial officers and legal professionals covering evidentiary issues, the judicial role, procedural considerations, comprehensive and linked Tables of

current and historic sexual offences, relevant District Court Practice Notes, and summaries of recent sexual assault cases and legislative developments.

Suggestions for additions or amendments to the Handbook are welcome and may be emailed to [handbook@judcom.nsw.gov.au](mailto:handbook@judcom.nsw.gov.au).

## Endnotes

- \* Professor of Socio-legal Research and Policy, University of Sydney and an appointed member of the Judicial Commission.
- † Professor of Law and Ethics, Sydney Law School, University of Sydney. The authors acknowledge and appreciate the assistance of research assistant Laura Metcalfe, and colleagues, Professor Jane Goodman-Delahunty, University of Newcastle Law School and Professor David Hamer, Professor of Evidence Law, University of Sydney Law School.
- 1 R McElvaney, "Disclosure of child sexual abuse: delays, non-disclosure and partial disclosure. What the research tells us and implications for practice" (2015) 24 *Child Abuse Review* 159; *Sexual Assault Trials Handbook* (Handbook) at [7-620].
- 2 Australian Institute of Health and Welfare (AIHW), *Sexual assault in Australia*, Report, 2020, accessed 9/3/2021.
- 3 *ibid*; J Cashmore, A Taylor and P Parkinson, "Fourteen-year trends in the criminal justice response to child sexual abuse reports in New South Wales" (2020) 25 *Child Maltreatment* 85; Handbook at [7-860].
- 4 J Cashmore and R Shackel, "The long-term effects of child sexual abuse" CFCA Paper No 11, Australian Institute of Family Studies, 2013; Handbook at [7-500]; R Shackel, "How child victims respond to perpetrators of sexual abuse" (2009) 16 (supp 1) *Psychiatry, Psychology and Law*, S63; Handbook at [7-540]; E Werner, "Avoiding the second assault: a guidebook for trauma-informed prosecutors" (2021) 25 *Lewis & Clark Law Review* 573; Handbook at [7-2110].
- 5 See for example, S McMahon and K Baker, "Changing perceptions of sexual violence over time", VAWnet, October 2011, accessed 9/3/2022; Australian Psychological Society, "Child sexual abuse", accessed 9/3/2022; Royal Commission into Institutional Responses to Child Sexual Abuse (Royal Commission), *Final Report*, 2017, accessed 9/3/2022; Handbook at [8-000].
- 6 J Heydon, *Evidence: Cases and Materials*, 2nd edn, Butterworths, 1984, p 84.
- 7 H Boxall and G Fuller, *Brief review of contemporary sexual offence and child sexual abuse legislation in Australia: 2015 update*, AIC Special Report, 2016, accessed 9/3/2022.
- 8 J Spencer and R Flin, *The evidence of children: the law and the psychology*, 2nd edn, Blackstone Press, 1993.
- 9 K Duncanson, "Community beliefs and misconceptions about male sexual assault", Australian Centre for the Study of Sexual Abuse Resource Sheet, 2013, accessed 9/3/2022 ; J Turchik and K Edwards, "Myths about male rape: a literature review" (2012) 13 *Psychology of Men & Masculinities* 211.
- 10 A Messinger and S Koon-Magnin, "Sexual violence in LGBTQ communities", in W O'Donohue and P Schewe (eds) *Handbook of sexual assault and sexual assault prevention*, Springer, 2019, p 661; M Campo and S Tayton, "Intimate partner violence in lesbian, gay, bisexual, trans, intersex and queer communities: key issues", CFCA Practitioner Resource, 2015, accessed 9/3/2022.
- 11 K Webster et al, *Australians' attitudes to violence against women and gender equality: Findings from the 2017 National community attitudes towards violence against women survey (NCAS)*, ANROWS Research report, 2018, accessed 9/3/2022.

- 12 *ibid*.
- 13 P McClellan, Speech to 14th Australasian Conference on Child Abuse and Neglect, 31 March 2015, Auckland.
- 14 in *JJB v R* [2006] NSWCCA 126 at [2]–[8] in relation to “the extended *Longman* [*Longman v The Queen* (1989) 168 CLR 79] direction”.
- 15 *ibid* at [3]–[4]. These observations concerned the unreliability of a complainant’s evidence in sexual cases, especially in relation to the “possibility of child fantasy about sexual matters” and “the passage of time between alleged offence and the recounting of it”.
- 16 See for example, *AL v R* [2017] NSWCCA 34.
- 17 Section 165A(1) of the *Evidence Act* 1995 states that a judge in any proceeding in which evidence is given by a child before a jury must not “(a) warn the jury, or suggest to the jury, that children as a class are unreliable witnesses” or that their evidence is “(b) inherently less credible or reliable, or requires more careful scrutiny, than the evidence of adults” nor (c) give a warning, or suggestion to the jury, about the unreliability of the evidence “solely on account of the age of the child” or “(d) give a general warning to the jury of the danger of convicting on the uncorroborated evidence of a witness who is a child”.
- 18 See Spigelman CJ, above n 14, at [3]. See also K Burns, “Judges, ‘common sense’ and judicial cognition” (2016) 25(3) *Griffith Law Review* at 319–351. In their analysis of the use of judicial notice and the role of extra-legal knowledge, legal scholars David Hamer and Gary Edmond in “Judicial notice: beyond adversarialism and into the exogenous zone” (2016) 25(3) *Griffith Law Review* at 291 also commented that: “It is necessary to ensure judges’ implicit or explicit empirical claims have a more solid basis than their untested subjective ‘common sense’, and ‘that judges ... do not simply engage in the ad hoc cherry-picking of facts out of amicus briefs, their bedtime reading, or their nightly news program.’”
- 19 E Werner, “Avoiding the second assault: a guidebook for trauma-informed prosecutors”, above n 4.
- 20 J Cashmore and R Shackel, *Evaluation of the child sexual offence evidence pilot*, Final Outcome Evaluation Report, Victims Services, NSW Department of Justice; Handbook at [7-320]. The program is currently available only in Sydney and Newcastle for child complainants in sexual offence matters.
- 21 The initial work of reviewing and compiling the articles in the Handbook was carried out with the assistance of a senior Sydney Law School student and Institute of Criminology intern, Laura Metcalfe.
- 22 T Gartelmann, “Tendency, coincidence and joint trials”, paper presented to Public Defenders Conference, 17 March 2018, Sydney; Handbook at [7-010]; P Mizzi and R A Hulme, “Reforming the admissibility of tendency and coincidence evidence in criminal trials” (2020) 32 *JOB* 113; Handbook at [7-000].
- 23 S Bouveng, “*Bauer and McPhillamy — update on admissibility and use of tendency evidence in child sexual assault matters*”, paper presented to Public Defenders Conference, 16 March 2019, Sydney; Handbook at [7-020].
- 24 Handbook at [7-000]–[7-145].
- 25 See Cashmore and Shackel, above n 20.
- 26 R Ellis, “Judicial activism in child sexual assault cases”, paper presented to National Judicial College of Australia, Children and the Courts Conference, 5 November 2005, Sydney; Handbook at [7-160].
- 27 L Babb, “What does s 41 of the *Evidence Act* mean to you as a judicial officer?”, paper presented to Judicial Commission of NSW, Twilight Seminar, “Child sexual assault”, 28 September 2005, Sydney, under the original title “What does s 275A of the *Criminal Procedure Act* mean to you as a judicial officer?”, at [41]; Handbook at [7-200].
- 28 *ibid* at [41].
- 29 B Neild, “Jury directions in sexual assault trials: *Murray/Ewen*, significant forensic disadvantage and delay in complaint”, paper presented to Public Defenders Criminal Law Conference, 18 March 2017, Sydney; Handbook at [7-180].
- 30 At [7-2500] a Report titled “Aboriginal and Torres Strait Islander children’s and child sexual abuse in institutional contexts”, examines the question of Aboriginal and Torres Strait Islander children’s past and contemporary vulnerability to child sexual abuse in institutional contexts. At [7-9500] Further reading, an article by M Guggisberg, “Aboriginal women’s experiences with intimate partner sexual violence and the dangerous lives they live as a result of victimization” (2019) 28(2) *Journal of Aggression, Maltreatment and Trauma* 186.
- 31 N Kellogg et al, “Factors that prevent, prompt, and delay disclosures in female victims of child sexual abuse” (2020) 101 *Child Abuse and Neglect* e104360; Handbook at [7-640].
- 32 J Goodman-Delahunty et al, *Empirical guidance on the effects of child sexual abuse on memory and complainants’ evidence*, Report for the Royal Commission into Institutional Responses to Child Sexual Abuse, 2017; Handbook at [8-500].
- 33 *ibid* p 1.
- 34 *ibid* p 5.
- 35 See Royal Commission into Institutional Responses to Child Sexual Abuse, *Children with harmful sexual behaviours*, Final Report, Vol 10, 2017; Handbook at [7-3100].
- 36 R Blackley and L Bartels, “Sentencing and treatment of juvenile sex offenders in Australia” (2018) 555 *Trends & issues in crime and criminal justice*; Handbook at [7-880]; C Bijleveld et al, “The juvenile sex offender: criminal careers and recidivism risk” in T Sanders (ed) *The Oxford Handbook of sex offences and sex offenders*, OUP, 2017, p 220.
- 37 G McIvor, “Female sex offenders” in T Sanders (ed) *The Oxford Handbook of sex offences and sex offenders*, OUP, 2017, p 199.
- 38 *ibid*.
- 39 C Weinsheimer et al, “The unusual suspects: female versus male accused in child sexual abuse cases” (2017) 72 *Child Abuse and Neglect* 446; A Darling and L Christensen, “Female child sex offenders”, in I Bryce and W Petherick, *Child sexual abuse: forensic issues in evidence, impact and management*, Academic Press, Elsevier, 2020, p 119.
- 40 T Krone and R Smith, “Trajectories in online child sexual exploitation offending in Australia” (2017) 524 *Trends & Issues in Crime and Criminal Justice*; Handbook at [7-400].
- 41 B Leclerc et al, “Child sexual abuse material on the darknet: a script analysis of how offenders operate”, (2021) 627 *Trends & Issues in Crime and Criminal Justice*; Handbook at [7-4100].
- 42 See discussion by N Cowdery et al, “Sentencing and disadvantage: the use of research to inform the court” (2020) 32 *JOB* 43.
- 43 K Shead, “Responding to historical child sexual abuse: a prosecution perspective on current challenges and future directions” (2014) 26 *Current Issues in Criminal Justice* 55; D Connolly et al, “Twenty-six years prosecuting historic child sexual abuse cases: has anything changed?” (2017) 23 *Psychology, Public Policy, and Law* 166.