

Better Get A Lawyer, Son' - Justice Part 1

Child sexual abuse is a crime. What does criminal justice and punishment look like in the legal system? What is it like for survivors - or in this context, "victims" - to pursue criminal justice for the sexual crimes perpetrated against them?

The findings of the Royal Commission's public hearing into the Criminal Justice System revealed confronting and problematic issues for survivors in accessing justice. Sometimes a personal sense of crime and punishment just doesn't line up with the complexities, biases and pitfalls of the criminal legal system, leaving both victims and the public with the sickening impression that perpetrators "get away with it". The necessity for changes to both reporting and prosecution which better serve the victims has now been acknowledged; we'll hear from survivors and advocates about the way forward, and what needs to change.

Featuring (in order of appearance): Jarad G, Mark C, Craig Hughes-Cashmore (SAMSN MD/CEO), Dr Judy Cashmore, Adam, Professor Patrick O'Leary, Professor Rita Shackel, Commissioner Robert Fitzgerald AM.

SPEAKER	CONTENT
Rob Carlton	Welcome to SAMSN's 'Stronger', a podcast series featuring stories of resilience from male survivors of childhood sexual abuse, and their allies. In some parts it <i>is</i> heavy going, so if you're not in the space to listen right now, switch to something lighter. But do come back. We learn a great deal about surviving and growing stronger than your past from survivors.
Felicity Blake	If what you hear stirs up strong feelings, know that you can contact SAMSN at samsn.org.au , or on 1800 472 676, or give Lifeline a call on 13 11 14.
Craig H-C	<p>I'm really passionate - as an advocate - about reform to the legal system. When I appeared at the Royal Commission, at the public hearing into the criminal justice system, I described it as not adversarial but conspiratorial, because what I know from my own experience, and now from witnessing many other survivors go through the legal system, is that the lawyers, the judge, everyone else (except perhaps the jury, of course), has a copy of a script which takes survivors down a particular path. The system isn't a level playing field, it favors alleged perpetrators. That's without a doubt.</p> <p>It's impossible for me to imagine what else I might do, to be honest, because this has enabled me to turn a litany of shit experiences into something so valuable and precious to me that I can hardly believe it, that I've had this opportunity to be a part of something so significant.</p>
Felicity Blake	You're listening to STRONGER, a podcast from SAMSN (Survivors and Mates Support Network). We're your hosts; I'm Felicity Blake...
Rob Carlton	...and I'm Rob Carlton. This is episode five: 'Better Get A Lawyer, Son', about the real-life experiences of male survivors of child sex abuse pursuing justice through the legal system.

Felicity Blake	Child sexual abuse is when an adult or an older adolescent uses a child for any sexual act, or imposes a sexual threat upon a child. It's a form of sexual violence, and it is a crime. But <i>this</i> isn't a "true crime" series, and it's not about the perpetrators of child sex abuse.
Rob Carlton	STRONGER shares the stories of survivors: the men, abused as young boys, who - with extraordinary courage and strength - are connecting with support, and recovering from their childhood trauma. Not only did they survive; they've found ways to thrive.
Felicity Blake	Many survivors who were sexually abused as children didn't know at the time that what was being done to them was wrong, and in fact a criminal act, until many years later. When they do understand that, some survivors seek recognition for what happened to them as part of a healing journey. This recognition can take the form of: acknowledgement of the abuse, seeking redress for harm caused, or pursuing justice through the legal system. Many take the legal route to try and ensure that similar abuse doesn't happen to other children.
Rob Carlton	<p>In episode 2 of this series, we explored the theme of disclosure, and why it takes over 25 years, on average, for male survivors to tell anybody that they've been sexually abused.</p> <p>When it comes to reporting this crime to the police, well, it can be hard for survivors to come forward, there, too.</p> <p>Over 80% of victims of sexual assault never report their experiences to the police; it's actually the most underreported crime against individuals. In this 2-part episode we'll touch on some of the reasons why, and look at what we - as a community - might be able to do to change that.</p>
Felicity Blake	We'll start with the story of one family... This is Mark Cashmore.
Mark C	<p>I'm the father of a survivor whose name is Craig. And Craig was born in 1967. And he was adopted at birth.</p> <p>It was a real shock. When Craig was born, I didn't know it was coming. I was totally surprised. I went to a very strict Catholic boarding school. And I felt, of course, appalled by my behavior. Luckily, Craig's mum's parents and my parents realized it wasn't going to work. And so while I was willing to do anything to set it right, we were convinced by our parents that the child should be adopted. And within two weeks, Craig was adopted to a family in Adelaide.</p> <p>I met Craig when he was 19. And in South Australia, the relevant government authority - Births, Deaths and Marriages, or whatever they call themselves - have a facility whereby if you're a natural parent, and your child is adopted, and you each individually, of course, want to meet the other, then you can write in.</p>

	<p>I mean, he was a lovely, lovely person, and my wife and I... we all got along like a house on fire.</p>
Felicity Blake	<p>What Mark and his wife Judy didn't yet know was that Craig had been sexually abused as a teen by three trusted figures: a family friend and work colleague of his adoptive father, one of his highschool teachers, and an academic.</p> <p>Decades after reconnecting with Mark and Judy, Craig was able to disclose the abuse that had happened to him.</p>
Mark C	<p>Craig reported the abuse to the police... I think it was in 2008. And he rang my wife and I, and told us what had happened. And we were very surprised, of course. And so that, that is, when we first knew he had been abused.</p> <p>It came as a surprise and a bit of a shock, obviously. And I did feel a certain degree of guilt, I guess, because of the circumstances of his birth, when I was 19. And obviously, it wasn't planned. And he was adopted out. I felt a bit of guilt, of course, because of the circumstances that I hadn't been there for him over all those years.</p> <p>But fast forwarding 19 years and meeting him, being in court with him and helping him, and in a sense, expunging the sin of my youth. Maybe I don't want to be too metaphorical. But anyway, no, it was a very marvelous way of closing the loop, closing the circle, making it all worthwhile.</p>
Felicity Blake	<p>This is Craig:</p>
Craig H-C	<p>Ten years or so ago, now, I went to the police and reported my three perpetrators. Two of those ended up in in charges and ultimately, two cases, two trials. And my experience, through that experience of the legal system, was such that I walked away thinking there's a lot of room for improvement, to put it mildly. I felt really battered and bruised through that experience and still do. And it's still hard to talk about it. I have to say it's easier now it's been ten years or so. But certainly, it was incredibly traumatising and it has taken me years to recover from that experience.</p> <p>As it turned out, my two trials were scheduled a month apart. The first trial was my first time in court, I had no knowledge of the legal system. I was terrified. I felt very alone, very isolated, very exposed, and vulnerable. All of those things mirror the experience and the dynamics of childhood sexual abuse, right? So it was really challenging, and I felt as though I didn't really have any support. I didn't feel like anyone had my back. And when I was in that courtroom, facing a jury of 12, the judge, the court personnel, the lawyers, etc. And in particular, of course, being cross-examined, and being told that I was a liar, being shouted at repeatedly, being denigrated.</p> <p>My... my whole history, which includes prostitution, and drug addiction, and so on, were brought up. And so I was humiliated. Actually, I felt incredibly... it was the most humiliating experience of my life.</p>

Mark C	They've been at it for a long time, they knew exactly how to exploit the sense of shame and the exhaustion that comes with someone going to a court by that and having to front up and having the courage to do that. And to expose themselves. Craig knew that I knew what he was going through, and that I felt he was extremely strong. In fact, I think I called him a warrior.
Craig H-C	And, and not surprisingly, I didn't... that guy was found not guilty by the jury, who I never blamed because they didn't hear my story, they didn't get the context around the story, because really, I fell victim to the tactics and strategies that defense lawyers use in cases like these every day. I didn't know what to expect, I didn't really know what my rights were. My lawyer didn't interject. It was a terrible experience.
Mark C	The first one, the person was acquitted by a jury. That came as a hell of a surprise to Craig, and a shock to me. And that made him very angry, I think.
Craig H-C	But what I learned in between those two trials was that I actually had to virtually defend myself. I had to represent myself and I had to go to battle. And I got my hands on a book called 'Surviving the Legal System', which has been written by an amazing woman, Caroline Taylor. And in it she described those tactics and strategies that defense lawyers use. And I recognized instantly that that's what I had been through. And I was now a survivor of the legal system.
Felicity Blake	Mark flew to Adelaide to support Craig as he went through the court process.
Mark C	<p>Yes, I guess, the main thing, I think, that Craig required was me to be there for him, and to believe in him. And to keep reminding him that it wasn't his fault. That he had to realize he was loved by many people.</p> <p>The first case was a travesty. I mean, it was a poorly handled case by the prosecution. So I was able to talk to Craig about all that, and I guess, make it easier to handle the fact that that first case went the wrong way.</p> <p>Then there was a second case, followed on that, which was a very public case, there were television cameras outside the court, headline news in the local paper. And this was the judge only. And, Craig, I think, had learned a lot from the first case. I did too. I think, as a result of his first case, or what have you, he had felt a great sense of betrayal.</p>
Craig H-C	So when I went into my second trial, I was... I not only had the firsthand experience, but I had the knowledge that I could represent myself. I could ask the judge for a break, I could turn to the judge, when the defense lawyer cut me off, and ask that I be allowed to finish answering the question. Things like that.
Felicity Blake	In addition to Mark, Craig's adoptive mother and his Aunt and Uncle also attended to provide support.

Craig H-C	<p>A big one was having people in court to support me during my second trial. My first trial, I really didn't want anyone in court, I just felt too embarrassed. And I didn't want anyone to hear the details of the abuse.</p> <p>On my second trial, I thought, yeah. You know, I'd come to understand that it would be important for me to have people in there, not just personally, but also to show the court that there were people that loved and supported me and believed me. And so they were there. And that made a huge difference. And little things like just having my iPod with a playlist of music. That kind of would help ground me during that whole process.</p> <p>So the result, personally, was incredibly different, but the outcome was different. And ironically, my second perpetrator was found guilty.</p>
Mark C	<p>I've been encouraging as I can be, of course, but one doesn't know how effective that is. That I can stand back and look at the relationship between Judy and Craig and see that relationship, developing and manifestly changing Craig and giving him more confidence.</p> <p>We're the best of mates, I think. And it's serendipitous that she and Craig, number one, get along so well. And number two, she happens to be an expert in this very field!</p>
Judy C	<p>I'm Judy Cashmore. I'm a developmental psychologist working at the law school at Sydney University since 2004, doing research. But I've done research for a long time, actually since 1985, on child witnesses, and did the evaluation of the use of closed circuit TV for child witnesses in the ACT, the first time it was used in Australia. And coincidentally, I'm also Craig's stepmother, and have known him since about the same time, he was 19 when he came into our lives, and met him when our daughter, just at the time our daughter was born. I've known him since 1986. And it's been wonderful to have him in our lives and as a son that I didn't know beforehand, although, of course, I knew of his existence. He was adopted earlier in life.</p> <p>I remember clearly the day that I spoke with Craig, after he had come out of Goulburn police station, I was really concerned about why that was and what was happening. And his comment was, "I have decided to take control of my life". And that was the beginning of a really long process and a very difficult one.</p> <p>A number of the problems with the criminal justice system were really evident in the way in which his trials were conducted. But it was typical of some of the issues that the victim often goes into it feeling very unprepared, that it's not an equal playing field. That the questions are asked in courts and so on, in a very intimidating style, not so much with child witnesses now, because we've got a lot more special measures in place. And also, I think defense lawyers and judicial officers now take a very different view of challenging, accusatory type questioning of children, because that doesn't go down well with the jury. But it doesn't play out quite the same way with adult survivors, when they go, go to court. But at the same</p>

	<p>time, it can trigger the same sorts of feelings that they had when they were children, so that they can almost revert to their feelings of what it was like to be a child at that age. And when we haven't done very well, yet as a, in terms of the criminal justice system, in really understanding and taking account of that, because a number of these special measures are not available to adult sexual assault survivors, and I mean, those who were sexually assaulted as children, and also those who were sexually assaulted as adults. That it's still a very formal and intimidatory court environment, the only people who really feel comfortable in courts, I think, are judicial offices and lawyers: it's their space. It's their language. And the attacks on credibility and reliability can be very hard for a witness to deal with. Those, no, it can't have happened that way. Or why didn't you tell anyone? You didn't tell anyone for such a long time, that means it can't have really happened. Why didn't you tell? All of those sorts of issues. Are you only telling now because you want to get some victim compensation money out of it, which is a really, you know, troubling way for it to be placed, because the sort of things that the challenges that somebody comes forward to report this have to deal with a no way compensated by what might be some compensation money, and it's not not enough to compensate for all that they have to deal with. And then there are the rules of evidence that, you know, are very difficult for lay people to understand.</p> <p>I think there... the trial, or the book that Caroline Taylor produced, 'Surviving the Legal System', I know it was really helpful for Craig, because it spoke directly to the type of experience he had in the first trial. And I can talk to him on an academic basis and what I know from the research, it doesn't go to the actual experience of being there. And that's really a very personal one. And the way in which Craig dealt with it in the second trial was so different than in the first. He was much happier to have somebody in the courtroom to have Mark in, his father, in the courtroom with him at that stage. And he also was much more aware of how he could take control of the situation. And instead of being told, "Just a yes or no answer, that's all you're being asked to give", or being cut off by the defence when he hadn't finished what he wanted to say... He was able to turn to the judge, or address the judge and say, "I haven't finished what I wanted to say", and be able to finish his question. So he took control of some of the questioning. That sort of issue and that sort of control was really crucial. And it also made a difference to the outcome, and how he felt about it afterwards. Because the outcome of the first trial, which was a really poor experience, an appalling experience, in many ways, and it didn't bring credit on the particular prosecution, or the Crown Prosecutor in that case, I think, is a lesson for what we need to do in terms of making some differences.</p>
<p>Craig H-C</p>	<p>We really owe it to the survivors who choose to do that to improve the system, because I don't think it's okay to put people through a system that we know is going to be harrowing and traumatic when it doesn't necessarily need to be. That, to me just seems incredibly dishonest and unfair. And I don't think, you know, most survivors, like me have no understanding what it's really going to look like, what it's really going to be like. And we need to make that clear so that people make informed decisions about whether that's something they want to subject themselves to, because they don't have to. And they shouldn't feel obligated to do</p>

	<p>that. It's not survivors' responsibility to report offenders and get these bastards off the street. And certainly, putting them through a system that routinely retraumatizes and actually adds to people's trauma is just plain unjust, and negligent, I would suggest.</p>
<p>Rob Carlton</p>	<p>With her research partner, Professor Rita Shackel, Judy Cashmore has conducted research about the prosecution of child sexual abuse, and co-authored an important Australian research paper about the long-term effects of child sexual abuse.</p>
<p>Rita Shackel</p>	<p>My name is Rita Shackel, and I'm currently a professor of law and ethics at the University of Sydney Law School. I have just finished a term as a co-director of the Sydney Institute of Criminology, as well. My substantive area of research is sexual violence. And for over 20 years now, I have been working in this field with a particular focus on child sexual abuse and sexual violence, both contemporary and historical. And my work has extended to international spaces, as well as nationally. So I think in an Australian context, we're at, we're still, although these conversations have been going on for quite some time, we're still at the outset of those conversations, I think we need to have more of those conversations.</p> <p>The difficulty that we have with our criminal justice system, is that it is fundamentally adversarial and accusatorial in character, and that is always going to structurally place limits on the way these cases can be dealt with. We can do a lot of things to improve the way the criminal justice system responds. But ultimately, some of those core structural principles that underlie the system have to be addressed as well. And so I think that's why it is useful to think about other paradigms that might ultimately be more sensitive, more responsive, and offer victims and survivors the justice that they actually are looking for. And importantly, provide victims and survivors, a voice, a genuine voice. I'm not so sure that even if we change the criminal justice system that we can provide victims with with a voice in the way that victims and survivors are wanting to have their voice, simply because that's not what the criminal justice system has been set up to do. Sadly, and unfortunately.</p> <p>There's been a lot of discussion, particularly recently, on this very point and whether we're expending a lot of energy trying to fix a system that is not just broken, which which it clearly is, but inherently will fail, because of the way that it is structured, and because of some of the structural deficits of the system that do not allow the system to be sufficiently agile, and sensitive to the needs of victims and survivors. So there has, for example, been some discussion about, and in other jurisdictions moves, towards a different paradigm of delivering justice, which is more about restoration, rather than the type of justice that is currently able to be served through the criminal justice system.</p>
<p>Rob Carlton</p>	<p>Professor Patrick O'Leary is Co-Lead of the Disrupting Violence Research Beacon and Director of the Violence Research and Prevention Program at Griffith University. He's a social worker by profession, and has has focussed on gender-based violence and male survivors of child sexual abuse. His work has</p>

	<p>influenced international domestic violence and child protection policy and practice. He's also been Chair of SAMSN's Clinical Advisory Committee since 2014.</p>
Patrick O'Leary	<p>I think we need to understand the history of why child sexual abuse has been minimized by the legal system, and some of the fundamental structures and institutions in society. I'm going to give one example: we ran a comparison of how the church responded to other complaints about priests or other ways that priests would be dealt with if they were deemed to have engaged in misconduct.</p> <p>And so, first of all, we noted that, you know, lots of priests had numerous complaints against them from children directly, children's families, about sexual assault, and those priests were never taken to the police, often they were moved on, in many cases sent on a retreat of reflection and counseling. Sometimes overseas, sometimes almost seen as a reward, almost in the terms of the special time they were given. Comparatively, at the same time, we looked at, you know, at the know, the priests to undertake the vow of celibacy. And we compared some of the way the church responded when priests were found to breach their vows of celibacy in relation to a consensual adult sexual relationship with another woman or another man or another woman, and predominantly more often a woman, which is really interesting, I find. In those cases, whilst that was clear, you know, it's clearly not, you know, it's it's a, it was defined where there was a consensual relationship. So we're not talking about assault here. Those priests were asked to leave the priesthood. They were punished, they lost their rights, and were shamed and really suffered. At the same time, this is the same period, priests who were offending against children, criminal offenses, and let's not shy away from that, were sent away, sent for further development. So I think in that legal system, we've got that history of some of the fundamental institutions in our society, not seeing crimes, sexual crimes against children, as significantly serious, as significantly concerning. And I think we still are impacted by that.</p> <p>That's only one example I gave there. I think Catholic church there are many others in the legal system, where cases were dismissed. On the basis of it being a misunderstanding by the legal system, the police system. The legal system up until the 1980s. Many police forces, in Tasmania is one example, when a child sexual assault was reported, and people had a diagram of what to, to show the body, it was only ever represented as a female body. So essentially the law and police investigation by only having that sort as an assault that was against females against women. And that was very much enshrined in the idea, which is a sort of that patriarchal idea of women as property. So women were, sexual assaults against women originally, were largely geared in criminal law, because women were viewed as men's property. And I think that some of those residues of that legal system still embark on us now and and in terms of why the legal system is inadequate to deal with sexual offenses against children.</p> <p>This system is an old system that was influenced by faith institutions, male dominated institutions that positioned the truth telling, as not the position of the survivor, but the position of the law to decide what's right and wrong.</p>

	<p>But I think that it's really important when we talk about why the legal system's inadequate, is these things have continued to influence how we view the legitimacy of a complaint.</p> <p>I think the other position that we have is we saw in some very high profile cases, that it was up to the prosecution to prove the plausibility that this could have occurred. Yet, we put little onus on the perpetrator's plausibility of proving that it didn't occur, and the plausibility of how they could have got away with it. It's a huge power imbalance there. I remember one survivor recently telling me you know, like, if you're, if you're running in the marathon, to try and get a trial, it's like having a handicap of five or 10 K's, you've got five or 10 K's to catch up before you can even be on an equal footing.</p>
<p>Felicity Blake</p>	<p>Commissioner Robert Fitzgerald personally listened to the stories of more than 1,400 survivors who came forward to the Royal Commission for Institutional Responses to Child Sex Abuse. Some were disclosing their abuse for the first time, so many years later. Others had already sought justice through the legal system.</p>
<p>Robert Fitzgerald</p>	<p>So the criminal justice system has been adversarial, in its nature, a contest between the crown and the alleged perpetrator. But it's also been a system that I think has been adversarial to victims and survivors.</p> <p>There is no question for decades upon decades, that our law enforcement system, and particularly our judicial system acted against the interests of victims and survivors, men and women, and sexual abuse and sexual abuse within institutions. We've now only started to see real change in relation to that area. In a very common level, we're starting to see a huge number of investigations being undertaken by the police that would not have otherwise taken place. We're seeing that in relation to older perpetrators and historic crimes that would have otherwise gone, just left unattended. We are seeing changes in the laws around the sorts of evidence that can be adduced into some courts, we are starting to see public prosecutors change the way in which witnesses are actually interviewed by not only police, but also by prosecutors as part of the crimes, the actual case itself. And we are starting to see a better educated judiciary.</p> <p>The difficulty is however, the criminal justice process is brutal. It is a brutal process the way it is played out. And as a consequence of that, there's no doubt at all that, firstly, there is a sort of retraumatization that takes place with victims that come forward and are prepared to in fact be witnesses in these cases. The second thing is the chances of a conviction are no better than they were ten years ago. So there are more charges being laid, more matters are going to court. But the conviction rate for a contested case, that is where the person doesn't plead guilty, has not changed. And so you go through all of the pain and suffering associated with the rigors of a contested adversarial or criminal justice system, but without any greater prospect that there'll be a conviction. And that's why we need to be so praising and so supportive of the men and women that are doing it. Because the road is terrible. It is really difficult.</p>

	<p>Now, it is better than it was and it is improving in every aspect. But let's be very clear that the criminal justice system as practiced in Australia, is brutal for victims and survivors. And I can't say that that has substantially changed. Well, I can say it is improving. And certainly there is a greater prospect of your matter being investigated, charged, and ending up in court, not necessarily convicted.</p>
Craig H-C	<p>And it's, it's not trauma-informed. It's actually trauma-inducing. And I think it's, at a basic level incredibly unfair. And what I struggle with, even today, as an advocate, is that, you know, the frustration that we need to do so much more to improve this system, because we so often congratulate survivors who go to the police and then go to court. And we call them brave and courageous. But actually, those two words I never really related to, because I just felt terrified by the whole thing and intimidated.</p>
Mark C	<p>Craig was able to take his efforts away from the negativity and frustration, and perhaps the shame and all the things that come with being a survivor, and especially if it's not all done and dusted, and step into Survivors and Mates Support Network.</p> <p>I think all credit to him, because my god, you know, that's an extraordinary thing that he did. He put his own money in, he set it up with a couple of other fellows who aren't there now. And the <i>raison d'etre</i> was to look after other survivors - other male survivors. And so that clearly took up his mind space, but enabled him to detach himself from the legacy of what had happened prior.</p>
Craig H-C	<p>SAMSN came out of a conversation that I had the first time I met my co-founder, Shane. We had been introduced by a mutual friend who was supporting both of us through the criminal justice system, or I should say, the legal system. And Shane and I met and we're very, very different people, but there was a connection. And even though we didn't really talk much about what had happened to us, we connected and I think just knowing that he was a survivor gave me a level of comfort that I had never really felt before. And so there was a kind of knowingness, and we were talking about the lack of support for male survivors in New South Wales and thought it was terrible that in 2010, there was nothing. And so SAMSN came out of a conversation that ended with "Someone should really do something". We decided to do something.</p>
Rob Carlton	<p>Craig and Shane formed a peer-support group of guys with experience of childhood sexual abuse. At first, they met at Craig's house, and then at a local community hall.</p>
Craig H-C	<p>And it felt really good to spend time with other guys and start talking about some of the issues that we faced and all sorts of things to do with recovery and healing. And then we got in contact with a psychologist who had been running support groups, and we started raising money and to pay the facilitators to run these groups. And we ran our first eight-week group at the end of 2011. And it really grew from there very quickly.</p>

<p>Rob Carlton</p>	<p>SAMSN registered as a charity in 2012 and now assists hundreds of men and their supporters each year by providing a range of free services.</p>
<p>Mark C</p>	<p>The question of resilience is, is an extraordinary thing, I have to say, because he has come through his challenge in life, with flying colours, and I think it's almost extraordinary that he's done that.</p> <p>He's never been backward about transparently discussing where he's come from. And I think that's one of his strengths. And it's one of the strengths of SAMSN, because it's being led by somebody who's been there, done it, survived, and has the empathy and confidence to turn all that into something extraordinary positive. And I think that knowledge for him is what's motivating him and keeping him going. And when people hear him talk, and he talks very well, about his experiences in public, I think you can't help but be amazed and highly impressed by what this bloke has done.</p>
<p>Craig H-C</p>	<p>In conjunction with the Sydney Law School and the Institute of Criminology, SAMSN hosted a roundtable to look at the criminal justice system. We did it almost two years to the day since the Royal Commission's final report into the criminal justice system was published. And we brought together about 30 people, for a half day workshop, really to look at where things were at.</p> <p>And my take is that by joining together with those people - survivors working with professionals - we can bring about change. And so there was a very rich conversation around all that. It was a very practical exercise. There were some great ideas, survivors' voices were heard, we had about eight survivors in the room, who had been through the legal system. And their experience was incredibly valuable, and really value-added to that whole conversation. So it was kind of an audit, if you like, of where we were. But also, we saw some accountability. I think through that process... was to say that look, we're here, we want to help. We understand it's difficult. But it can't all happen behind closed doors, and it can't happen without the support and input and lived expertise from survivors.</p> <p>Staff at the DPP - well, the various DPPs around the country who are working in this space - are doing really tough work. That's the solicitors and the witness assistants, support people, the lawyers, crown prosecutors and so on... it's really tough work. They don't always get it right. I would like to think that in most cases, they do. But for me, there can't be any room for inconsistency here. So I think we need to look at their processes, to see how we can ensure that survivors aren't dependent on who they get as their solicitor or their prosecutor, that there is a level of consistency. That's what I found through my trials, one was really well handled, and the other was mishandled. And the results spoke for themselves.</p> <p>And I think, with the criminal justice system roundtable that we held, it was really about creating a space where all the main players in that system, the police, the DPP, the solicitors, the witness assistants, people... researchers and academics, etc, could get together and, and almost in a way, do a bit of an audit and do some thinking around the pain points. What has been achieved, but also what hasn't, and where we go next.</p>

Felicity Blake	That's it for part 1 of "Better Get a Lawyer, Son". In part 2, we'll hear two very different stories from Adam and Jarad about their experiences with the legal system.
CLOSING CREDITS SEQUENCE FOR 5.1	
PART TWO	
Rob Carlton	Welcome back for the second half of our two-part episode, "Better Get a Lawyer, Son", about the real-life experiences of male survivors of child sexual abuse pursuing justice through the legal system. In this episode, Adam and Jarad will share their stories, and we'll hear more reflections from former Royal Commissioner Robert Fitzgerald, Professor Rita Shackel, and Professor Patrick O'Leary.
Felicity Blake	<p>Adam was sexually abused when he was seven and eight years old by two older boys, and then by a Catholic priest when he was 13 and 14. Later, in his adult years, Adam reported the abuses to the police. The two older boys pleaded guilty... but the priest did not.</p> <p>In a criminal matter, the case is 'The Crown' (that is, the government) versus 'the Accused', and the victim becomes a witness - perhaps one of <i>several</i> witnesses - in the Crown case. As part of this process, the Office of the Director of Public Prosecutions will assign a Crown Prosecutor to run the case. Here's Adam:</p>
Adam	My first Crown Prosecutor was amazing. I built a very good rapport with her very quickly. She was very comforting. She was very warm. She was super authentic. She loved what she did as her occupation.
Felicity Blake	<p>But for the <i>other</i> case against the Catholic priest (who had pleaded not guilty), Adam had to give evidence from the witness box, and was cross-examined by the priest's barrister.</p> <p><i>This</i> time, Public Prosecutions assigned a <i>different</i> Crown Prosecutor to the case.</p>
Adam	<p>Going onto my to my second perpetrator, being in the box was the most fuckin' brutal time of my life. If I thought I was a man before going through that, I was fuckin' kidding myself because I had no idea. It shaped me for who I am today. It made me who I am today. It made me much more resilient without a doubt.</p> <p>I had my first initial meeting with this, this crown prosecutor from the DPP Newcastle. I never forget the day he turned up in his... in his sweat jacket. I knew he was going to Fiji on a family holiday. It was the most frustrating meeting that I've ever attended. He wasn't present, he didn't choose to be there. He was, I think he was out of his depth. He basically came, came to tell me that day that he wasn't going to run my case and then believe... I was made to feel like he didn't believe me, that I was lying.</p> <p>I was absolutely fucking devastated. I'll never forget that for as long as I live.</p>

<p>Felicity Blake</p>	<p>When the complexity of the system led to confusion and communication issues, Adam turned to SAMSAN for support.</p>
<p>Adam</p>	<p>Craig came on from SAMSAN online, I think there was seven or eight... There was eight individuals in this one meeting after after this gentleman got back from holidays. And we, you know, we got to the conclusion that he was going to run the case. So that itself was for me a huge, huge, huge disappointment around the DPP and how we were treated.</p> <p>Craig's been my rock he's been there for me umpteen times, I mean it. And I've got some great friends and I've made some great mates throughout SAMSAN.</p> <p>What it was for me, the biggest thing I took away from it, it's a lonely old walk if you if you don't have people around you and even when you do have people around you I found that I found it to be a lonely old walk. It's it's hard, it's brutal. You know in your own heart you've done nothing wrong and then you're basically being accused of... it's like you're you're, you're the guilty participant in the whole exercise.</p> <p>So I believe the criminal justice system needs an overhaul 110%, know what I mean?</p>
<p>Felicity Blake</p>	<p>There's a strong possibility that the legal system in its current form is not actually capable of delivering a real sense of justice to survivors of sexual violence. Experts have started to explore other ways of restoring the balance in these cases.</p> <p>One of the things we DO know is that revenge doesn't work. Professor Patrick O'Leary has interviewed male survivors about their anger and desire for retribution.</p>
<p>Patrick O'L</p>	<p>And as one bloke I remember interviewing said, Yeah, I'm bloody angry for a bloody good reason. And that's exactly right. But what do you do with that anger? And where does that take you when you've got a very restrictive idea about masculinity? Where the idea of masculinity sometimes in that restrictive sense is, if someone does something to me, I need to do something to them, that that sort of revenge idea. And, you know, I think it's easy to buy into that. And often I've heard, you know, male survivors are what, you know, I wish I could have fought back or I, or some men have talked to talk about the, you know, the fantasy of revenge. Which, you know, I think is really an important conversation to have with men. For quite a number of years, I interviewed a number of men in Australia that had been responsible for murdering their perpetrator of sexual abuse. And unanimously those men regretted doing that. They regretted doing that because they felt that locked their whole identity into around the sexual abuse, and in a way let the perpetrator off the hook. They were left being held accountable for everything. And the perpetrator's out of the picture. They were very clear of their advice to other men that this wasn't something useful.</p> <p>But they were really clear to, advice to, professionals that when men express some sense of revenge, it's an important conversation. So, an important conversation to</p>

	<p>unpack, and a couple of those men had tried to have a conversation with a social worker or a psychologist, and largely been dismissed. You know, "you wouldn't do that." Or, you know, "that would be a silly idea." We shut down the conversation, that may have been a conversation that could have been quite transformative for them making sense of their anger, their sense of revenge. Because it's okay to feel some revenge. It's okay to feel some sense of wanting justice. But it's an important conversation to have. So I think, you know, I hadn't thought about that, those group of men that had interviewed many years ago who had, I'd interviewed in jail, and, you know, some had been in prison for for more than 20 years. You know, and that double edge of justice for them was immense. And they were so clear about, you know, that that act is not the act of a good person. And, you know, it was not congruent to who they wanted to be.</p>
<p>Felicity Blake</p>	<p>Law Professor Rita Shackel:</p>
<p>Rita S</p>	<p>Child sexual abuse is a crime. But the criminal justice system with all of its failings, and deficiencies, may not be able to adequately provide the different types of justice that victims and survivors may be seeking. And so it is important that we look at other ways to pursue justice for victims and survivors. And as I'm saying this, I guess I'm also reflecting on the fact that we need to understand what justice means for victims.</p> <p>Justice means different things to different people, one size doesn't fit all and so, we need to find ways of being responsive to a range of different needs, a range of different justice needs for different people.</p> <p>For some people, Criminal Justice will serve their justice needs. For other victims and survivors, they may need more of those safe spaces that we've been talking about, where they can tell their stories, they can share their experiences, they can choose who to share those experiences with, and they can also choose different ways in which perpetrators are held accountable for their actions without it being purely limited to to a criminal justice context or outcome.</p> <p>The Royal Commission was able in some respects to move towards a greater culture or expectation of accountability. I'm not sure that that was entirely achieved, I think I think we still have a very long way to go in terms of accountability. And maybe civil redress is a more effective channel for that accountability to be attained.</p>
<p>Felicity Blake</p>	<p>Civil redress means seeking compensation privately through the court system. There's also a National Redress Scheme, which can be accessed by people who were sexually abused as children specifically in Australian institutions. We'll go into detail about that in our episode titled, 'Respect'.</p>

<p>Rita S</p>	<p>In terms of the criminal justice system, I think the challenges we were talking about previously mean, that accountability often isn't, isn't attained, or isn't achieved, because if a case is started, and doesn't end up with a finding of guilty, which we know only occurs in a very small number of cases, many cases fall out of the system way before, before they even get to court. And certainly before a conviction is rendered, if indeed, conviction is rendered at all. So that undermines accountability, really, because offenders then are not held accountable at all. And I think that is problematic for victims and survivors, and that's why the the justice system may not be, the criminal justice system may not be the right avenue for justice, to be pursued. Because an outcome that does not involve conviction doesn't mean that the abuse didn't occur. But often, that's how it's understood. And that's, I think, devastating for victims and survivors.</p>
<p>Rob Carlton</p>	<p>In previous episodes we've heard from Jarad, whose experience with the legal system formed a big part of his recovery from his childhood abuse. Here's Jarad, he's going to walk us through what that was like...</p>
<p>Jarad G</p>	<p>And so I think, you know, I did disclose at 17. But that wasn't an overnight process. I didn't really actually start dealing with the abuse until I'd had my day in court. And I'd cried in counseling plenty of times, but it was because a girlfriend dumped me or I'd broken up with somebody and hurt them, or I couldn't deal with x, y, and z. And I don't know, a week or two after my court case, I was a child, on the floor, in a ball, just losing my shit.</p> <p>And you know, I remember my counselor getting down there on the floor next to me and resting her hand on my shoulder and saying, "There, there". And it sounds patronizing. But it wasn't like it was all she could do. She couldn't say anything else. She couldn't... There was no counseling. She just had to let me dissolve. And then as we started resolving things, finally I could delve into what had happened. For whatever reason it was, I couldn't, I couldn't deal with the emotional side of it until I dealt with the legal. I don't really know why that is, but it opened the door for me. And so I've been in counseling 10 years. But the steps I made between 27 and 30 were... it was like, that was all of the steps I ever needed to make.</p> <p>And I don't, yeah, I guess I've always been someone who's got a strong sense of fairness, or justice, I'm bothered by injustice. And at about 21, I just took a sick day off work. And I didn't tell anybody, and I, um, I drove to Parramatta from the Sutherland Shire, because we'd moved sort of that distance. And I kind of registered that I should go to the police station in the area where it happened, although, maybe I didn't need to, looking back at it. But at the time, that's what I thought I had to do.</p> <p>And I remember that day so distinctly, because I was like, incredibly anxious, and I had this little sports car that I like, loved to death. And I think I cut somebody off. I was, you know, probably pretty erratic in my driving and I actually had this like road rage incident on the way to the police station, where a guy, like, got out and punched my car and everything.</p>

But I just took myself off over to the police station and yeah, and reported it. I might have made a couple of phone calls beforehand, kind of sussing out what I should do without giving away who I was, or anything like that.

So it was, it was sort of about four years between when I first disclosed, and I say disclosed, not confessed, because there's a very important distinction there. What had happened to me, and then went to the police. And I don't really, again, I don't really know why I think I just had a strong sense that I needed, needed him to answer for it.

And so I did that. It wasn't.... Again, it was a process, you know, that if I think about it, there's already two blocks, there of three or four years between some realization and disclosure, and then disclosure and reporting.

And no one, no one pushed me or I'm not even sure if somebody had suggested reporting it. I think at the time, my parents, they weren't worried about that. They were just worried about me, you know, getting the help I needed and my psychologist was worried about keeping me alive. And I, you know, I did it off my own back.

The first time I went I didn't actually make a statement, I just reported it. And it was a while before that was followed up. And then I think I made another kind of smaller statement, which allowed them to start investigating. And it wasn't until, you know, a little while after that I did a couple of big, you know, big sessions and a couple over, over a few days, not whole days, but a number of sessions, later on actually going into detail, and, you know, making, I guess, you know, making statements that were used in court. And I didn't have any police who dealt with things in a negative way.

When I was making the first report, and the first statement before it was sort of an investigation, I, I talked to whoever was available, or whoever followed me up. But once it became something, it was consistent, which was great as well, it was not a million different people. He was my one point of contact until it went from the hands of the police to the DPP. And then, you know, then there was the contact from the DPP as well. But that was only at that, you know, only in that period before it actually went to court.

But to get it to court, the threshold was quite high. So the police had done their investigation and got it so far, but the DPP kind of, you know, did the second round and dug deeper and asked more questions and, and really pushed. Which could have been traumatic because I think up to that point, The statement was all about me. I mean, obviously, I was asked detailed questions, but it was, it was kind of drawn out of me. Whereas the DPP, you know, had to be a bit more like, "We need this. Do you remember this? What's going on?" Like, what was happening with this, like, it was more pointed, it was more direct. Which, you know, reality is was a

preparation also for court, like, they were asking the questions to get it there. But that was also how it was gonna be when I got to court.

You know, I had a mental breakdown in my final year. I couldn't, the mental load of it. I was working full time, I was sneaking off, not telling anybody about these, you know, police visits that I was making, that were sporadic, because they were secretive. And so they would only happen when I found time for them. And when I made contact, really. And... Which was nice to have that control.

So the court case was...yeah... Interesting is the wrong word, but I'm gonna say interesting, because I don't have I don't have another word for it. And I guess it's interesting, because there's this whole package of things that happened that were related to it.

My parents were there. My mum's sister came, you know, and my mum had to had to front up, she had to go to the police and make statements as well. And she had to give evidence in court. And my siblings came, not every day. And I think, you know, I was kind of glad they didn't, they didn't come every day. But I think as a family, that kind of thing. Really, you know, we pulled together.

And, yeah, I remember at the beginning of the week, there was... you'd walk out of the elevators and there was two courtrooms which, sort of, the doors were next to each elevator. Two elevators, big foyer, two courtrooms which were either side of the elevators. And then on the other side of the courtrooms at the end of the foyer, you know, were six or seven storeys up at the courthouse at Parramatta. You know, there were big panoramic windows and then little conference rooms off to the side of the foyer.

And I remember the first time I saw the perpetrator, and his family, and I recognized him. You know, they came out of the lift, and I recognized him. And it was so confronting. So confronting. And, you know, they would have recognized us. His, you know, his parents knew my parents, they were neighbors, they weren't friends, they didn't spend time with each other, but they, you know, talked over the back fence as you do.

But I was so intimidated by their family that we would go and hide in a little conference room. Down the end. Each day before the court was in session, before people were allowed in. And obviously I wasn't allowed in until I gave my testimony anyway. And neither was Mum. And so often it would just be me and Mum out there or you know, my dad or my sister in law, or my sister or my brother might wait out there with us while everyone else was in the courtroom.

When I gave my testimony, only my support person was in there. I didn't really want my parents or my siblings to have to hear the graphic detail. I think I didn't want them to hear it either. You know, probably at the time, it was a little bit out of shame that I didn't want them to hear. But also, I knew it would be horrendous for them to hear it. And I didn't want them to hear it. I don't think that my mum or my

dad should have to endure that detail. I know that had I asked for them to be in there, they would have. But I don't think it's fair to them or my siblings to do that. I mean, for me, and I wouldn't say that someone shouldn't have their parents in there, if that's what they wanted. I don't mean that as a judgment call. But for me, it didn't seem fair to ask them to do that. But I had a, I had a support person in there, and the court cleared everyone out. So it was the perpetrator, his legal team, the, you know, the state's legal team, my support person, the judge, and the jury, there was no one else in there, they cleared the courtroom when I gave evidence. Not when my mum gave evidence, or anyone else. But when I gave evidence, the courtroom was clear. Which was also great, because I could look at the lawyer from the state, I could look at his lawyer if he asked me questions. And when I answered, I normally answered to my support person. You know, I looked at him, and he looked me in the eye. And I would answer. And so it was a very, very safe environment. I was definitely protected, at least by the system.

Obviously, it was difficult being cross examined. You can't sugarcoat that. And for some reason, in that legal framework, I don't know, I don't know what it is... I coped with talking about it. It was like I could separate it from myself, even though I knew I was talking about myself. And, and then I did that in, in the court in the courtroom, and I, you know, I was able to face down the, the lawyer from the, from his defence.

You know, I'm probably fortunate in that I'd had a few years of university presentations under my belt, I was used to speaking in front of people, I was used to being nervous, speaking in front of people. You know, my dad's a pastor. And so I've grown up, you know, around public speaking, but it's not like public speaking. It's very, very different. And it's very, very personal. But, you know, I had somewhat had an awareness of an ability to, to speak in front of people. But it was difficult. It was very difficult.

I'll skip ahead to the final day. On the final day after walking out of the courtroom, the roles switched. I sat down at the end of the foyer, we walked out first and then they walked out second. The family. And I sat and I stared at them. And my Mum said, "Oh, they're there, do you want to go into this little conference room?". And I was like: No, they can go, they can run away.

And for me because of that week, I something had shifted. And I knew that he knew he was guilty. And I knew that his family knew. And it was like the last, the last little chink of it not being my fault and not being my problem. It not being me had somehow through that process fallen into place.

And he did, he you know, I'll spoil it. Spoiler - He got off. It was a hung jury. He wasn't convicted, but he wasn't not convicted, which is actually, from what I know, a pretty good outcome. So many people are found 'not guilty'. But there was a hung jury. And so when I was staring them down, I was staring him down. And they left. They went and hid in a little conference room. And you know, and it's their problem

	<p>now. It's his family's problem. It's his problem. And it's not mine. And they've got to deal with it.</p> <p>And that was, I just remember, for you know, first time in my life, I think I felt powerful actually. It was such a good feeling to stare him down. You know, and I could, I could walk past him on the street with no fear now.</p> <p>And as we left the courtroom, his wife stood up and, and yelled at me, "Go to hell!" Like, you know, none of his family, you know, believed, believe me and none of his side, believe me, although, to be fair, I think when she had such a strong reaction, and when they ran away to that little side room, I firmly believe that, you know, that that transfer of shame and her anger... I think she had a choice she could be, she could believe me, which meant that she'd married a pedophile. And I think, for self protection, or whatever it was she, you know, she chose not to, and his family chose to believe him as well. And I understand that you don't want to see the worst in, in your, your son or your spouse.</p>
<p>Felicity Blake</p>	<p>Commissioner Robert Fitzgerald:</p>
<p>Robert Fitzgerald</p>	<p>Child sexual abuse is the only crime in which nobody changes their mind, despite the evidence. Those that believed that he was, he could never do any wrong, use the word impossible, "Impossible, impossible!". And they never vary. And those that think he was absolutely guilty never vary. And it doesn't matter what trials, what court cases, what's written, nobody changes their mind, with the exception of those that weren't sure. And it's the only crime that I know like that. The problem is not that. You can't change how people perceive these things. You cannot. And evidence doesn't do it. Let me tell you, evidence doesn't do it.</p> <p>But there are four responses that happen when you, when you, when a person that you know, a family member, a work colleague, somebody else that you know, is accused of child sexual abuse. The first is you will say, it is impossible. I know that person, he's a good man, he's the most popular teacher, he couldn't possibly have ever done it. I've lived with him, I trade with him, could not do it. Second one is, I'm not sure about that. But it's the victim, she or he is always making up things always, you know, causing troubles always, you know, playing around and mucking around with older boys or whatever it might be. third group says, I'm genuinely not sure. You know, they're a small group. And the last group says, I always thought there was something funny about that person, and I think he's as guilty as hell. So people that had been groomed by the perpetrator, who were the person to whom the child or an adult came back to report, was so convinced that the person couldn't have done it, it affected everything from that moment on, including the victimization of the child again. And so what we're doing now, as I said, I can't change your opinion, I can't tell you to think differently, I can't give you enough evidence for you to think differently. What I can say to you is despite all that, you let these processes follow through, you provide the support to the child, you do these things, and you don't do other things. And that way, you'll get to a much better outcome. And that's totally different to where we were 20 or 30 years ago. And so I</p>

	<p>think we have now learned better strategies. The one thing I don't think you can do is change people's opinions. I think, when they know the person that's been accused, but it is the most extraordinary crime where people's views don't change.</p> <p>And if you look at a high profile person in the media, you will see it exactly play out, just like I've said: he couldn't possibly have done it. It's impossible. It's the victim. They're making it up. I'm not sure. I think he's as guilty as sin. And three appeals later, nobody's changed their mind.</p> <p>I think however, there has been great progress, and they will continue to be progress going forward. But it's just a tough course, and I still am in touch with some people where their sons and daughters are victims and are parts of criminal justice process, and it is just almost tragic to watch the pain and suffering. And it's very hard to say to somebody, you should go through this process.</p> <p>What has changed, but I want to make this point, I said this to many people in private sessions: the fact that the police now investigate and go and knock on the door of the alleged perpetrator is a victory. Is a big victory. It's a huge victory. Even, it's finally you say to that person, we know what you did. The police go to the door with a knock on the door. And they say to that man to his face. "We know what you did." That is so remarkable compared to what would have happened to a young person, or a person 30, 40 years ago.</p> <p>So people would say well, you know, these are low, low victories. No, they're not. They're big victories. Because previously they would have lived their whole life, having done terrible things, and never have been confronted by anybody. Now they are. That's a big step. If they get to court, terrific. And if we do start to see conviction rates increase, that will be very significant. But I just want to make the point, the adversarial system is a tough system. And really all the changes in the world won't make it much less tough going forward. And part of that is because we do have a system that basically says you are innocent until proven guilty. And that's a high threshold, it's beyond reasonable doubt. It's not balance of probabilities. It's not like redress schemes. It's not like civil matters, it's beyond reasonable doubt. And when you've got a child and adult and the abuse took place, 30 years ago, or 20 years ago, that's a very high threshold. And the court system will never change that particular threshold. So it's always going to be tough, but I just say to every man and woman who's been abused, who's had the courage to go through that process, and is still standing at the other end, we owe you in enormous debt of gratitude, and always will and will never remember, never forget what you've done in doing that. And for future victims, you know, I think it'll be a slightly easier road, but it'll still be tough.</p>
Jarad G	<p>It's like an oil well, your trauma. As much as I've dealt with it, you know... And I don't see my counselor regularly anymore. But the last session I did, you know, ostensibly to talk about going through the relationship breakdown, ended up with me talking about what happened when I was a child. And so there's that... I recognize that the trauma sits like a bit of a well.</p>

	<p>But the beautiful thing about the court case, and then that's that sort of, I would say that three year period between 27 and 30. Afterwards, is that I capped that well. It wasn't, up to that point, it was like this ocean that was raging inside of me that I couldn't control and would come out in unpredictable ways. And the emotion of it would destroy relationships and all my coping mechanisms were super unhealthy. But when I went through that three years following the court case, and I kind of put the cap on it, it wasn't that the coping mechanisms stopped straightaway, but I was able to actually go "Ugh!" and put this cap on things and know what things were, and know how to deal with emotion. And, you know, I, yeah, it changed everything. And for <i>me</i>, and it won't be like this for everybody. I know that. But for me, the key was that legal avenue.</p>
Closing Credits	
Rob Carlton	<p>SAMSN is the only specialist charity in Australia dedicated to helping all male survivors of child sexual abuse and their families.</p> <p>Each year, SAMSN provides free services to hundreds of male survivors and their supporters.</p> <p>SAMSN believes that male survivors of child sexual abuse can recover and thrive.</p> <p>Help him believe.</p> <p>Donate today. Visit: samsn.org.au (that's s-a-m-s-n).org.au</p> <p>Remember to rate and share this online, because it helps others - especially survivors - to find it.</p>
Felicity Blake	<p>STRONGER was created for Survivors and Mates Support Network entirely remotely during the pandemic of 2020 and 21. It was produced and directed by me, Felicity Blake of The Dove Media, with Julie Blyth of SAMSN. Our Executive Producer is Craig Hughes-Cashmore. Interview help from Les Spencer and Shane Greentree. Audio editing by Dion Brooks. Transcript assistance from Dr Anna Kamaralli and Melanie Teychenne-King. A big "thank you" to our co-host and SAMSN Ambassador, Rob Carlton.</p> <p>Very special thanks to all 32 of our participants; your insights make others STRONGER.</p>
ENDS	