

The Disclosure & Use of Victims' Counselling Records in Sexual Offence Trials

Survey Insights from Survivors on Reform of
Disclosure Law

Survey Period
19th - 27th Feb

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Context

Intense public and political debate

The disclosure of victims' counselling records as evidence in criminal trials has long been a topic of intense public and political debate, and a source of deep concern for survivors and those who support them.

Widely recognised as “unacceptable”

The current practice causes intolerable harm to survivors by exposing highly sensitive therapy notes, created in spaces of trust and healing, in ways that can be invasive, disproportionate, and re-traumatising.

Deeply personal and legally complex

A “one size fits all” solution will not reflect the diversity of survivors' lived experiences, and risks repeating the very harms it seeks to fix.



What we did

We launched a comprehensive, anonymous survey to **shine a light on the full spectrum** of survivors' lived experiences, including those who cannot or do not wish to speak publicly.

We compiled and analysed the data to **understand the full diversity of views** and experiences across the survivor community.

We identified what survivors want and need in relation to counselling notes, how current practices affect them, and what change would feel **most protective, fair, and proportionate**.

We are
here

Beyond Surviving has **shared the survey findings with the Department of Justice** and we urge it to meaningfully engage with survivors and survivor-led organisations. Survivors' lived experiences and expertise must be central to shaping the laws that directly affect their lives.

Key Insights & Trends

301 

Total Survey Responses in 1 week

188 

Survey Responses in first 24-hours

87% 

Say counselling is foundational

41% 

Discouraged from counselling

35% 

Discouraged from justice

Counselling is foundational to survivors' healing: an overwhelming **87%** described counselling as extremely or very important to their recovery, with repeated responses describing it as *"life-saving"*, yet **41%** say they are discouraged from continuing counselling.

"I chose not to pursue justice through the courts, and instead to continue with the life-saving therapy I was receiving. What an awful & impossible choice to make."

Core Themes

The data is nuanced, and agency matters

While strong opposition to disclosure dominates, some survivors believe counselling notes strengthen their case. There is no single survivor experience. The findings **do not support a simplistic “all or nothing” narrative.**



The need for fairer balance

Survivors understand fair trial rights, but the balance is cited as skewed. Many perceive the current system as **heavily weighted toward the accused**, with insufficient regard for their dignity and autonomy.

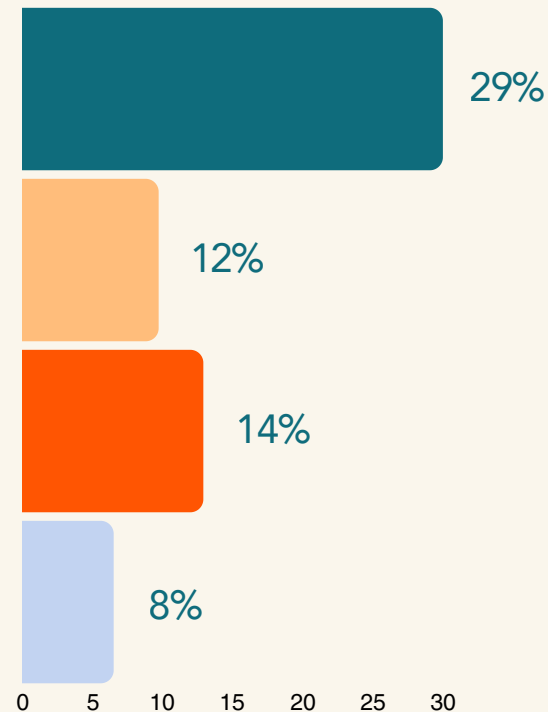
Reform must be precise, constitutionally robust, and trauma-informed

There is strong survivor support for clear safeguards, high thresholds for disclosure, and access to independent legal advice. **Survivors want reform that is constitutionally sound**, and genuinely protective in practice.

Key Insights | Counselling & Healing

Disclosure risk alters behaviour

Therapy impact | Criminal case impact







Insight

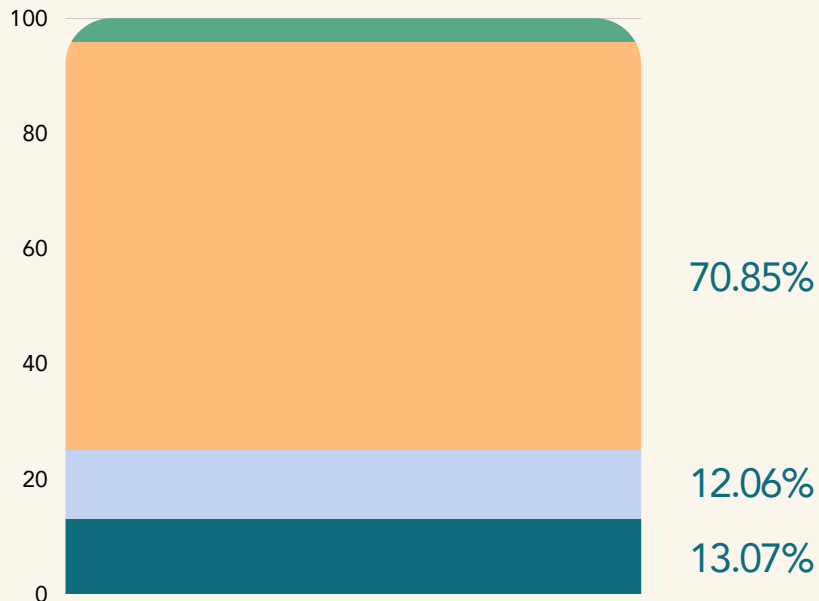
Disclosure is not a technical issue, it is causing **concrete harm**. The disclosure of survivors' counselling records alters their behaviour and disrupts their healing. The **chilling effect** is widespread - the mere possibility of disclosure is shaping survivor behaviour and deterring access to healing and reporting.

Key Insights | Counselling & Healing

Survey Question: Would the potential use of counselling notes by the defence change how you engage with counselling services?

The harm begins before disclosure happens

-  Would change engagement
-  Maybe
-  Would not change engagement
-  I don't know

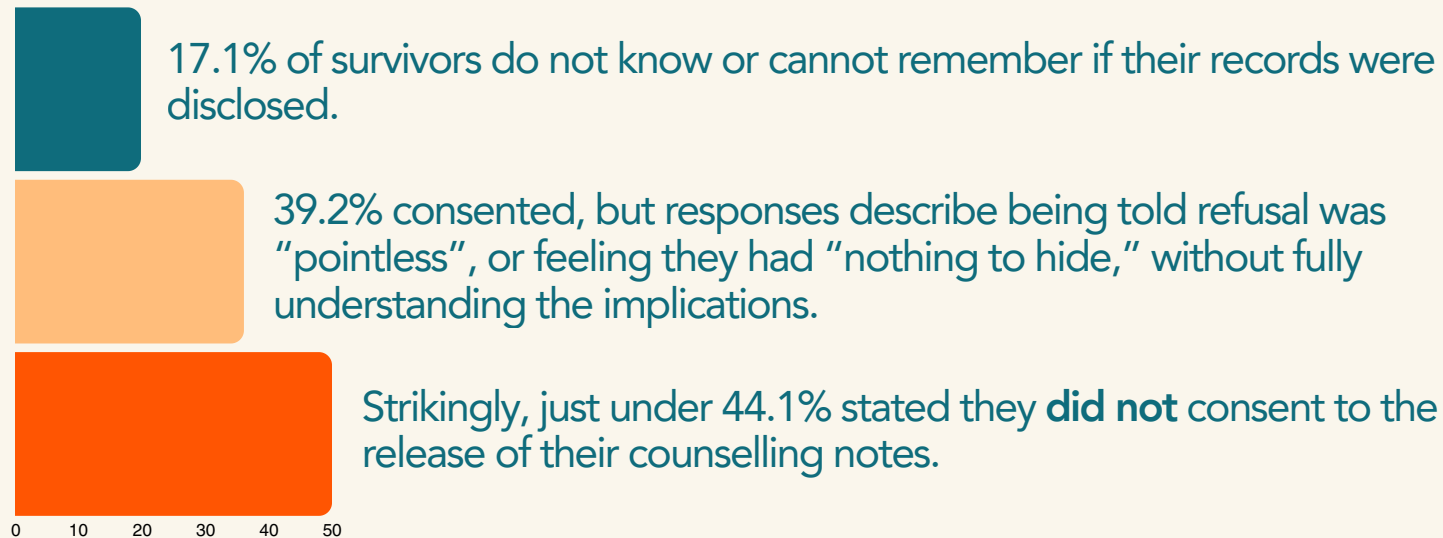


Insight

The harm begins before disclosure happens. Multiple respondents describe avoiding therapy, or choosing therapy over reporting / not reporting at all, and the prolonged **psychological harm caused by the anticipation** of their counselling notes being disclose, compounding harm.

Key Insights | Consent & Access to Information

Awareness of Potential Disclosure





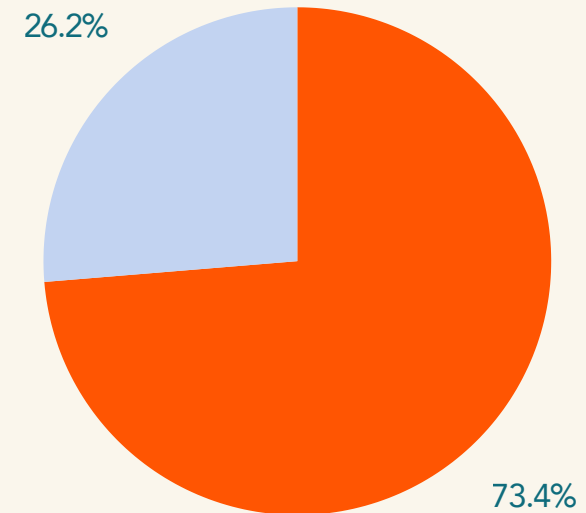
Insight

"Consent" **often does not reflect informed, freely given agreement.** Timing, power imbalance, and lack of legal advice shape these decisions. Several believed disclosure would "prove" their trauma, only to later realise that their notes could be used against them. Consent is therefore frequently experienced as coerced, misinformed, or functionally meaningless, **undermining trust** and deterring future engagement with the justice system.

Key Insights | Consent & Access to Information

Awareness of Potential Disclosure to Defence Prior to Counselling

-  Unaware
-  Knew in advance



Insight

The vast majority of survivors begin therapy without knowing their notes can be used in court

Survivors are entering therapeutic spaces at their most vulnerable, placing trust in professionals and authorities to fully inform them of the implications, and potential use of, their records later being scrutinised in a criminal trial. This gap **undermines meaningful consent**, and those seeking healing are left exposed within a system they believe will protect them.


Of the survivors who were aware:

- 0% were informed by Legal Aid or SATU
- 42.9% were informed by the counsellor
- 23.6% found out accidentally via the media

“**The anticipation** of their disclosure is severely harming me daily - my healing is something for the justice system to exploit.”

“I WANTED my notes to be used. Yes, they're personal, but **they show the impact** that the rape had on me. Why should I have had to wait until the VIS [Victim Impact Statement] to show how he ruined my life. The defence DIDN'T want my notes to be used because **it undermined their case.**”

“A ban would be so much **worse** than the situation now.”

 “Depending on the counsellor there can be **extreme bias** in their notes. e.g. when I first went to counselling about my experience they told me I wasn't raped, yet the Rape Crisis Center said I was. If I went to court and the first counsellor's notes were used as evidence, it could **completely undermine my case.**”

“The Government needs to understand that there are a real range of opinions and experiences. [...] They have an **unenviable task** in trying to design legislation that works for everyone. The trouble is that the full ban is a **far too restrictive** in my case and in many of the cases of the group of survivors I'm in touch with. [...] I am really worried that politicians think there's only one view out there.”

“**I am afraid** to take my abuser to court in case my 10-years of counselling notes end up in court.”

“It makes me feel extremely scared and sick to think that at some stage during this process I could be put in such a **vulnerable position** in regards to therapy notes.”

“My counselling notes were **extremely useful** to the DPP and in making my case. I was so thankful that there was a record of what I'd been saying for years.”



Survivor Quotes | The Diversity of Survivor Needs

"I was **so thankful** that there was a **record** of what I'd been saying for years."

I **felt pressured** to hand them over."

"A blanket ban would **remove my choice**."

"The POSSIBILITY of my notes being disclosed is **damaging**."

"I came very close to **ending counselling** altogether."

"There is **nowhere safe**."

"I felt completely **exposed**."

"It came as a **complete shock**. I also felt **violated** a second time."

"Each case is **different**."

"I **stopped counselling** because I was afraid my notes would be used."

"There should be **strict limits**, not a full ban."

"It **discouraged** me from being fully honest in therapy."

I **understand** that the notes have to be used in some cases, but these **should be the exception**, not the rule.

"They helped **strengthen my case**."

"I **did not understand** what I was consenting to."

"There needs to be **balance**."

"It was **painful** and traumatic to know my records were read by my attacker and the defence, **but overall they strengthened my case**."

"**Choice** is crucial."

"I would want **legal advice** before deciding."

"Used in trial to **make out I was delusional**."

"My notes have been very helpful in the trial. The defence didn't want them included **but the DPP successfully got them included**."

"It **depends on the circumstances**."

"If they help my case, they should be allowed."

"It made me **feel like a suspect** rather than a victim."

"I don't think it's **black and white**."

"My healing is something for the **justice system to exploit**."



BYS Statement on the Use of Counselling Notes in Sexual Offence Trails

As a survivor-led charity, Beyond Surviving is committed to representing the diversity of all lived experiences of survivors of domestic, sexual and gender-based violence (DSGBV).

To seek insights on how the current practices in Ireland's criminal justice system affect people, we launched a comprehensive survey, open to all survivors, and in one week, we received over 300 responses. The results reflect the clear and consistent consensus among survivors that there is an urgent need for change to ensure a fairer criminal justice system. However, the disclosure of counselling records is a complex and sensitive issue, and a "one size fits all" legislative solution risks deepening harm to survivors by overlooking nuances, and failing to reflect the diversity of their lived experience.

Ultimately, survivors must be free to access counselling and to pursue justice without fear that doing so will expose them to re-traumatisation or compounded harms that undermine their healing and participation in the justice process. We support the position held by the Dublin Rape Crisis Centre (DRCC) regarding the necessity to create a new statutory legal privilege over survivors' counselling records within the criminal justice system as a proportionate and fair legal solution balancing the accused's right to a fair trial with the victim's right to privacy and dignity.

Beyond Surviving has shared the survey findings with the Department of Justice so that survivors' lived realities can inform amendments to the Criminal Law and Civil Law (Miscellaneous Provisions) Bill 2025. As the Department of Justice revisits this legislation, we urge it to meaningfully engage with survivors and survivor-led organisations. Survivors' lived experiences and expertise must be central to shaping the laws that directly affect their lives.