

Executive Summary.

Full Stop Australia Submission:

**Australian Law Reform
Commission Inquiry into Justice
Responses to Sexual Violence**
January 2025



Full Stop Australia acknowledges the Traditional Custodians of Country throughout Australia, and their continuing connection to land, sea, and community. We pay our respects to them and their cultures, and to Elders both past and present.

Background

Full Stop Australia is a nationally focused not-for-profit organisation, which has been working in the field of sexual, domestic and family violence since 1971. We deliver:

- Specialist trauma and vicarious trauma counselling services to people affected by sexual, domestic and family violence;
- Best practice training and professional services to support frontline workers, government, the corporate and not-for-profit sector; and
- Advocacy to governments and in the media for laws and systems that better respond to, and ultimately prevent, gender-based violence

In January 2024 Commonwealth Attorney General the Hon. Mark Dreyfus announced the Australian Law Reform Commissions' Inquiry into Justice Responses to Sexual Violence. This Inquiry forms part of the Australian Government's commitment to strengthen and harmonise sexual assault and consent laws, and to improve outcomes and experiences for victim-survivors in the justice system. This Inquiry will be informed by, and build on, the comprehensive inquiries and reviews previously undertaken in several Australian jurisdictions.

A Note on Terminology

This executive summary and the submission to which it relates use the terms 'victim-survivor' and 'people with lived experience of sexual violence' to refer to people who have experienced sexual violence. It uses the term 'survivor-advocate' to refer to people in Full Stop Australia's National Survivor Advocate Program (NSAP), who provided the invaluable feedback to inform the submission.

Full Stop Australia is working to put a full stop to sexual, domestic, and family violence through **support, education, and advocacy.**

E: advocacy@fullstop.org.au

Full Stop Australia's Submission to the ALRC Inquiry

[Full Stop Australia's submission to the Australian Law Reform Commission](#) made 40 evidence-based recommendations for improving the treatment of victim-survivors of sexual violence engaging with the justice system.

Informed by more than 50 members of Full Stop's National Survivor Advocate Program (NSAP), our frontline specialist trauma counsellors and clinical leadership team and a review of systems and evidence from around the world, the submission proposed that Australia's justice system was not designed with victim-survivors in mind and largely fails to deliver safety or justice to victims of sexual crimes.

Key recommendations:

1. Ensure victim-survivors of sexual violence can access all the services they need from a single, integrated service hub. [Recommendation 1]
2. Fund access to 'system navigators' to support victim-survivors who have to engage with a bewildering array of systems. [Recommendation 3]
3. Allow all complainants in sexual violence proceedings to give pre-recorded evidence. [Recommendation 21]
4. Halt irrelevant, invasive and retraumatising cross-examination of victim-survivors during court proceedings. [Recommendation 22]
5. All victim-survivors of sexual violence should have standing to intervene in relation to cross-examination, and applications to admit evidence, that affect them. [Recommendation 30]
6. Establish specialist sexual violence courts or lists. [Recommendation 33]
7. Amend legislation in all jurisdictions to clarify that the character of an offender should not be considered a mitigating factor in sentencing for child or adult sexual offences [Recommendation 34]
8. An affirmative standard of consent should be adopted in legislation in all Australian states and territories [Recommendation 40]

The recommendations in Full Stop Australia's submission aim to make the justice system safer and fairer for everyone. This means a justice system that treats victim-survivors of sexual violence with respect, provides them with choice and agency, recognises the harm caused to them, and holds all people who use sexual violence to account.

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High Level Summary of Key Recommendations

Reporting the Experience of Sexual Violence Safely

Victim-survivor experience: "Victims need to feel a level of agency in the justice system process. They need to feel empowered. They need to feel like they have choice and understanding of what's happening, not like it's happening to them."

Sexual violence remains vastly underreported. The latest ABS data on sexual violence shows that only 8% of women who were sexually assaulted by a male perpetrator in the ten years leading up to the survey ever reported to police.¹ It's critical that the system recognises that victim-survivors of sexual violence value having choice and agency in how they report to and navigate the justice system.

Full Stop recommended broadening the range of support services delivered to victim-survivors across the country to address systemic barriers that deter reporting. Alternative trauma-informed and victim-centric options for reporting sexual violence should be implemented in all jurisdictions.

Full Stop Australia's recommendations to improve the reporting experience include:

- Development, funding and implementation of integrated Sexual Violence Hubs accessible to victim-survivors across the country, providing a single place to access all necessary supports following sexual violence
- Free legal advice for all victim-survivors that is not conditional on police reporting, and is delivered by trauma-informed, gender-based violence specialists
- Specialist 'Sexual Violence System Navigators' delivering practical support and direction to victim-survivors navigating the justice system and seeking key services
- Peer support programs that connect victim-survivors across all jurisdictions and in rural, regional and remote areas
- Comprehensive mandatory training for all first responders, emphasising the dynamics and drivers of sexual violence, risk factors requiring intervention, trauma impacts, and how to link victim-survivors with safe and appropriate support
- A national, government-funded website with information about support options and justice system processes related to sexual violence at the relevant state, territory and local levels

¹ Australian Bureau of Statistics. (2021, August 24). Sexual Violence - Victimization. ABS. <https://www.abs.gov.au/articles/sexual-violence-victimisation>

- Trauma-informed and victim centric online reporting options where they do not yet exist or are falling short
- Increased access to safe, trauma-informed and timely forensic examinations
- Fully and sustainably funded sexual violence specialist services in every jurisdiction that provide tailored support to priority populations, to ensure the justice system is accessible to everyone

Improving Police Responses to Sexual Violence

Victim-survivor experience: "Police still lack the knowledge required to understand sexual assault and gendered violence. Reporting to police can be further traumatising for victims. Many clients do not report as they know the rates of successful prosecution are very low and not worth the trauma."

Many victim-survivors told Full Stop Australia about poor experiences reporting to and dealing with police following sexual violence. Others told us they decided not to report sexual violence to police, because they did not see police as a safe and trustworthy source of support, had limited faith in the ability of the justice system to deliver just outcomes, or feared further harm and retraumatisation would come from reporting.

To increase shockingly low sexual violence reporting rates, work urgently needs to be done to improve community confidence in, and perceptions of, police and the justice system. Putting systems in place to ensure all victim-survivors receive a trauma-informed, non-judgmental and respectful police response is important to build confidence in the justice system. Systems should enable victim-survivors to be fully informed and have choice and agency about the progress of their matters.

Full Stop Australia's recommendations to address improving police responses include:

Support

- Roll out Victoria's Multi-Disciplinary Centres Model in other states and territories
- Co-locate police with integrated services and 'sexual violence system navigators' *in addition to* establishing 'integrated sexual violence hubs' without police presence
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Code of Practice

- Develop a mandatory, nationally uniform code of practice to help standardise a trauma-informed approach to working with complainants of, and investigating, sexual offences in police forces across the country

Review

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- Conduct a review of policing practices across the country to ensure best-practice approaches to victim-survivors' privacy and personal information

Policing

- Implement the recommendations of the [Make Police Investigate](#) campaign for a legally enforceable duty of care owed by police to victim-survivors, and for transparent oversight and review to be undertaken by an independent agency
- Recognise that policing sexual violence requires a specialist approach and allocate commensurate resources to it in all jurisdictions
- Ensure that police responses to sexual violence cater to diverse experiences and needs by addressing systemic racism and embedding specialist knowledge to engage with priority populations such as Aboriginal and Torres Strait Islander peoples, culturally and linguistically diverse (CALD) and LGBTQ+ communities, and victim-survivors with disability

Training

- Develop a best-practice standardised approach to mandatory training for all police in all jurisdictions who may receive a report of sexual violence or interact with victim-survivors
- Training for police should include the voices of victim-survivors with lived experience of sexual violence

Data Collection & Reporting

- Implement robust data collection and regular reporting on the impact of initiatives aimed at improving police responses to sexual violence. Initiatives to improve policing should then be modified in response to this evidence base

The Trial Process

Full Stop Australia counsellor: "Every client I have worked with has been retraumatised by the Court process."

NSAP Advisory Group Member: "The thought of being subjected to psychologically damaging cross-examination by a callous and brazen defence barrister who is permitted to peddle outmoded sexist prejudices was a powerful deterrent to me reporting my sexual assaults. Until there are measures in place to protect victims from such practices, many of us will not be willing participants in the justice process as it stands."

Victim-survivors told us they experienced significant retraumatisation during the Court process. Some victim-survivors who never reported sexual violence to police told us their knowledge of what the Court process was like for victim-survivors was a

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'powerful deterrent' to coming forward. Full Stop Australia's counsellors highlighted the serious impacts of the Court system on their clients and their well-being.

Significant change is needed to make Court process more accessible and trauma-informed. The experience of the court system has been identified as a source of pain and retraumatisation for victim-survivors who go through it, and a deterrent to reporting for those who do not.

Full Stop Australia's recommendations to address the court process include:

Specialist Courts/Lists

- Establish sexual violence specialist Courts for the hearing of all sexual offence matters. Full Stop Australia supports a specialist Court model that implements training on sexual violence and trauma-informed approaches, consults with victim-survivors and frontline sexual-violence services, specifically requires everyone working in the courts to use trauma informed practice, and can operate within the existing court system

Standing

- All victim-survivors of sexual violence should have standing to intervene in relation to cross-examination, and applications to admit evidence, that affect them, supported by publicly funded legal services

Access to special measures

- Access to 'special measures' to reduce retraumatisation for victim-survivors giving evidence in Court should be made consistent across jurisdictions
- All victim-survivors of sexual violence should be entitled to give pre-recorded evidence if they want to, under conditions of full and informed choice

Addressing harmful and invasive cross-examination

- Urgent steps must be taken to address irrelevant, invasive and otherwise improper cross-examination
- Restrictions on cross-examination and the admissibility of evidence should be consistent across jurisdictions
- The viability of 'specialist questioners' for sexual-violence cases should be tested
- Prosecutors across the country should call on expert evidence about memory and responsive behaviour research in sexual violence trials
- All jurisdictions should introduce a provision specifically requiring the Court to disallow questions with no basis other than to reinforce myths, stereotypes and misconceptions about sexual violence

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Juror Education

- Juries across all jurisdictions should receive mandatory juror education and jury direction to counteract common rape myths and misconceptions about trauma responses

Evidence

- All jurisdictions should appropriately limit the admissibility of 'sexual experience' evidence
- Adopt a uniform approach to the disclosure of victim-survivors' counselling, therapeutic and other records across jurisdictions that prioritises privacy, agency, confidentiality, consent and safety
- All jurisdictions should adopt a broader approach to the admissibility of tendency and coincidence evidence in both adult and child sexual offence matters

Sentencing

"Law sets the precedent for how society operates, and if we have law that allows convicted child sex offenders to utilise good character references, that really sets the tone for the conversations that happen in our workplaces, in our schools, with our families." Harrison James (Your Reference Ain't Relevant Cofounder)

Preventing character evidence from being used in the sentencing of adult sexual offences would give survivors more faith that the justice system recognises the harm caused by sexual violence. It would also remove a retraumatising element of the Court process for survivors of these crimes.

A focus on behaviour change for sexual offenders is an important part of preventing further harm. Full Stop supports investment in targeted research to increase our understanding of what initiatives are most likely to effectively change behaviour and attitudes of sexual offenders.

Full Stop Australia's recommendations on sentencing considerations included:

- Amend legislation in all jurisdictions to clarify that the character of an offender should not be considered a mitigating factor in sentencing for child or adult sexual offences
- Invest in the development of evidence-based behaviour change programs for sexual offenders, both inside correctional facilities and in the community. This should include culturally appropriate behaviour change programs, and programs delivered on Country

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Civil Proceedings and Other Justice Processes

Considering the retraumatising nature of the criminal system, Full Stop recognises the opportunity for alternative justice options for sexual violence, as highlighted by some victim-survivors.

While the desire for alternative justice pathways emerged clearly in discussions with victim-survivors in Full Stop Australia's NSAP, views on restorative justice were mixed. Some victim-survivors raised serious concerns about the potential of alternative justice processes to continue abuse dynamics, prolonging harm to victim survivors. To address risks associated with restorative justice, Full Stop supports further work to assess its potential for delivering justice to, and possible impacts on, victim-survivors, before further expansion of these programs.

There is variability across jurisdictions as to the enforceability of, and rights conferred in, Victims Charters. To strengthen protection and support available to victim-survivors of sexual violence in the justice system, amendments to Victims Charters in all jurisdictions are appropriate.

Full Stop Australia's recommendations:

- A victim-centric approach should be taken to assessing the suitability of restorative justice in sexual offence matters, informed by extensive and sustained consultation with victim survivors
- Victims Charters across all jurisdictions should be amended to give victim-survivors a mechanism to enforce and pursue their rights

Affirmative Consent

Full Stop Australia recommends that an affirmative standard of consent should be adopted in legislation for sexual violence matters in all Australian states and territories. This would promote shared standards of respect, safety, and mutual and ongoing communication as cornerstones of all sexual interactions and improve clarity in criminal proceedings regarding the obligations of all parties to sexual encounters.