



# **Crimes Legislation Amendment (Sexual Consent Reforms) Submission.**

Full Stop Australia  
January 2026

## About Full Stop Australia

Full Stop Australia operates the NSW Sexual Violence Helpline which is part of a network of specialist support services for anyone impacted by sexual violence. We compliment the national helpline 1800RESPECT (a key referrer to NSW's Sexual Violence Helpline); and the medical care, forensic services and other support provided by NSW Health Sexual Assault Services in hospitals and community health centres. Established in October 1974, the Helpline was the first funded rape crisis service in Australia and has operated continuously since then. Funded by NSW Health, the NSW Sexual Violence Helpline provides crisis intervention, medium and long-term recovery and healing. The service also supports loved ones and professionals.

In 2024-25 the Sexual Violence Helpline provided over 13,000 occasions of service to NSW residents impacted by sexual violence.

## Our Approach to this Submission

Full Stop Australia thanks the Department of Communities and Justice for the opportunity to provide input to the statutory review of the Crimes Legislation Amendment (Sexual Consent Reforms) Act 2021. Our aim is to contribute to a safer and fairer legal system for everyone. This requires a 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.

We support the policy objectives of these reforms and note that more analysis is required about the operation and in practice outcomes of these changes in relation to policing responses and the conduct of criminal proceedings. Without these components it is not possible to be confident that justice outcomes and experiences in criminal proceedings are improving for victim-survivors. Of critical importance are the results of the trial transcript analysis<sup>i</sup> to assess how the provisions are being implemented in practice and availability of the context and decision making where police have not progressed to charge, as recommended by the Australian Law Reform Commission (ALRC).<sup>ii</sup>

Full Stop Australia and the Women's Legal Service NSW have discussed the issues we wish to make comment on. We strongly support the submission and recommendations from the Women's Legal Service NSW and have provided some additional information from victim-survivors with lived experience and our clinical team to assist the review team. We concur with the Women's Legal Service that a specific focus on outcomes and experiences for Aboriginal and Torres Strait Islander women is vital given their overrepresentation as sexual assault complainants<sup>iii</sup> and the lack of data about how the legal system is responding to First Nations victim-survivors.<sup>iv</sup>

Full Stop Australia urges as a minimum that thorough and regular reviews occur to assess the efficacy of the reforms in practice in the courtroom<sup>v</sup> given what we know from research and lived experience that sexual assault trials have been observed to be a 'uniquely resistant' legal sphere.<sup>vii</sup>

The review should address each matter prescribed by the NSWLRC and assess the provisions in practice within the courtroom, including:

- How consent is being conceptualised by prosecutors, defence counsel and judges
- An analysis of the scrutiny on victim-survivors 'failure' to demonstrate non-consent versus the accused persons' efforts to ascertain consent
- Where outdated perceptions of consent are used by the defence what responses from prosecutors and judges occur
- How complainant intoxication is being used – is it a way of proving non-consent or primarily being used to discredit credibility and reliability of the complainant?
- How are court actors treating intimate partner violence, is there consideration of a pattern and history of domestic abuse to prove non-consent?
- Whether the timing and use of jury directions is consistently and promptly used to address misconceptions and rape myths

Experiences of victim-survivors who have engaged with the criminal process post reform must be meaningfully consulted as part of the review. This will require proactive, trauma- informed efforts and could be undertaken in a similar way to the independent interview-based study commissioned by BOCSAR.<sup>viii</sup>

## Recommendations

Full Stop Australia endorses the Women's Legal Service submission and its recommendations. We have also included recommendations that emerge from Full Stop's clinical team's experience with contacts from the NSW Sexual Violence Helpline:

1. Engage with victim-survivors to consult with them about their experiences of the criminal process post affirmative consent law reforms.
2. Specifically consider post reform impacts for Aboriginal women to assess their experience of reporting sexual violence to police and participating in court matters.
3. Undertake and share the transcript study with stakeholders for review and further analysis.
4. Fund an independent legal advice model for women who have experienced sexual violence, noting that in NSW this funding would be best placed with the Women's Legal Service and other trusted organisations with a deep knowledge of sexual violence. An independent legal advice model would be able to engage with ground rules hearings and aid in the prevention of myth-based lines of questioning.
5. Focus upon enhancing the efficacy of the reviewable provisions in practice within the courtroom as recommended by the Women's Legal Service, including conceptualisation of consent by court professionals, level of scrutiny on a complainants' failure to demonstrate non consent versus the actions of an accused to affirm consent, whether intoxication is used to show non-consent, intimate partner violence and history and pattern of domestic abuse is readily admitted to show non-consent, use of jury directions and an assessment of how the communicative consent standard has been in practice.<sup>ix</sup>

### **Recommendations continued.**

6. Ensure adequate training to police and court professionals about presentations of trauma response to aid their understanding of fright, flight and freeze responses.
7. Implement an independent review of police sexual assault reports.
8. Publish reports on cases discontinued by the ODPP and the reasons for the discontinuance. Full Stop Australia also recommends that a protocol is consistently implemented by the ODPP when advising complainants of discontinuance.
9. Review the training provided to police and court professionals to evaluate whether improvements are being made into the operation of entrenched and subtle rape myths in police practice and court proceedings and to what extent the communicative model of consent is operating in practice.

## **Additional actions needed to drive efficacy of the provisions**

Full Stop would also like to highlight actions that the NSW Government can progress that consider the broader legal system and its functioning. These steps would greatly improve the legal process for victim-survivors.<sup>x</sup> Below are relevant recommendations and commentary to drive improved responses to victim-survivors.

- Ensure victim-survivors of sexual violence can access all the services they need from a single, integrated service hub
- Fund system navigators to support victim-survivors engage with the range of police, legal, health, recovery and healing systems
- Provide standing to all victim-survivors to intervene in cross-examination and applications to admit evidence that affect them. The Women's Legal Service also recommends the provision of legal support to victim-survivor throughout the criminal process and the implementation of ground rules hearings.<sup>xi</sup> These legal services must be provided by organisations with a deep understanding of the dynamics of gender-based violence and a trauma-informed and culturally safe approach to legal practice.<sup>xii</sup> As a specialist sexual violence service, Full Stop Australia, believes that giving standing to an independent representative would ensure there is someone in the courtroom whose sole priority is upholding the rights and dignity of the complainant.<sup>xiii</sup>
- Establish specialist sexual violence courts or lists

## **Experiences Reporting to Police**

The experience a victim-survivor has the first time they report sexual violence is critical. This can determine whether they decide to move forward in the criminal legal system and how supported they feel doing so. Improving victim-survivors' experience of their first report can help to address low reporting and high attrition rates for sexual violence – ensuring more matters progress through the criminal legal system.<sup>xiv</sup>

We recommend that a review of police reports is undertaken to examine how police have applied the communicative consent standard post reforms. Full Stop Australia continues to call for system navigators to support victim-survivors with the legal process and other matters. We support the Women's Legal Service's recommendation regarding independent legal representation which could improve the experience of victim-survivors with police reporting.

Service users of the NSW Sexual Violence Helpline reported mixed responses about reporting to police, with fear of not being believed, being questioned in a way that suggests they are not being believed and feeling invalidated continuing to occur post affirmative consent reforms. Examples of rape myths, minimisation and a discussion about 'not ruining their (perpetrator's) life' remained themes as did conversations about little chance of prosecution.

A victim-survivor told her counsellor that police waited for CCTV footage to confirm the report of sexual assault and then told her that the incident looked consensual. The caller said she was *"very drunk and didn't know what she was doing."*

Victim-survivors of sexual violence provided mixed feedback about the use of the Sexual Assault Reporting Option (SARO). Some callers indicated long wait times for contact from police, with a small number reporting that police contact did not occur. Full Stop Australia follows up for these clients through the Sexual Violence Portfolio holder. Counsellors have also observed that victim-survivors are using SARO rather than attend their local police station. It appears that some police may have misunderstood the choice being expressed in SARO.

One victim-survivor described her experience of being contacted by three different stations to get a more detailed statement after reporting in the SARA when she did not want police to investigate.

For some callers, the conceptualisation of consent in an intimate relationship where there is also domestic and family violence was a barrier to reporting. We say more about this below and strongly support the analysis provided by the Women's Legal Service.<sup>xv</sup>

Some victim-survivors have shared positive experiences where they were responded to with care, appropriate action and ongoing communication.

Full Stop Australia participates in the police exceptional clearance panel matters. Our impression from the meetings is that most cases presented are recommended for closure because the victim is unwilling to take further action. Police advise they are ensuring evidence is recorded in the case that the person may wish to proceed at a future time. We have been told that in some cases police do not approach the alleged perpetrator to put the allegations in order to keep open possible future covert strategies. Our view is that this practice does not hold perpetrators accountable.

This new practice of meeting about police exceptional clearance matters, while welcomed, would also benefit from further examination and evaluation of consistency of operation, purpose and the benefits it is delivering and opportunities for improvement.

## Case Study:

Amber<sup>xvi</sup> was sexually assaulted by a friend of a friend on a night out in 2023. She was initially confused by what had happened and did not seek medical or police attention. Ten days after the assault, Amber contacted the NSW Sexual Violence Helpline. The counsellor explained to Amber that what had occurred was a sexual assault as she was intoxicated and not consenting. Amber was told that she was outside the timeframe for a forensic examination however could access her local sexual assault service for counselling and a medical examination. She was also told of her options for reporting to police including completing a SARO or attending her local police station to report the incident. Amber told the counsellor that she wanted to take the matter further with a police report.

Amber attended her local police station to report the sexual assault. The police officer at the front desk asked her some initial questions in a loud voice in the public reception area which made her feel uncomfortable. She provided very limited information in her responses and was moved to a private room where she spoke to a detective.

The detective took a brief summary of what had occurred. He asked about how many drinks she had consumed on the night and if there were signs of her intoxication. The detective asked her if she had said no. Amber shared that she had frozen and was unable to speak. The detective explained that there will probably be limited evidence available given that there is no forensic or CCTV footage available and wondered if she wanted to proceed. Amber asserted that she did and the detective arranged a time for her to come in to complete a formal statement.

Amber provided her statement and was also asked to show her mobile phone to the detective to see if there was any evidence that could be used to confirm her story such as photographs from the night in question or text messages from the perpetrator. Amber had some unrelated intimate photos on her phone which were viewed by the detective as part of this process.

Amber waited weeks and had no further contact from police. She emailed regularly and was informed that they were busy investigating other crimes and would progress hers as soon as possible.

A few months after the initial report, Amber received a phone call from the detective. He said that as there was limited evidence available it was unlikely that the matter could proceed unless she undertook a covert phone call to the perpetrator which would be recorded by the police. The detective stated that if she agreed to do this, they would arrange a warrant which would give them a specified timeframe to make this call.

Amber did not feel comfortable doing this as the perpetrator was a friend of a friend and not someone she would normally telephone. However, she felt determined to hold him accountable so reluctantly agreed. Amber was hoping for guidance from the police on how to manage this call however was told that they were unable to give her any direction. They provided her with an old

recording device that was attached to her phone with rubber bands and told to call the perpetrator and try to illicit a confession. Amber felt very scared and alone in this process.

She called the perpetrator and he gave some indication of his guilt without providing a clear confession. The police informed Amber that they were able to use this information and that they would put together a brief of evidence to send to the DPP.

The DPP pursued the matter and Amber's case was listed two years after her initial report. Amber had not attended court previously and was very nervous. It was confusing for Amber that even though this was about her, she was a witness for the DPP. She was allocated a Witness Assistance Officer by the DPP who spoke to her about what to expect at court and her options for giving evidence. Due to staffing capacity this person was not available to attend court with her.

Amber was given a choice about being in the courtroom or a remote location using CCTV. She opted for CCTV as she did not feel she could face both the perpetrator and the defence barrister in person.

Amber sat through two days of questioning by the defence. She was asked questions about how many drinks she had had, what she was wearing and how she had communicated that she was not consenting. She stumbled over some questions due to her nerves and the fact that she was being asked to recall small details from an event two years ago. The defence suggested that she was being untruthful, was not to be believed and that her evidence could not be relied on as fact. Amber left the stand feeling completely broken and as though she had just been assaulted again. This feeling was exacerbated by a not guilty verdict and a statement that the information obtained in the covert phone call could be interpreted in another way rather than an admission of guilt.

Amber now says that if she had her time over, she would not have pursued a justice response as the experience has traumatised her further and actually felt worse than the initial assault.

Full Stop Australia's clinical team report these types of experiences as common among victim-survivors who call the NSW Sexual Violence Helpline. Pre-reform questioning from police seems to continue to be present with police discouraging complainants because of an opinion that seems informed by pre-reform understandings of consent.

To improve police responses, we recommended to the ALRC that a mandatory, nationally uniform code of practice to standardise a trauma informed approach to working with complainants of sexual violence be developed.<sup>xvii</sup> We recommend further work in NSW to standardise police questioning and investigation practices until a national code is finalised.

As noted by the Women's Legal Service, because there are limited options for victim-survivors to have legal support during the criminal process<sup>xviii</sup>, much of what we know comes from hearing experiences from our callers and clinical team. For this reason, we support an oversight mechanism to independently review police reports, including those that do not progress to charge<sup>xix</sup> and for further quality improvement we support the development of a national quality assurance framework, as noted above, for police interviews of complainants of sexual violence.<sup>xx</sup>

## Experiences of Court Proceedings

About a third of Sexual Violence Helpline staff are currently providing specialist trauma support to victim-survivors involved in court proceedings. Prevalent themes include callers in legal proceedings where the perpetrator states that the sex was consensual and it is their word that it was not; callers being sexually assaulted when they were intoxicated and therefore unable to consent; victim-survivors waking to find someone penetrating them and being coerced into sexual activity.

Counsellors report a continuing need for training of court professionals, noting psycho-education that explains the fight, flight or freeze response for victim-survivors is critical because many callers say they did not fight, scream or say no, and instead froze. Freeze response is a very frequent response that is discussed with our counsellors.

Repeatedly, callers say if they had their time again they would not pursue a justice response because the barrage of questions, being called a liar and untrustworthy was worse than the incident itself.

An example is a client being told that her evidence could not be relied on as fact because she could not remember the colour of the top she wore on the night she experienced sexual violence. The attack occurred four years previously.

A victim-survivor told her counsellor that police waited for CCTV footage to confirm the report of sexual assault and then told her that the incident looked consensual. The caller said she was *"very drunk and didn't know what she was doing."*

Full Stop Australia wishes to re-emphasise the need for training of criminal justice professionals. The 2023 BOCSAR study specifically recommended assistance for prosecutors to formulate new approaches in rape trials,<sup>xxi</sup> as did the ALRC.<sup>xxii</sup> Without specific training and evaluation of its application, we cannot be sure that rape myths, which are often subtle and ingrained, are being addressed to support victim-survivors in court proceedings.<sup>xxiii</sup>

The role of 'system navigators' was first set out in the Victorian Law Reform Commission<sup>xxiv</sup> and a similar recommendation was made by the ALRC. Full Stop Australia has made a submission to the NSW Government to create this program in NSW. We strongly recommend making system navigators available to all victim-survivors of sexual violence to provide better support during police interviews, assistance liaising with police and supporting victims to exercise their rights.<sup>xxv</sup>

We strongly concur with the Women’s Legal Service that responding to intimate partner sexual violence needs specific education for police and court professionals to support victim-survivors in this context.

Thank you again for the opportunity to add our voice to the review and we would be happy to speak further with DCJ about this submission.

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- <sup>i</sup> DCJ (2025) Statutory Review of the Crimes Legislation Amendment (Sexual Consent Reforms) Act 2021, p6
- <sup>ii</sup> Australian Law Reform Commission (ALRC Report 143, January 2025) Safe, Informed, Supported: Reforming Justice Responses to Sexual Violence Recommendation 4.
- <sup>iii</sup> ABS (2024) [Recorded Crime - Victims, 2024 | Australian Bureau of Statistics](#)
- <sup>iv</sup> Women’s Legal Service (2025), submission to DCJ for the Statutory Review of the Crimes Legislation Amendment (Sexual Consent Reforms) Act 2021, para 11.
- <sup>v</sup> Women’s Legal Service (2025) (n 4)
- <sup>vi</sup> NSW Law Reform Commission (2020) Consent in Relation to Sexual Offences (Report 148, September 2020) para 10.5
- <sup>vii</sup> Women’s Legal Service (2025) (n 4) referencing Elisabeth McDonal et al, Rape Myths as Barriers to Fair Trial Process: Comparing Adult Rape Trials with Those in the Aotearoa Sexual Violence Court Pilot (2020) pp1-15
- <sup>viii</sup> Campbell E, Woolley D, Lockie F (2023) This is My Story. It’s Your Case, but It’s My Story: Interview Study Exploring Justice System Experiences of Complainants in Sexual Offence Matters, NSW Bureau of Crime Statistics and Research, 31.
- <sup>ix</sup> Women’s Legal Service (2025) recommendations 3-7
- <sup>x</sup> In 2024, Full Stop Australia surveyed more than 50 members of our National Survivor Advocate Program (NSAP) to inform our submission to the Australian Law Reform Commission Inquiry into Justice Responses to Sexual Violence.
- <sup>xi</sup> Women’s Legal Service (2025), para 44.
- <sup>xii</sup> ALRC para 6.91
- <sup>xiii</sup> Women’s Legal Service (2025) para 51
- <sup>xiv</sup> Full Stop Australia submission to ALRC (2024), p18
- <sup>xv</sup> See Women’s Legal Service (2025),
- <sup>xvi</sup> Name changed to protect identity.
- <sup>xvii</sup> Full Stop Australia submission to ALRC (2024) p57
- <sup>xviii</sup> Women’s Legal Service (2025) (n 4) para 31
- <sup>xix</sup> ALRC Recommendation 4
- <sup>xx</sup> ALRC Recommendation 26
- <sup>xxi</sup> Quilter J and McNamara L (2023) Experience of Complainants of Adult Sexual Offences in the District Court of NSW: A Trial Transcript Analysis (Crime and Justice Bulletin No. 259, NSW Bureau of Crime Statistics and Research)
- <sup>xxii</sup> ALRC Recommendation 13.
- <sup>xxiii</sup> Women’s Legal Service (2025), para 40.
- <sup>xxiv</sup> Victorian Law Reform Commission (2021), Improving the Justice System Response to Sexual Offences
- <sup>xxv</sup> Full Stop Australia submission to ALRC (2024), p28