



Victorian  
Law Reform  
Commission

# **Improving the response of the justice system to sexual offences**

**Summary of responses to online feedback form from people with experience of sexual assault**

**April 2021**



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## About this summary

### The inquiry

- 1 The Victorian Law Reform Commission has been asked by the Attorney-General of Victoria to make recommendations to improve the response of the justice system to sexual harm. We will review the laws in Victoria about rape, sexual assault and other adult and child sexual offences, and consider how those laws work in practice.
- 2 Our inquiry focuses on:
  - barriers to reporting sexual offences: what prevents people from reporting sexual harm
  - why reports of sexual harm may not proceed through the justice system
  - how to reduce the trauma of victim survivors in the justice system
  - how to improve data collection and reporting
  - the best ways of responding to sexual offences—including alternatives to the justice system
  - how to build on previous reforms.
- 3 More information, including the terms of reference, can be found on our website: [https://lawreform.vic.gov.au/sex\\_offences\\_2020/issues\\_papers](https://lawreform.vic.gov.au/sex_offences_2020/issues_papers). The inquiry is due to report on **31 August 2021**.
- 4 As part of the inquiry, we consult with members of the public and those with an interest in sexual offences.
- 5 A key part of the inquiry is hearing from people about how they think the response of the justice system should be improved. For this inquiry, we gave people three ways to tell us their views:
  - an online form for those who have, or knew someone who had, experienced sexual harm
  - submissions (written responses to our issues papers or terms of reference)
  - formal consultations.

### The feedback form

- 6 This paper summarises the responses of people to the online form (the first of the three ways people could give feedback). The form was anonymous, and people were also told that they could make a formal submission if they wanted to provide their name or contact details.
- 7 The online form was publicly available on the Engage Victoria website from 16 October 2020 to 23 December 2020. We promoted the form

- through social media and email, and through stakeholders involved with the inquiry. We also released an animated video to promote the form.
- 8 While the page was not publicly available after this date, the link to the form remained active until **11 January 2021**.
  - 9 The form had 15 questions. The number of questions people were asked depended on their answers to certain questions. Most people did not therefore need to answer all the questions.
  - 10 The first set of questions asked people for demographic information and basic questions about their experiences. These were designed to help us understand their answers better, and to identify which questions we would like them to answer.
  - 11 The main part of the form asked for feedback and ideas about how to improve the responses of the justice system to sexual offences.
  - 12 For most questions, people could choose if they wanted to answer the question. The only questions they had to answer (for legal reasons) were:
    - whether they were an adult reporting a sexual assault in Victoria (if they answered that they were not, they could not continue with the form)
    - whether the person who was sexually assaulted was under 16 at the time and, if so, whether the information had been reported or the person was over 16 on 27 October 2014 (for legal reasons).

## Who took part

- 13 There were 77 responses to the form, although only 75 of those were 'unique contributors' (meaning some people submitted the form more than once). However, ten people answered that they were not an adult. These people were unable to complete the form, as we decided it was not ethically appropriate to use this form in those cases. These people were directed to information about available supports. This left **67 responses we could use**.
- 14 The form did accept responses from people who were adults reporting on child sexual assaults. There were **13 responses** which related to a sexual assault or assaults involving a person who was under 16.
- 15 For these 13 responses, we also asked (for legal reasons) whether the information had already been reported to the police, or if the person sexually assaulted was over 16 on 27 October 2014. In 11 cases, the information had been reported to the police, and in two cases the person was over 16.
- 16 To understand if we were reaching different communities, and to help us understand the answers better, we also asked people if they identified as a person with specific characteristics. People could choose if they wanted to answer this question and could choose as many answers as applied to them.

- 17 Most people responding identified as female (54 responses), with six identifying as male. We received 24 responses from people identifying as LGBTIQ, 10 people identifying as a person with disability, 10 people living in a rural or regional community, and seven responses from people working in the sex industry. We received lower numbers for other identifying characteristics, with four people identifying as migrants or refugees, and three as Aboriginal or Torres Strait Islander or as an older person, and one person living in housing for people with disability. We did not receive any responses from people in detention or in an aged care home.

## **Understanding this summary**

- 18 The aim of this summary is to record the views of those who took part, so their voices can be heard. This summary will be used to inform our final report. However, the summary does not reflect the views of the Commission or any findings.
- 19 The summary includes quotes from those who agreed to have their words used in the report. In some cases, we have included relevant details to give context to the answer (for example, if the person identifies as a person with disability, or how long ago they went to court). We have also referred in some cases to their gender, where a person indicated their gender. We have in a few cases corrected punctuation or clear typographical errors in original quotes.

## **Experiences of the justice system**

- 20 We asked people what they did in response to the sexual assault. They could choose if they wanted to answer this question.
- 21 Of the 58 people who answered the question, 53 told someone, and 35 of them told the police. In 13 cases someone was charged, and in 11 cases the case was heard in court.

## **Experience of police**

- 22 Thirty-six people also chose to answer the question about how long ago they told the police. Most of them had reported the assault within five years (28 of the 36), while seven people had reported it to police more than 10 years ago.
- 23 Thirty-six people also told us how long it had been between the sexual assault and their report to the police. In 15 cases, two weeks or less passed between the assault and the report. In another eight cases, there had been more than 20 years between the assault and the report. There were small numbers reported for other time periods.
- 24 Thirty-six people also chose to tell us the police unit where they reported the assault. In 16 cases, it was reported to a local Sexual Offences and Child Abuse Investigation Team (SOCIT), the specialist police

responsible for sexual offences. In 11 cases, it was reported to the local police station. Three people called the emergency police number and three people attended a Multi-Disciplinary Centre (which co-locates police with counsellors).

## Experience with prosecution and courts

- 25 Fourteen responses identified when a person was charged (which was one more response than the number who identified a person as having been charged). Of these, in half of the cases the person had been charged less than a year ago, with another 6 having been charged 2–5 years ago and in one case 10–20 years ago.
- 26 Of the 11 people who identified that a case had been heard in court (including on appeal), eight identified the case as having been heard in the County Court of Victoria, and six in the Magistrates' Court of Victoria. One identified the case as having been heard in the Supreme Court of Victoria.

## Responses

### What was said about prevention

- 27 Although the form did not specifically ask about education and community awareness, this was raised by several people. As one person said:

I wish that more active change was being done to prevent sexual offences from occurring at all. People at all ages in all cultural groups need better understandings of how to have pleasurable, consensual sex in their lives. That will support and bring justice for survivors, for these experiences to be less common.
- 28 Another pointed out that what was needed was to “dismantle the patriarchy and apply a feminist lens to the justice system” and to “stamp [systemic violence] out early”. However, another said that we needed to recognise that:

sexual violence knows no gender race sexuality etc. but that currently the response to it does ... this means that we need to stop turning sexual assault into a thing about 'men's violence against women' as these things are not the same or interchangeable.
- 29 Another felt there should be more education about sexual assault “in schools and throughout the community”, so that people would know how to help those who had experienced sexual assault and take it seriously. Another supported “getting the message out that keeping children safe is a community responsibility”.
- 30 A teacher said that more education was needed about what sexual assault really is, and about slut-shaming and victim-blaming. In her experience, many teenagers didn't understand that sexual assault



happened in many ways. They needed to be educated about when they had been sexually assaulted, and schools needed to have more resources to assist them when they disclosed.

- 31 Another person felt that “consent is the key to this going forward”:

Young people grow up not being taught how to set their own, and respect other’s boundaries, and then suddenly they’re engaging in sexual behaviours and not understanding how to say no without fear, or accept a no without feeling rejection, people as a result push boundaries without realising, and since sexual assault so commonly happens at home and in relationship dynamics, people need to understand boundaries and consent or they won’t even realise they’ve crossed a line, or a line has been crossed, just like what happened to me and so many others.

Consent starts in childhood and schools.

- 32 One person, who identified as a migrant or refugee, told us that people from migrant and/or refugee backgrounds needed to be educated that “no is a no and it’s a crime”, especially in cases of family violence.
- 33 Another person suggested that it would help to “stop building new prisons and invest in education and housing”. The same person said the Victorian government could not lecture on consent until it signed treaties with First Nations communities in Victoria, as it was “literally ruling without consent”.
- 34 One person also gave a specific suggestion that public transport should be fitted with CCTV to prevent crime on public transport, and to ensure evidence was available if it did occur.

## What was said about getting support

- 35 There were 50 responses to the question: ‘What can be done to make it easier to get support, and to get the kind of support people need?’

## Not telling anyone

- 36 Several people spoke of the reasons they didn’t tell anyone, and the contexts that shaped their decisions.
- 37 Some spoke of the fear of being disbelieved and shame, especially in the context of intimate partner relationships, even when a person understood the law and had great supports:
- It took me a long time to tell anyone, as I felt that I wouldn’t be believed. The perpetrator was an intimate partner at the time and he told me as much—‘no one will believe you anyway’. I was a lawyer, and have a great family, and I know the law around this but I was still too embarrassed to tell anyone and didn’t want to go through the trauma of people knowing. I eventually told a friend, and I have told my now husband. I haven’t even told my psychologist.
- 38 This disbelief was even more of a deterrent for people who experienced sexual abuse as a child. For example, one person noted that her parents

would never have believed (and still did not believe) a report of child sexual abuse, or another incident involving a family friend who was a doctor.

- 39 In another case, the person was raped as a teenager but did not recognise it as rape because she was “passed out at the time and it wasn’t violent”. She eventually told a friend who asked. Although her friend told her it was rape, she did not report it because she lived in a small town that “liked gossip” and was worried it would shame her mother, who “already had a tough life”, and there was “nothing that could be done about it anyway as it had already happened so I didn’t see the point”.
- 40 Another person, who identified as an LGBTIQ person with disability, was to the point—what was needed was “less judgment”. Similarly, another person, who had reported child sexual abuse years later, noted that believing children was important, especially when they reported as an adult.

## Stigma and discrimination

- 41 In some cases, the decision not to report was made in the context of the risks of stigma and discrimination they were likely to face. One person working in the sex industry (who also faced discrimination for other reasons) said she was aware of public police comments conflating sex work with sexual assault and stigmatising or discriminatory responses by support services, so she:

calculated that it was more likely than not that I would be exposed to stigmatising and victim blaming statements during the process of attempting to report. . I figure as long as the enforcers of the law and many service providers specialising in sexual abuse still don't recognize the difference between me going to work and having consensual sex vs me being attacked and not listened to by a specific individual ... and having my consent violated (whether at work or not ... ) then I feel like what's the point of even trying.

- 42 She continued:

I know I haven't done anything wrong. I know I don't deserve to be victim blamed. I know victim blaming is super unhealthy and unhelpful and so I protect myself as best as I can. I know that some individuals within the police and in some services are actually very supportive and that they are proactive in learning about these issues and that I might be lucky to get someone who would refrain from making comments about what I do with my own body when it's irrelevant to the case at hand. But the point is ... it can feel like I'd have more chance of winning the lottery than getting someone who avoids victim blaming someone like me.

## Understanding what happened

- 43 A few responses spoke of how difficult it was to understand that what had happened to them was wrong, or that it was sexual assault.

- 44 One person explained that “I genuinely didn’t realise I’d been sexually assaulted”, and that even the one time she thought she hadn’t consented, “I talked myself out of it” and “downplayed it” to her friends. She felt that “consent needs to be pushed harder in schools” and that this would have made her aware of what happened and “more willing to go to someone straight away”.
- 45 Similarly, another person spoke of the “internalized slut-shaming” that prevented the person from speaking out.

## **Better information and education**

- 46 One theme was the need for better information and education in the community about how to respond to disclosures of sexual assault.
- 47 One person responded that it should be “made clearer to the public on how to get help” and it should be easier to get help, noting that younger people often did not understand how severe sexual assault is, and that many are therefore told that the assault “wasn’t bad or it’s not believable”. This discourages them from contacting police or other services.
- 48 This was supported by another person who spoke of her experience telling a friend who was about her age, who did not believe her and blamed her. It took another couple of years before she was able to seek support from a therapist, and then to speak to older friends and family.
- 49 One person, who identified as a gay man, reported that the police were very helpful when a stranger attempted to pressure him to come to his house to have sex with him. He said that he wanted “police, and society at large, to be very aware [that] men can [be] and are the victims of sexual assault and sexual harassment”.
- 50 Another person indicated there was a need to strengthen community responses. In that case, police officers had been present at a party at a university where the assault happened, but nobody had said anything or stopped them.
- 51 One person suggested that women could be educated in all workplaces, as part of mandatory training, about organisations available to help in cases of sexual assault.
- 52 Another theme was the need for more information about where to get support and how the process worked. One person spoke of how she had no idea how to get help. She had contacted several “incredibly unhelpful” law firms when it happened but it had taken years before she had found someone to help her. Another spoke of the need for more information about support, including what people should do to preserve evidence.
- 53 Another person spoke of how difficult it had been to find the right Sexual Offences and Child Abuse Investigation Team (SOCIT) to report her experience. She had finally managed to talk to one after calling a hotline and “really search[ing] for the right number”. She felt there was a need

for greater awareness and information about the different ways to report sexual assault, when and how to get in touch directly with a SOCIT, and how the process worked.

- 54 Another person felt there needed to be better ways of “accessing information about the consequences of both reporting and not reporting”.

## **The role of informal support**

- 55 For many people, informal support was often the first and the only form of support they received. For others, it may have been the only form of support they would have wanted.
- 56 One person said that, despite being aware of professional services, he did not reach out to any professional services but spoke after several months to his sister. Even though he knew “intellectually” that he wasn’t to blame, this didn’t overcome the “overwhelming feelings of violation, shame and guilt”. Talking to a professional felt “vulnerable, out of my control and like it was making what happened real”. However, he thought it possible he might reach out later to professional services.
- 57 Another person spoke of an indecent assault by her brother when they were children. The assault had not been spoken of for many years. Although the person was aware of the professional services available and had even worked with victims of sexual assault professionally, she didn’t want to talk to a professional both to protect the brother and because the person felt that they had “generally just coped with it”.
- 58 Others reported that the first response they received from friends could also deter a person from reporting. As one person said, if the friend had been “educated on how to respond” then that person may not have “waited 15 years to get counselling”.
- 59 This was supported by another person, who spoke of having been trained in the US as a first responder to victim survivors of rape and sexual assault at university. When that person had been sexually assaulted, they could act quickly and preserve the evidence.

## **Practical barriers to accessing support**

- 60 One person indicated that they hadn’t spoken to anyone at the time because there were too “many things” happening. That person had reached out to a policeman friend more recently, because COVID-19 had brought those experiences back up.
- 61 Another person spoke of how a lack of housing in regional areas meant she was unable to move, “with the perpetrator stalking my house”.
- 62 Another person suggested that taxi and food vouchers should be easily accessible so that people could get help, as well as mobile phone credit for those fearing for their safety.

## Access to support through mainstream services and workplaces

- 63 Several responses supported better training and support for people in mainstream services such as health and education. As one person said, we have “mental health first aid but we need sexual abuse and family violence first aid”. For example, one person suggested that health care professionals, counsellors, teachers and employers should be trained in trauma-informed care.
- 64 One person reported that they had disclosed to health care professionals but were not linked into sexual assault specific supports. One person also reported difficulties in even finding a female GP in their area.
- 65 Another reported that, while her doctor was very supportive, harmful comments by another doctor at the same practice had stopped her from talking about the experience at all. Another reported doctors asking her “victim-blaming questions” and she suggested that there was a need for more doctors who were trained in responding to sexual assault and trauma-informed principles.
- 66 This was supported by another person, who emphasised that access to “high quality, trauma-informed healthcare is essential, and should be made available to all victims in a cost-effective way”.
- 67 A specific suggestion was that screening for sexually transmitted infections should be available within support locations, rather than in public sexual health facilities, which could be traumatising.
- 68 Another felt it would be useful for psychologists to be more aware of options such as VOCAT.
- 69 One parent reported receiving good support from psychologists, the GP, primary school and childcare service, as well as CASA.
- 70 One person, who had experienced incidents of sexual assault in her teens, felt that it would have been easier to talk to a teacher at the time. However, teachers didn’t have counselling qualifications and had duties to report to the school and parents, which could make teenagers reluctant to disclose to them. Now a secondary school teacher, the person had “witnessed how daunting this process can be for young people”.
- 71 Another person told of how, when she was sexually assaulted in high school, her teacher had chosen not to disclose it because it was in a ‘grey area’. This choice had a “profound impact” on her life. Now herself working in a government school, she could see the improvement through mandatory reporting but still felt there was a need for more training around consent laws. Another person suggested the need for more training of the signs of sexual assault.
- 72 One person spoke of the lack of appropriate support she had received while working as a young person within the youth justice system. Her

supervisor had defended the actions of the person involved, who had an acquired brain injury. She was advised to go on stress leave and made to feel that no one wanted her to come back. Meanwhile, the process went on “autopilot” as the workplace communicated with her doctor and allocated a psychologist. She decided then to leave the job.

- 73 Years later, she was working in a corporate environment when she was sexually harassed by a male superior at an office function. This time, she confided only in two people but learnt that the firm “regularly turned a blind eye” to such behaviour.

## **Access to specialist support**

- 74 Several people identified issues with accessing counselling support.
- 75 One person felt that access to counselling should be easier, without someone having to identify as a ‘victim’ to access it. Another suggested that connecting victim survivors to psychologists should be part of the check-up if someone went through an emergency service.
- 76 Others reported difficulties in accessing support from CASAs or professional counsellors, or noted the need for more resourcing for CASAs.
- 77 This was needed to reduce long waiting lists, with one person reporting a nine-month waiting list prior to the trial. Another waited for a long time for group therapy, but this was cancelled due to COVID-19 and they had not received an update. The person had found CASA to be unhelpful but thought this would be at least partly caused by underfunding.
- 78 Another person indicated the number of sessions was too low, and another recommended that CASAs should be able to provide lifelong services.
- 79 One person felt that CASAs were “under-staffed and ... clearly overloaded”, and she felt lucky she could afford to see her own therapist. She said it was vital that victim survivors and their family had “an abundance of support” and “CASA cannot do that all on their own”.
- 80 One parent reported that, while her daughter had the support of someone from CASA at the hospital the day after the assault, she had not received a follow-up appointment after six weeks, despite being on the priority list. The list of private counsellors she received was out of date. However, while her daughter was still waiting, she and her husband had been put in contact with someone for them.
- 81 One person also supported more resourcing for psychologists, and to help victim survivors fund therapy, which wasn’t fully funded. For her, the “psychologist has been my saving grace”, without whom she would not have been able to find closure.
- 82 One person also said that therapists needed specialised sexual assault training. Another person reported that they knew of a counsellor who

- had refused to support someone in relation to sexual assault and failed to refer that person to appropriate medical services.
- 83 Another person had been referred to a male psychologist, but did not feel comfortable with him, so went online to find support.
- 84 Another person spoke of the lack of support options in regional areas, especially in long-term recovery support, and how this meant that if you did not have a good experience with one service, there wasn't another option.
- 85 Another person, who was raped in a regional town as a minor decades ago, felt that "if there were the CASA phone services available then that are available now, I might not have dropped out of school or started abusing alcohol". Similarly, another person suggested more confidential support services may help.
- 86 Inappropriate attitudes and service responses were also reported. One person spoke of the need for services "to not judge", noting that most services "didn't really understand and seemed to think I was an idiot".
- 87 Physical access to the services was also raised as an issue. One person reported connecting to SECASA but having to take a taxi for over an hour to the hospital, despite "being scared to be in a taxi alone with a taxi driver". She suggested an accompanied transport service, more locations, and someone to meet her at the entrance would have helped.

## **Victim support and advocacy**

- 88 Most of the responses spoke strongly of the need for much greater support of victim survivors. As one woman noted:
- I needed a support team, an advocate, a lawyer. The offender had all of this, a whole team of people looking after him. I felt stripped of everything, like I had no-one. I felt so alone.
- 89 Several people praised the supportive and "brilliant" work of CASA counsellors. Another spoke highly of the free support and counselling services:
- I think the free telephone support and counselling is absolutely crucial. I've used these services to assist me when I was processing the trauma arising from my father's abuse and the lady on the phone was supportive and validating, even though it was historical abuse and not a crisis that had just occurred. She made me feel like my experience mattered and I wasn't alone. I also appreciated the anonymity and privacy that comes with telephone support. Had I known about it as a teenager, I definitely would have used it then as well.
- 90 One person detailed experiencing historical clerical sexual assault. She explained that "clerical assault of adults is not recognised for what it is", and the "gross imbalance of power" means that the parishioner "rarely seeks help or even feedback from anyone". When she finally sought a response from the relevant order of the Catholic Church after more than

20 years, she found she had to subject herself to widespread media exposure in order to “get anyone to listen”.

91 She felt that she had:

no answer as to with whom I could have talked at the time of the assaults or who someone today could talk to. Adult clerical abuse is still not recognised adequately in society or by the legal court profession and I know of no-one other than the listening ear of volunteer advocacy agencies such as Broken Rites to whom an adult victim of priest assault can turn. Clearly there needs to be a government agency that recognises clerical adult assault for what it is and can mediate between the victim, the police and the OPP.

92 Another woman said that she would have liked to “have one body available that would listen and guide me through the process”. One person spoke very positively of her experience in the US, where she had an advocate who sat with her during her forensic examination and provided support, including taxi vouchers to access the clinic.

93 One person pointed out that it was inadequate to give victim survivors lists of support services at the “chaotic time” when they were reporting. However, another person encouraged police to give such documents, noting she had not received such documents when reporting another (non-sexual) crime.

94 One person stated that she saw great value in the services of Aboriginal Community Organisations supporting women to navigate the police and court systems, including intervention orders and VOCAT, and in cultural healing and strengths-based approaches. These processes should be made more available to everyone.

95 Peer support, in both sexual assault services and in the police force, was also raised. One person working in the sex industry responded that she could not go to the police because of the criminalisation of the sex industry, and that she had been dismissed by someone from CASA who told her to leave the industry. She said:

The only people I feel comfortable talking to is other sex workers.

96 She suggested that the peer support program at Vixen Collective could be expanded, noting that she was:

sick of speaking to civilians about my experiences and having to teach them about my world before we can actually get any work done.

97 One person whose case was heard in court also raised the need for trained legal supports. Another person indicated they had tried to use legal services but had not found them useful.

98 A woman whose case was heard in court said that she had been unable to get any advice about the legal process, with the community legal service indicating that they could not give this advice due to a potential conflict of interest. The police officer was unable to give advice about the



legal proceedings, and the Office of Public Prosecutions (OPP) could only give her minimal advice.

- 99 Another person noted that if she had access to a service similar to a family violence victim survivor, it would help her feel supported and it would recognise him as a sexual predator.
- 100 One person emphasised the need for support well beyond the incident:  
It certainly feels as though the various organisations and the system in general basically wants to hear about an incident and then very quickly turns its back on the person who has gone through the gruelling effort of reporting such horrific experiences. We never hear of people continuing to receive support for years after an incident or anyone from an agency—whether it's the police or otherwise ...
- 101 One person raised the particular case of the lack of any support when a person left prison, so that people were not left in vulnerable situations and abusive environments.

## **Child protection**

- 102 One woman who had recently reported the incident to police spoke of how she had stopped getting further support or help because Child Protection had become involved in her case. Even though her children were unaware of the sexual assault, Child Protection had become involved because the person who committed the sexual assault had breached an intervention order. She said that DHHS (which was responsible for Child Protection) should not be involved in such cases.
- 103 Another person emphasised the need to address the issues around stolen generations and to limit the removal of children.

## **What was said about police**

- 104 The form included two questions about police:
- What can be done to make it easier to speak to the police, and to make you feel safer when speaking to the police?
  - If you told the police, what worked well and what could improve the experience?
- 105 There were 51 responses to the first question, and 32 responses to the second, with some overlap between the two. Some of these responses told us why they had not reported to police, while others told us what had happened when they had reported the matter to police.

## **The decision to report**

- 106 A few people responded that they had felt comfortable or very comfortable talking to the police when they reported, both recently and many years ago.

107 However, most people who answered this question spoke of their fear of reporting to police, and the fear of not being believed, not getting justice, or the police minimising the crime. Other concerns included shame and anxiety about speaking with a stranger and the fear that reporting would only increase the danger. One person commented that if there was “decent information” about what to expect after a report and “there was a premise of being believed as a starting point”, they might have acted differently.

108 One person provided these reasons for not reporting to the police:

First is that I don't really trust the police, particularly in regard to sexual assault. This is in part due to my family's experiences with police. It felt like too much of a chance to me, that I could get a police officer who would be understanding or a police officer who could further retraumatise me. Even with an advocate/support person, I didn't want to open myself up to further harm.

There is also the fact that even though I understood what had happened to me, it took me a while to process it, in that time my memory had already started to blur a bit and I was afraid that under scrutiny what I was saying would seem untrue, even though again intellectually I knew that the relationship between trauma and memory, especially in cases of sexual violence, can be complex.

Finally, I know what happens to survivors and their families first-hand when sexual assault cases go to trial, it's awful and traumatising. I couldn't go through that again. I also wasn't interested in carceral justice for the person who assaulted me, I mostly just wanted to move forward with my life.

109 She reflected:

I'm not sure what would ever make me feel safe with police. Maybe an assurance that I had some control (like I wouldn't be pressured to press charges or that the police would do so on my behalf) or that the police officer speaking to me had an in-depth understanding of the impacts of sexual assault.

110 Another person also reflected on their mixed feelings about their decision not to report, years later, for a range of reasons:

My boyfriend was unfortunately known to police and I was as well by virtue of association. I honestly didn't believe the police would support me. The sergeant was known for being old school and he probably would have told me I brought it on myself. Part of me thought I had as well. If I hadn't have been drinking alcohol that day, I wouldn't have passed out and it wouldn't have happened. But, then I also didn't want to create further hassles with the police for my boyfriend and his friend either. I didn't really have any friends at school and he was my first love.

Looking back, even if there was an online reporting option, I still don't think I'd report it. The protection of my family and boyfriend outweighed any need for retribution.

Sometimes I think maybe I should report it as a historical offence. The police would probably be able to locate the guy on their system, but I don't want to make a formal statement or proceed down the criminal justice route. They'd either not be able to do anything, or anything they could do would be so stressful and traumatic for me to go through, why would I want to? What's happened has happened, I can't see that it would really change anything other than causing me unnecessary and drawn out distress.

- 111 Similarly, another person said she didn't report to the police because "I was made to believe it was my fault", did not believe there would be an outcome in her favour, and did not want to send someone to prison.
- 112 Another person said she had never thought about reporting because "I didn't feel as though I fit in to the typical assault victim stereotype", and also because she felt the police would dismiss her or not take it seriously because she had consented to the date and had a couple of drinks, and there was "no way to prove it".
- 113 One person explained that she had not reported one incident because she knew about the low conviction rate and was concerned that her 'freeze' response "did not look like 'fighting back'".
- 114 In the second case, she did not report because she did not believe she would be treated with respect as a sex worker. Before sex workers would report, their job needed to be decriminalised. As another person explained, while police were targeting street-based work, the police were "working against us and our safety" and this also meant they were not supported to go to the police as a victim of crime.
- 115 This was reinforced by another woman who spoke of someone they knew who had called the police but did not want to follow up because a friend of hers had been exposed in the courts as a sex worker and "blamed for the assault".
- 116 One person spoke of how, as an Aboriginal person, police "are NEVER on my list for support, justice or help". Another person reflected on the need for police to be trained on alternative communication strategies, reflecting that as an autistic person she distrusted police from a young age, probably because they had not believed her because her behaviour fell "outside social norms".
- 117 Another person reflected on her long journey to reporting a case of child sexual abuse, because especially when you are a child it "is a very closed subject until you are ready".
- 118 Another person spoke of her previous bad experiences with police and the courts in dealing with family violence. She had felt pressured by police to charge the perpetrator, and they had put in an intervention order on her behalf. She felt she could not "get closure or even speak to the perpetrator to resolve my feelings about what happened, and the order caused stress on my family".
- 119 One person indicated that they had never reported it because one of the people involved in the sexual assault was a policeman. Another noted

- the problem could not be fixed “within a system that allows gross behaviour/talk about women”.
- 120 Similarly, a man stated that the police had “played a role in me and hundreds of others being abused”, so he did not trust them and that needed to be fixed as a starting point. Another person noted the need for the police to ensure accountability in cases of police violence and excessive use of force.
- 121 Another person said she:  
didn’t feel like they would necessarily do anything useful and I didn’t want to engage in what I felt like would be a long drawn out and incredibly painful process that likely involved a lot of finger-pointing in my direction and the burden of proving it would have most likely been on me, which just sounded entirely depleting of energy even thinking about it.
- 122 This was echoed by another, who said she didn’t report because she didn’t “want to speak about it, and I don’t want the attention or the distraction in my life”.
- 123 Another person responded that she had “downplayed” the situation because she did not want to make the situation worse, because of an existing friendship with the attacker.
- 124 Another person said she didn’t report because, if she had, “it would no longer be a confidential matter” and she did not want it to affect her employment.

## **What happened when reported**

### **Positive experiences with police**

- 125 Some spoke positively of their experiences with police, with comments referring to individual police officers as “wonderful” or “very helpful”. One person found them “respectful and informative”.
- 126 One person spoke of how her excellent and supportive police officer “restored my faith in the police” and reinforced the importance of the “consistency of having one very capable caring woman” who had made it “accessible, easy and less intimidating.”
- 127 One person said she “could not speak more highly of” the detective she had, who was “kind, compassionate, understanding, professional and helpful”. This was so especially compared with police she had dealt with in another state. In particular, she commended the fact that he “kept in constant touch”, even after the matter went to the prosecutors.
- 128 Another person spoke positively of her interaction with the police. She told the police “quickly and was comfortable telling them”, and they “took it very seriously” and added the information to the system, even though the person involved had not technically committed an offence and so they didn’t take a statement.

- 129 One person said that she had chosen to make a police statement without taking further action, because she was “too scared to go through with an investigation and court case”. However, she wanted to make “an official statement about what the offender had done, in case another victim came forward”. The police officer, who she said was well trained and supportive, was aware of this but still agreed to take the statement and said that the police would support an investigation.
- 130 One woman who had a positive experience with police noted, however, that she may “have lucked out as not many people that I’ve spoken to have shared this experience”.

### **Positive experiences with specialist police**

- 131 One person spoke positively of dealing with two female SOCIT officers after calling a support helpline. The officers had “made [her] feel heard and believed, even when asking tough questions”. She had spoken to them first by phone, and then at the police station. She was personally comfortable with this, but she was not made aware of any other options such as interviewing at a different location. She reflected:
- People who know about my experiences often ask me for advice re: reporting, and I will always direct them to call their local SOCIT. I would NEVER recommend going into a local police station, as I know numerous people who have gone in to their local police station and have been simply turned away, laughed at, shamed, disbelieved etc. without any formal report being made or being told to contact SOCIT. It’s deplorable. I feel like ALL police need better trauma-informed training re: sexual assault and gendered/family violence crime. But I also feel that the general public should be made aware of SOCITs and they should be more easily accessible.
- 132 One woman spoke of the value of reporting at a SOCIT, saying she “felt very safe and supported” because the building was not connected to the police station, which was especially important in a small regional town. However, her experience was mixed, with the first SOCIT member being “largely pessimistic” about her chances of an investigation, but the second SOCIT officer was supportive and clearly “very well trained in understanding the nature of sexual assault and its impacts”.
- 133 A man reported that he found the SANO Taskforce police “supportive and trauma informed”, although there were delays caused by changes in staffing.
- 134 Another person who identified as Aboriginal or Torres Strait Islander reflected that, when she had been sexually assaulted many years ago, there had been “nowhere to go”, but when she reported her daughter’s assault “the SOCIT team were amazing”.
- 135 In contrast, another person spoke of the “very professional” local police officer who took her statement, but then being told another statement had to be taken by a specialised police officer who made her feel bad about drinking and “decided to change my words and grammar”. She didn’t feel that the SOCIT taking the statement had improved the

experience and had only prolonged it. She also found another officer “patronising” for reassuring her that she should have made the statement because it was an assault, which she knew. The next time she was assaulted, she did not report the assault.

### **Mixed experiences with police**

- 136 Mixed responses by police was a common theme. Another person spoke of how, when the key people she was talking to were unavailable, a “very unhelpful” officer took over and said he didn’t believe the crime had been committed. That case had been handled by transit police rather than the SOCITs, which was a negative experience because they had “very little understanding of valid trauma responses”.
- 137 Similarly, another person said her first detective was great, but when she went on maternity leave “I had to deal with other multiple members and felt like I had to convince them again and again that I was telling the truth”.
- 138 Another person praised one particular officer who was “incredibly good and helpful and really made it feel like the police were doing right by me”, and who was also good at talking to the witnesses and “incredibly responsive to the perpetrator harassing” the person and other witnesses. However, the person reported her concern that the first police officer had tried to go through the mobile phone during the forensic medical examination without permission.
- 139 It took three months for her to get the results of her drug test, which she believed was partly “because everyone was so focused on the criminal response and less on my physical and mental health”. She had delayed making the statement while waiting for the result, and this was later used against her during the trial.
- 140 One parent had “no hesitation” reporting the abuse of her children after reading information online about mandatory reporting. The parent found the experience “ok” and felt “safe and respected throughout”, but  
was very challenged by some of the blase attitudes of the police informant.  
There were some matters I reported within a week of the crime that were not followed up which I found disturbing.

### **Poor experiences with police**

- 141 One woman, who had reported the assault within the past five years, said dealing with the police “was one of the worst experiences of my life”. After having called them to detail the assaults, she was told there was “no offence and that I should keep getting counselling”. Another, who had reported in the past 10 years, said that reporting to the police was “incredibly demeaning and unhelpful”, and chose not to report to the police the second time.

- 142 One person, who had dealt with the police multiple times including in relation to domestic violence, reported a sexual assault to the police 10–20 years ago. That person was especially damning:

Suffice it to say, the police—their conduct / behaviour along with the records they document and keep have been ABSOLUTELY UNACCEPTABLE on several occasions. They did more harm than the incidents that led them to be there, on more than one occasion. They never follow up after interactions, they never provide the appropriate information to empower enable a human and honestly they don't even provide basic levels of empathy and engagement during various incidents that I have interacted with them that were of a sensitive nature .... In fact I believe that on more than one occasion what the police did (how they treated me) was at the very least a breach of their standard operating procedures, and more to the point, entirely dehumanising, utterly awful and inappropriate and most likely a breach of my human rights. My consistent experience of engaging with them is generally that they do not care and are very lazy not wanting to follow up on anything or basically have to lift a finger if they don't have to and that's my generous assessment.

- 143 One person detailed her traumatic experience talking to the police as a child more than 20 years ago, after calling the emergency line. She detailed the abuse to the operator, who failed to tell her she wasn't the police. She was then forced to repeat her story to the “condescending” police officer. The emergency operator did not pass on what she had been told, including that she had told her parents. The police officer told her to call back after she had told her parents and they hadn't done anything, but didn't take down her details or offer to follow up. She said:

I was sobbing throughout the call. I guess he thought it wasn't very serious.

- 144 Another person spoke of running away from an abusive situation as a teenager more than 20 years ago. Despite telling a police officer all about the abuse, she was ignored by the police officer and taken back home.

## The environment

- 145 Some said the lack of privacy at local police stations which had deterred them from reporting. For example, one person who spoke about their experience within the past five years said:

I went to the police but talking across the counter, with a queue of impatient people behind me, trying not to cry and tell the police what had happened was too hard. I was required to give basic details to police across the desk and I couldn't do it. ... It was too hard with all the people around and I felt the officer was in a hurry to move me on. So unfortunately I walked out. It would have been great if there was more privacy or an option to speak somewhere else and not have to yell across a counter.

## The process of making a statement

- 146 Another person, who had reported a sexual assault less than a year ago, spoke of having lost her faith in police because a female officer wasn't available, and the officer that was available "made me repeat myself and didn't let me step out for air when I was very worked up and struggling to tell them what had happened".
- 147 Another person spoke of her experience, within the last five years, of feeling pressured by the police to view CCTV footage, which she was warned could affect the legitimacy of her evidence. Looking back, she did not believe she was in a fit state to make that decision and also detailed how the police officer speculated on her actions while watching the footage in ways that triggered her undiagnosed PTSD.
- 148 The difficulty of making a statement was emphasised by another person who reported to police less than a year ago. She said it "took four calls and two visits" to take the statement. Had she not known to ask, she would have been "in the room making my statement for four hours without a break".
- 149 This was the case for another person, who said she wasn't allowed to have a support person during the four hours it had taken to report less than a year ago. She was not offered any water or a break, and the questions "felt laden with victim blaming and slut-shaming".

## The outcomes of reporting

- 150 Others reflected on the outcomes of reporting to the police. One person told us of her complete loss of faith, despite the police having initially been "wonderful" and doing an "amazing amount of work", because they had identified the person who had engaged in the sexual assault but then closed the case without doing anything further.
- 151 Another person said that the police were told, and she was aware that other people had reported the same person to the police, but nothing had been done and they didn't "even get the courtesy of any updates unless we call and make a fuss". This person reported a sexual assault in the last five years.
- 152 Similarly, another woman told of her loss of faith after initial encouragement to take on a relatively recent court case for a historical sexual abuse:
- I reported to police 30 years after the abuse when I received counselling for what happened to me. The police response was supportive when I first reported however they became increasingly harder to contact and access as the process continued. I was given lots of encouragement by everyone to report. In the end I felt betrayed by everyone who encouraged me because they knew what it would be like and they didn't prepare me for the brutality of the justice system.
- 153 One person spoke of her recent experience with a dangerous neighbour who was violent and had sexually assaulted her and her friends. He was



reported to police, but the police did not put in place an intervention order because he was not her partner. She felt a personal safety intervention order should have been put in place, and he should have been made to attend some kind of behaviour change program.

- 154 Another person spoke of the “heartbreaking” decision of police within the past five years not to charge an offender, despite digital evidence that he had admitted the sexual assault. This was said to have been due to “inconsistencies” in her memory of what she had disclosed.
- 155 Another concern raised was the delays in police charging. One man with disability, who had reported a serious and prolonged sexual assault by a support worker recently, said he had been waiting over eight months for a decision by police to charge.

## How to improve the reporting experience

- 156 Many people offered suggestions on how to improve the experience of reporting to police.

## Other ways of reporting

- 157 One person had used the anonymous sexual assault reporting tool (SARA) previously operated by the South Eastern Centre against Sexual Assault. She strongly advised that it should continue to be funded and supported, and that the community and police should be made more aware of the tool. Her experience was that she was contacted by a “very knowledgeable and supportive” counsellor, and this report was “fundamental” to her decision to later speak to the police.
- 158 Another person reflected that the Bravehearts online reporting tool was something they would be open to, and which could be made available through Victim Support Services. She felt that
- having a counsellor call me after I'd reported my details online, who could give me options and ask me what I wanted to do, then yeah, I would probably feel supported to make the report to police. And who knows, I might even feel supported to then continue through the criminal trial process, but as an individual without that support, there's no way I'd come forward. It's just too overwhelming, even now, years after the event.
- 159 There was also strong support for less intimidating ways of reporting. One person, who had reported at a Multidisciplinary Centre, suggested that it would be helpful to be able to report over the phone or online, or perhaps be visited at home.
- 160 One woman who had reported at a Multidisciplinary Centre in a regional area spoke highly of its value.
- 161 There was also support for anonymous reporting to identify dangerous and potentially repeat criminal behaviour. One person supported an option for reporting without prosecuting, so that the next person who reported would have more evidence to support their claim.

162 There was also support for reporting to be dealt with by people other than the police. As one person put it:

I think we could be way more imaginative about how these sorts of crimes are dealt with. So many cops are perpetrators of violence. Like, how are Black women supposed to feel comfortable talking to police? I think a more community-oriented response would be better.

## **Better support**

163 Many people agreed on the need for more support at the police station. They suggested:

- having female support workers, or CASA representatives, counsellors or psychologists, present when police reports were made, including to guide the language of police and help them understand the psychological reaction to rape
- ensuring an advocate is on-call to speak with the victim survivor when reporting to the police
- providing victim survivors with their own lawyer from the start, to reduce power imbalances.

164 One person felt access to a counsellor before and after making a statement was essential. Another agreed that referrals to CASA for counselling and support would improve the experience.

165 Another woman, who reported less than a year ago, said that, while she was given medical help, she “felt like someone should follow up about it to tell me what is happening”.

166 Similarly, another person said that more support was needed when the police decided there was not enough evidence. In her case, she was “left to find my own way home and most of my connection with the police ended” and she “felt tossed out by the police”.

## **Improving the police response**

167 The responses revealed inconsistency in police responses, with the critical difference being whether the officers were trained to understand sexual assault. A few also spoke of their preference for female police officers.

168 More and better training of police was strongly supported, including:

- understanding sexual assault, its impacts and its prevalence
- trauma-informed principles and training
- dealing with victim survivors of child sexual abuse
- supporting victim survivors to come forward regardless of the likelihood of a conviction
- taking all disclosures seriously and committing to investigating complaints if desired.

169 People also raised the need for:

- less judgmental and patronising attitudes
- greater continuity of care, without having to repeat one's story
- a single point of contact
- the ability to choose to speak to a female officer
- improving the language used and not asking questions that made people uncomfortable
- greater resourcing for SOCITs to deal with cases with less delay.

170 One person, who had recently reported a child sexual abuse from more than 20 years ago, commented:

The investigators are overwhelmed by the sheer enormity of being confronted with so many new cases daily so they can only do the bare minimum of work on each case. This re-victimizes the survivors all over again because we are let down by an overloaded system and it is demoralizing.

171 Some people had specific concerns they wanted addressed:

- Police did not understand the law well enough to know if a crime had been committed. They should be trained better in the law.
- Police gave conflicting information.
- Police had contacted a relative, even though they were asked not to do that as the relative had been part of the abuse.
- Police failed to seize relevant evidence.
- Police attended without warning in an unmarked car, triggering post-traumatic stress disorder.
- There were delays in arresting and interviewing after a report.

172 One person whose son lived with disability said that, had they known that her son's verbal and recorded report was not enough to charge, they may not have reported it.

173 One person said she felt let down by the police because of their "halfhearted" and "inept investigations".

174 Other suggestions for making people feel safer included:

- the use of intervention orders to prevent the person from coming near them
- having SOCIT members act as community liaison officers who could provide information about reporting to SOCIT officers
- appointing sex worker liaison officers
- sensitivity training regarding sex workers, and the need to protect their identity
- having family violence police officers refer to SOCIT

- more careful selection processes in police recruitment, to remove those focused on power and exercising control.

## What was said about forensic medical services

- 175 One person commented on the use of forensic medical services. In her experience in the US, “a lot of people don’t know that getting a rape kit doesn’t mean that you are obligated to report right away”.
- 176 Several people detailed traumatising experiences in accessing forensic medical services.
- 177 One woman spoke of how she had been turned away by one hospital because they said, incorrectly, that they did not deal with sexual assault. However, she then had to wait for six hours in the middle of the night at the next hospital in a public waiting room while she was bleeding.
- 178 The hospital staff kept “insulting” her by asking publicly whether she was sure that she didn’t have her period. She was forced to sit in her “blood-soaked clothes” for hours, and even after that she ended up having to leave without seeing a doctor.
- 179 Twelve hours later, she received a call telling her she could see a specialised forensic doctor. In the meantime, she was unable to shower and “had to sleep covered in my own blood”. She also wasn’t informed about the need to keep her clothing in a paper bag for evidence.
- 180 Another person said she waited for eight hours after a traumatic trip for a visit from a forensic medical doctor. By that time, they said it was too late to know if she had been drugged.
- 181 A parent reported her daughter had to wait 20 hours during the COVID-19 pandemic without washing herself because of the limited number of forensic medical officers available.
- 182 One person had a simple and specific suggestion:  
When they took my underwear as evidence, the underwear they gave me were both too small and ... well, they were black and lacey. It felt very inappropriate but I laugh about it now, in a dark humour sort of way. I think speaking frankly about what victims tangibly need after going through a kit or reporting would be more helpful, so people don't donate weirdly sexy underwear to a rape crisis centre.

## What was said about the trial process

- 183 There were 12 responses to the question ‘In your experience of the legal system, what worked well? What did not work well? Do you have any ideas about what could be done to improve the experience for others?’. However, many responses to other questions also included relevant comments.

## The trial process and justice system in general

- 184 There were several negative accounts of the criminal justice system. One woman who had been to two courts within the past five years, with a hung jury on one trial, said:
- For me, the trial process is the hardest part of the whole experience. Even though I am the victim and leading witness, it feels like I am the one on trial. In my case, I want justice and I want him found guilty, but I do not know if that means he should go to prison/be on a sex offenders registry forever. If there was an option where he had to admit what happened in open court, formally apologise in open court in front of his family and friends, as well as undergo mandated therapy for the rest of his life, THAT would feel more productive and worth all the trauma. ... I wish he was given an option to formally admit guilt without the prospect of going to prison as I feel I would have a better chance of receiving true justice. Instead, I have to continue suffering in limbo, awaiting the retrial, knowing he [is] statistically likely to be found not guilty and never have to face any formal retribution. It feels redundant. It feels completely hopeless ... and I'm one of the lucky ones to even get this far.
- 185 Another woman, whose case had been heard in two courts within the past five years, said:
- For me, the legal system let me down. I found the pre-committal hearing and the trial confusing, unfair and upsetting. For future survivors, I believe that they should be able to read to the court their victim impact statement before the trial concludes. The judge and jury should be made to hear how the sexual assault has affected someone prior to the verdict .... due to the low rates of convictions in Victoria, survivors have very little opportunity to have their say. Having a voice and being believed is imperative to a survivor being able to get on with life.
- 186 One man, who had been through the courts within the past five years in a case involving child sexual abuse committed more than 20 years previously, told us that the criminal justice system was not trauma-informed. The system was “very reactive” and the police and prosecutors appeared understaffed and under-resourced. A support worker allocated by the OPP could not remedy the system itself.
- 187 As an example, he said that the prosecutor had decided not to proceed after he had already been subpoenaed to attend court. When asked to explain this, the prosecutor implied that his case of historical sexual assault was a “low priority”.
- 188 Another person, who reported sexual abuse committed more than 20 years ago for a lengthy period and also went to two courts within the past five years, said:
- The court experience replicated my experience as a child victim almost exactly. Once again I felt non-existent as though there was no one on my side. I felt as though I was set up to shut up. There was no opportunity to say what I wanted to say. The questions asked in cross examination set me up to answer yes or no only. I felt done over all over again, this time by strangers. I

left the court feeling devastated, I wanted to die. There was no follow up. No one cared if I was dead or alive.

- 189 One person summed up the criminal justice system this way:  
It's hard to prove sexual assault especially when there is no force used in context of family violence. It's chronic and very painful. Reporting might happen only because of FV and need for intervention orders. Victims are often too traumatised to go through the process because of guilt, culture expectations, inability to live independently, fear of repercussions to family members back home etc etc. Victims deserve justice and the traditional method of criminal justice system might not be able to effectively deal with sexual assault in context of coercive control.
- 190 Another woman, whose case had been tried in the County Court in the past five years, acknowledged the positive changes but raised three specific issues. First, once it had become a legal matter, the person was "really cut off from support networks because I wasn't allowed to talk in detail" to the other witnesses, who would normally have been the main support. Second, while she wanted to go ahead with the charges, "one of the biggest things holding me back is the length of the process", which was "almost unbearable".
- 191 Third, she had found it almost impossible to find any information about her right to speak to the media and CASA didn't provide such support and no one else appeared to provide that help.
- 192 The same person also raised the issue of discussing the matter with other witnesses. In their case, they had only found out about parts of the crime from a friend who wasn't a witness, because she had been "blacked out" for a significant part of the rape. The court and the jury, however, would have known what had happened to her.
- 193 One man, whose case of child sexual abuse committed more than 20 years ago was heard in two courts within the past five years, said that the "legal fraternity needs to have a good hard look at itself", as "some of the tactics are putrid".
- 194 A few people also raised the issue of anonymity. One person noted that she did not report because she was afraid of being "outed in court for being a sex worker", even though the assault had no connection with her work. She said that there should be legal protections for the identities of victim survivors, including their place of employment.
- 195 One parent was unhappy with the leniency of the sentence for the offender. The parent was "shocked and disappointed" that, in the case of multiple child sexual abuses within a family, the offender had only received a community corrections order.

## Communication and support

- 196 Two people expressed concern about the lack of, or scope of, communication from the police officers and court system. As one man, who had lived through child sexual abuse, said:
- You need to give people a proper indication of what's going to happen—people in our shoes don't cope with surprises well.
- 197 One parent, whose children had been sexually abused and whose case was heard recently, said they “felt powerless to find out what was happening”, including when they had to complete a victim impact statement.
- 198 A woman who had gone to two courts within the past five years supported a more formal communication system with victim survivors, “as the waiting in the unknown for days and days was excruciating, to the point I needed medication”. She also expressed concerns about the social worker appointed by the OPP, who had forgotten her name and failed to follow up multiple times. Another woman, who had gone to court 10–20 years ago, recommended that support workers should be required to attend court hearings.
- 199 One parent whose children had been sexually abused reported a complete failure by the criminal justice system in keeping them updated:
- We found it incredibly difficult to be updated about the court proceedings and we were completely cut out of the first two hearings. The only avenue we had was the police informant who was very unhelpful and told us we didn't need to be involved even though we wanted to be. We registered for updates via the court website but did not receive any. I tried calling the court coordinator but got very minimal information. I asked the police informant to put me in touch with the prosecutor but this went nowhere.
- 200 It was only 12 months after the incident that the parent “finally stumbled across the Victim Support Hotline, which provided “fantastic” support and referred the parent to an “amazing” support worker. The parent concluded:
- The key challenge for us was that we really needed that support at the outset and missed out on very important support for a whole 12 months after the crime was committed. ... I feel strongly that police, CASA, GPs and psychologists should all refer victims and families to the hotline and referral service as soon as they become aware of a serious crime.

## The courtroom

- 201 One woman, who had been to two courts within the past five years, pointed out that there needed to be “clearer direction and organisation” with the witness and the accused, as she was forced to walk past the accused's family and her family had to sit with their family, which was “unbelievably traumatic, intimidating and something that could be easily avoided with clear organisation”.

## Prosecution

202 One man, who had been to the County Court within the past five years in relation to a child sexual abuse case, told us:

There should be much better collaboration between the police and the OPP. At the moment the Criminal Justice System (CJS) operates as a "silo-ed" system ie in my case the police gathered their evidence brief and then handed it over to OPP lawyers who then took a long time to decide whether or not to proceed with the case. It would be less stressful for victims if the OPP lawyers and the police worked as a team from the beginning during the evidence gathering/assessment phase in order for a more rapid decision to be made about whether the case should proceed.

203 Another man, who had also been to the courts within the past five years for a child sexual abuse case, noted that it had been the OPP and the court system, rather than the police, that had been disappointing. One person said the OPP was patronising and that they "may be smart but as humans they struggle".

204 One woman told of her "devastat[ion]" when, after having been allocated a prosecutor, the Director of Public Prosecutions exercised her discretion to discontinue the case involving historical clerical sex abuse. It was indicated that, while it was thought she would make an "excellent witness", the decision was based on the view that there was no reasonable prospect of conviction. Various legal factors were cited, including recent Court of Appeal decisions, the law of consent at the time, the delay in complaining, the need to get permission to use tendency evidence from another jurisdiction, and the fact that the grooming offence did not apply to anyone over 16.

205 In her view, there had been "no recognition of the value of the court process itself, for both victim and perpetrator", and the decision led to a mental breakdown. She wondered what the point was of removing the statute of limitations if delay could still prevent a trial, and did not feel that the DPP should have the power alone to discontinue the prosecution based on an anticipated outcome. She was "appalled at this situation where a priest and all other priests who have been doing the same thing and others still doing the same thing, now know as a result of this decision that they are untouchable".

206 She was also unhappy with the opportunity she was given to respond to this decision. She said that, as the reasons for discontinuing were not given before she had to respond, she was "writing blind", and she felt that despite putting a lot of effort into the letter this was not acknowledged with "so much as a thank you for writing it". She returned to her lawyer who requested the reasons in writing. The letter acknowledged her "considerable courage" in coming forward, and noted the DPP's decision did not mean that they did not believe the crime had happened, but rather reflected the "high standard of proof that is required in criminal trials".



- 207 She recommended that the DPP's powers to discontinue should be curtailed and all rape charges should be allowed to enter the system irrespective of the anticipated outcome. In her view:
- What is the point of having a jury system if the jury is not allowed to hear the evidence?
- 208 Another man spoke of the devastation caused by the decision of the OPP not to proceed with a case involving multiple child sexual abuse complainants after the committal process, because of a lack of relevant evidence that should have been known at the time of the committal. They had waited four to five years for the trial, and his post-traumatic stress disorder had been significantly worsened by the delays.

## **Burden of proof and evidence**

- 209 One woman, who had gone to trial and received a not guilty verdict, felt that one of the biggest issues was that the jury was unsure about 'reasonable doubt', and had in fact raised the issue with the judge who had not given them any more clarity. The woman continued:
- Once he says he believes I was consenting, what evidence can even be provided to overcome the doubt? I had multiple witnesses [to the immediate aftermath], but even those witnesses, the injury, my reporting to police almost immediately- it was not enough to overcome the reasonable doubt created from a man contradicting a woman.
- 210 One person, who reported a case involving someone with disability, suggested that the burden of proof should be on the person accused of the sexual assault in the case of people with intellectual disabilities. Another person also suggested the burden of proof could be on the person accused of sexual assault more broadly.
- 211 Another person felt that more could be done so that fewer cases were dismissed because of a lack of proof.

## **Delay and uncertainty**

- 212 One man, who had been to the courts within the past five years, spoke of the delay and uncertainty that characterised the criminal justice process:
- Delays in the legal process worsen victim/survivors mental health especially because of the uncertainty that seems to be built into the legal system. First I had to decide whether or not to make a report to the police knowing that if I did so I was starting what was likely to be a very stressful experience. I had no idea that this stressful experience would last 4 years.
- After I gave my police statement I had to wait a long time for the police to gather more evidence and for the police to decide whether to proceed with my case. The police told me that even if they considered my complaint deserved to be tried in court the OPP might decide otherwise. So I then had the anxiety of waiting for the OPP's decision.

Even after the OPP decided to proceed with my case I then had to wait for a committal hearing judge to decide whether my case should proceed. Even when that judge decided that my complaint should proceed to a criminal trial it took more than a year for the trial to arrive

For the nearly 4 years between going to the police and the OPP deciding at the last minute not to proceed with my case at the criminal trial I was unable to put the looming court case out of my mind. My mental health worsened because the looming court case was a constant reminder of the sexual assault that I experienced as a child.

- 213 Another person reported that the court process had finished 12 years after reporting the case.

## **Imbalance between victim survivor and the person who committed the sexual assault**

- 214 One woman, whose perpetrator had been found guilty in the County Court, noted that, while the offender could appeal, she could not. Further, she was disturbed by the unfairness of the offender avoiding a custodial sentence because “he was too old and unwell”. As she said:
- So in the end he didn't have to pay for the crime that ruined my life. I am also elderly and unwell but I continue to suffer as a result of the sexual assaults he perpetrated against me.
- 215 As a result, the person was “suffering more now than before the trial” because, while she had gone through so much, “he walked free”.
- 216 Another woman said there was room to include more evidence after the event about the victim survivor, such as the existence of post-traumatic stress disorder and lifelong impacts.

## **Other suggestions**

- 217 One woman made several specific suggestions, including:
- keeping victims in family groups, rather than splitting cases which favoured the defendant
  - preventing or restricting inappropriate legal arguments, such as a defendant claiming that they thought they were in love or in an adult sexual relationship with a child even though this was against the law
  - dealing with interstate bail jurisdiction and extradition delaying court matters.
- 218 Other specific suggestions included:
- preventing a person from returning to the same housing complex after being charged
  - preventing defence lawyers from making attacks in court

- educating lawyers on gender-based violence before they are qualified.
- 219 One woman also suggested immediate change to the laws silencing victims of crime, because sexual offenders “thrive on this silence” and the laws undermine the general principle of deterrence.
- 220 Another woman, who had been to the County Court within the past five years, spoke of how difficult it had been for her as there had been several changes of jury, including one that had resigned. She found it particularly devastating that they had not been able to see the jury when they got the verdict, and suggested having a camera on the jury or even a photo would have helped with the feeling of being “abandoned by society”.
- 221 She also suggested changing the language of ‘not guilty’ to something like “insufficient evidence”, because this made a person who was sexually assaulted “feel like you have been found to be wrong or liar”.

## **What was said about alternatives to criminal justice**

- 222 There were 42 responses to the question ‘Have you used, or would you have liked to use, another way to deal with what happened? Why or why not?’
- 223 Some people did not see themselves as using any alternatives. One person explained that they didn’t blame their brother and didn’t want to talk to him about it without making him feel guilty.

## **Restorative justice**

### **Support for restorative justice**

- 224 Several people supported the idea of restorative justice processes with appropriate victim support, typically in a context where they had a relationship with the offender.
- 225 One person was clear that there needed to be a third “common sense” option of mediation, for the mental well-being of the victim survivor and because it was “too big for them to admit and too hard for you to convict”.
- 226 Another woman supported the option of restorative justice because they didn’t want the person to go to prison but wanted the person to “realize the gravity of their actions”. One, a parent, said she supported it because even with a conviction, the “person won’t necessarily change for the better”.
- 227 Another person noted that her therapist had encouraged her to write a ‘script’ to the people who had sexually assaulted her, if she should run into them, and that restorative justice might be a “more supportive, less scary” option.

- 228 Another person said that:  
Prisons just warehouse people and don't actually do anything to make people change in a positive way. I would be content to see my rapists just not rape anymore.
- 229 One person said she would have liked a public apology as she was “shamed” in front of friends and family, and that the community needed to understand that these things happened behind closed doors and were criminal .
- 230 Another person, whose case had been heard in court, thought that, even if the person denied the sexual assault, “I would have at least been able to tell the truth of what happened”.
- 231 Another person who supported restorative justice noted that she would not have been able to do so because of the intervention order that had been put in place.
- 232 One person reflected that, in one of the experiences, restorative justice could have been useful, but for another incident involving ‘pack’ behaviour, she wouldn’t “have the energy or care” to be part of the process and it was important not to “put more work on victim/survivors”.
- 233 One person thought that it should be an option “on the terms of the survivor”, even though it would not be possible in her case. Ideally, she would have liked an apology and for them to go through an offender rehabilitation program.
- 234 Similarly, another person thought it could be “very powerful”, even though she wouldn’t be “brave enough to confront my assaulter”.

## Concerns and opposition

- 235 A number of people said they had no interest in restorative justice and some opposed its use outright. A man, who had lived through child sexual abuse, said that it was “largely bullshit”. A woman who had been to court felt it would have been more frustrating and damaging than the criminal process, because the person would have simply lied.
- 236 Another woman, who had also been to court within the past five years, felt it wasn’t suitable mainly because:  
survivors live in constant fear that that person will find them again. Survivors want to be believed, and the court system currently does not allow any type of acknowledgment, in fact, the perpetrator is the one that is believed.
- 237 Another person felt that restorative justice and reporting was “just jobs for the boys”, and that the process of fighting for justice had been a “complete waste of [her] time and energy”.
- 238 Another person was not in favour of the idea, noting that while it could work, in most cases it wouldn’t:  
To believe in restorative justice you have to have a level of faith that the offender will listen, and benefit from hearing the victim's story. In my

experience of being the victim of a crime, the offender just doesn't care and doesn't want to change.

- 239 Some did not think restorative justice would have helped them. The two main reasons were that the person who sexually assaulted them did not have any sense of responsibility or would deny it had happened, or that they did not want to face the person again, because of fear, anger, trauma or because it was easier to move on without seeing them again. Other reasons included:
- the fear that the person who sexually assaulted them would find out they had disclosed the abuse
  - they would rather move on by never having to see them again
  - “all the apologies in the world don’t restore any sense of peace”
  - the person who sexually assaulted them was never caught
  - it wasn’t appropriate in the context (for example, where a support worker sexually assaulted the person who they were meant to care for).
- 240 One person spoke of how, for restorative justice to work, “there needs to be some indication that the offender has a genuine insight into the wrongfulness of their behaviour, as well as the capacity for empathy and remorse”. Another person, who had used several schemes for addressing sexual abuse within the Catholic Church, felt that in such cases restorative justice would be “fanciful” because of the “presumed position of entitlement” of both the abuser and the Church, and the complete lack of remorse, guilt or self-reflection.
- 241 Another person had “thought long and hard” about restorative justice, and had made inquiries but in the end thought “it would do nothing to stop the offender offending or to get him to understand the impact of his crime”.
- 242 One person responded she would probably not use restorative justice because, as a sex worker, she felt that the pervasive culture where sex work was conflated with sexual abuse meant she was “almost guaranteed to face significant victim blaming” if she tried to report anything anywhere. She pointed to government funding organisations that “promote therapy as a form of rehabilitation to coerce sex workers into quitting sex work” as an example of victim blaming.
- 243 Some people thought restorative justice was not suitable in at least some circumstances. For example, one woman was concerned about its use for people with mental health conditions who had engaged in sexual harm, because there was a “real risk that sociopaths may use the opportunity for personal gain”.
- 244 Similarly, another person who supported restorative justice was wary about giving “abusers more skills to manipulate people and avoid real accountability”. Another person thought that, while appealing, there is

potential for the other person to blame the victim, deny it, or “talk about it with other friends who could then retaliate too”.

- 245 Concerns were also raised about the need for safeguards, such as intervention orders if the person was at risk after any restorative justice conference.

## Other options

- 246 One person suggested that a tribunal or a less formal setting, like arbitration, would be better and far less expensive.
- 247 One person suggested a more therapeutic response, with the person who had committed sexual assault and victim survivor receiving long term counselling using trauma-informed principles about the impact and reason for the behaviour.
- 248 Another person supported requiring a mandatory rehabilitation program or community service, so that “he will never make this mistake again and be a person who also teaches other men not to make the mistake” and to “make his shame into something more productive”. Similarly, another person also favoured more support for people who had committed sexual assault to help them to change their ways.
- 249 There was also support for the person to be charged, so they could not do it again, and so that it would come up on the Working with Children checks and in similar contexts.

## Specialist courts

- 250 One man offered the view that:
- there's merit in thinking of different justice systems for sexual assault cases. The criminal burden of proof is a very high standard to meet in sexual assault crimes where there are usually no witnesses and it is the complainant's word against the defendants. Judges and juries are likely to have varying levels of understanding of sexual trauma. A specially appointed Court or Tribunal would have the advantage of training Judges/Tribunal members so that they have a deep understanding of sexual trauma and its lifetime impacts. Such a Court or Tribunal could order financial reparation as well as other civil penalties including fines and placing perpetrators on the sex offenders register where the sexual assault complaint is proved on the balance of probabilities to have occurred.
- 251 That person also supported complainants having their own legal representation to prevent unfair and traumatising cross-examination. He said that complainants should be presumed to be telling the truth unless proved otherwise, and the court could have the option of applying two standards of proof. If the higher standard of proof could be met, there could be a criminal penalty, or if the sexual assault could be proved on the balance of probabilities a civil penalty could apply. This would help with the unfair situation of having to deal with two completely separate systems.

## Victims of crime compensation

- 252 A couple of people raised financial compensation as an alternative, although it wasn't clear if they were aware of the victims of crime compensation scheme.
- 253 A few people also commented on the limitations of the victims of crime compensation scheme. The concerns raised included:
- the criteria for compensation were too restrictive
  - the payment caps were too low and “without logical reasoning”
  - the retraumatising nature of going to court for compensation.
- 254 It was also suggested the victims of crime payment should be given at the start (as in other states).
- 255 One person was deterred from applying for compensation because of the fact that the offender can be contacted and notified of the request. Although she said she understood why this happened, it “largely dissuades victims from applying” because people who “have been [too] scared to go through a court process ... [are] highly likely [to] also be frightened of the offender discovering that we are attempting to receive compensation”.
- 256 She also felt deterred by the “need to quantify the effects of the crime”, such as how much psychological therapy might be required and how much that might cost, because it was “impossible to quantify the impacts ... and even more difficult to predict how much support a victim needs to recover”. She supported the NSW approach where victims were given free access to (usually unlimited) counselling.
- 257 Another person felt that the Magistrates' Court's registry staff had been “cold, dehumanising and devoid of compassion”, which was a stark contrast with the magistrate.

## Civil system

- 258 One person gave a detailed example of how the offender, after having been arrested and interviewed, was able to use the intervention order system against her in a civil court. The offender alleged that, by speaking to colleagues and friends in their mutual industry, she had committed “financial abuse” and damaged his reputation.
- 259 Even though there was an active rape investigation, she was forced to fight the application with the “help of passionate lawyers”. The police refused to represent her because the crime had happened too long ago. She was forced to attend court several “traumatising times” and eventually agreed to sign an undertaking because he threatened to subpoena everyone she had told.
- 260 This court experience, together with her experience with a VOCAT application, led her to feel that the courts are “so retraumatising for victims”.

## Next steps

- 261 The purpose of this summary is to inform the Commission's inquiry into improving the responses of the criminal justice system to sexual offences. The summary will be used, together with submissions, consultations and research, to develop recommendations for reforms. This report is due to be delivered to the Victorian government on **31 August 2021** and will be public once it is put before the Victorian Parliament.
- 262 We would like to thank everyone who responded using this online form. We asked some difficult questions, and we greatly appreciate the thought and care that went into the answers.
- 263 We will carry your ideas and voices with us through this inquiry, and we will do our best to make sure that those ideas and voices shape the changes that will benefit others.