

'Grab and Drag' Offence Submission Paper: Questions and Answers

QUESTION 1: Should there be a new offence of 'grab and drag'?

If so,

PART A: Why should this be a separate offence?

In accordance with Victoria's topical laws pertaining to sexual harassment and unwarranted physical contact becoming more prevalent in the community, a new offence associated to 'grab[bing] and drag[ging]' in Victorian streets should be constituted.

This law should be a separate offence to existing laws relating to sexual harassment and physical contact. While acknowledging that this offence customarily is motivated by sexual intent, there could be other aspects to why an offender had committed the offence. This specific offence should be viewed as a separate offence on account of the offence having too many inconsistencies with proving that the offender had sexual motives and identifying the main motives behind the offender's act. By introducing a separate offence, the victim would also propose the opportunity for the victim to receive adequate justice by demonstrating how the offender attacked them without doubting their experience.

This law shall adhere to victims who have been attacked by an offender by granting victim's the power to express that this crime is unpermitted in the State and for anyone who attempts this offence will be reproached and accordingly punished by the State as the offence is an unlawful act. In regards to the Victorian community, this offence should act as a guideline to demonstrate to the public that such acts are prohibited in the State and that unwarranted contact towards an individual is unlawful and a crime.

By enforcing an independent law regarding sexual harassment, victims who have been subjected to physical contact from offenders can feel a sense of empowerment as the act would assist them in receiving justice and a fair outcome from their case instead of the victim's case being nullified as the courts do not have enough evidence from the offender to charge them of the crime and be certain with confidence beyond reasonable doubt of the offenders intentions and motives were when they attacked the victim. With current laws, there is a grey area for physical contact crimes where the victim's case is intermittent or excused on the account of the the courts not having substantial proof that the offender had any intent on harming the victim, therefore there would be no adequate outcome for the victim and the offender either receives a lenient punishment or no punishment at all. By Victoria administering a law that is separate from the current legislations relating to sexual harassment, 'grab and drag' offences should be classified under independent terms therefore any nuance or specific cases where a victim who was attacked but was not sexually assaulted or inappropriately touched can still feel confident that the law will actively assist and support them with their case, safety and welfare.

This offence should remain independent and separate from other sexual harassment and physical contact laws to warrant that the offence will not be clustered with other sub-groups where the offender and/or their lawyer can proactively uncover loopholes and ambiguous interpretations of the offence where the offender would 'legally' attain a lenient sentence that does not reflect the extent and

nature of the offence. This would therefore be a gross injustice for the victim and a poor reflection in the community; however by a new act being introduced that is specifically addressing 'grab and drag' offences would be favoured by the public and reduce any obloquy from members of the public who are ardent that Victoria creates new laws to protect and safeguard victims and the community.

PART B: What should be the elements of this offence?

Concerning the gravity of the offence by taking into consideration the mental and emotional aspects of the actions unlawfully committed against a person, the elements that should be revised pertaining to this offence should mainly focus on:

1. The physicalities of the offence (what the offender did) and what motivated the offender to act upon their motive to attack somebody in the community
2. The behaviour, personality and mental state of the offender at the time of the offence
3. The extent of how violent and aggressive the offender's actions were

By establishing common elements to 'grab and drag' actions, the courts can deliberate how dangerous or emotionally unstable an offender might be and determine a fair and unbiased conviction for the offender.

The elements of this offence that should be taken into consideration are:

- The offence was aggressive in nature
- The offender is perverse in nature
- The offender was spiteful or vengeful in their offence
- The offender was forceful with their actions
- The offence was indecent
- The offender attempted or succeeded at depersonalising the victim and not regarding their well-being
- The offence was organised and premeditated
- The offender had intent to control, overpower and/or humiliate the victim

- The offender was conscious and had motivation to go through with the offence
- The offender instilled fear or uncertainty into the victim
- The offender harmed or injured the victim
- The offender becomes aroused or ecstatic when they 'grab[bed] and drag[ged]' the victim
- The offender verbally abused the victim (e.g threatened, intimidated, discriminated, etc)
- The offender wanted to obtain or take something from the victim (such as an item/accessory or an article of clothing such as a jacket) OR the offender wanted to take something mentally from the victim (such as their liberty, confidence, independence, etc)
- The offender used objects to restrict the victim from moving
- The offender had sexual intentions towards the victim OR the offender had intentions to steal or attack the victim without the intent to sexually harass them (non-sexually charged)

By having an outline of the elements of the 'grab and drag' offence, courts can swiftly, yet fairly, manage cases regarding the offender's actions and determine what type of person they are associating with. It should also be noted that the courts should identify if the offender is narcissistic and selfish or insecure where they feel constantly humiliated, degraded and embarrassed on the basis of the belief that society is against them.

Other factors that should be considered and reviewed are:

- Was the main objective of the 'grab and drag' offence to sexually attack the victim survivor or was there another reason for the attack
- What did the offender want to achieve when they were and thinking of committing the offence
- Did the offender know the victim or communicate with the victim prior to the offence
- What was the offender's milieu and childhood/adolescence like (relating to if the offender had an abusive childhood, which could have influenced their actions)
- What character and behaviour does the offender have
- Would the offender be considered altruistic or hedonistic by their family, friends and community

- Is the offender a novice and was it their first offence or attempt of a 'grab and drag' offence or have they have 'grab[bed] and drag[ged]' multiple victims before
- Has the offender had fantasies about 'grab[bing] and drag[ging]' unsuspecting victims before
- What preceded before the offence (e.g events, thoughts, activities) for the offender to be motivated to act out the offence
- Was the offender stalking the victim before the time of the offence
- Did the offender seem to become aroused when the victim was struggling and not compliant or did it make the offender more aggressive/violent
- Does the offender feel more in control of the situation when they are physically or mentally harming the victim
- Had the offender thought about approaches and tactics they were going to use before the offence
- Did the offender try to conceal their identity in any way (e.g. wearing a balaclava) or try to prevent identification after the attack and change their appearance in any way
- Was the offence fueled by emotional factors, for example did the offender have self-esteem issues and wanted to take revenge out on victims who fit a certain criteria that the offender had

The elements for this offence should not be lax, instead they should demonstrate the severity of the crime. The elements shall not warrant nor suffice a lenient sentence. On the contrary, If there are any persons who declare that someone has attacked them under false pretences, use the offence as revenge or for unlawful reasons; then the complainant shall be granted a severe punishment that reflects the degree of their crime.

PART C: What should be the maximum penalty?

Upon the courts presiding the outcome of the case for both victim and offender, it would be advisable if this offence carried out a custodial sanction for persons who unlawfully commit this offence.

With each case being nuanced and unique, the maximum penalty for ‘grab and drag’ offences should be imprisonment. With a custodial approach being administered, there may be an overall decline of members within the community from attempting this criminal offence and prevent offenders from reoffending. By pronouncing that this offence will warrant an arrest, the community will also grasp the extent of how serious this offence is, resulting in the State to castigate any persons who were considering attacking persons without their consent.

By taking into consideration the dynamics and nature of the offence, the *maximum* penalty for the ‘grab and drag’ offence should be:

15 Years	<p><u>For offences that demonstrated the offender had:</u></p> <ul style="list-style-type: none"> ● Sexual intent to violate or intent to abduct the victim ● Premeditated and choosing to go through with the assault ● Dominated the victim physically and/or mentally ● Physically assaulted, raped the victim or forcing the victim to perform oral acts on them while physically harming them from getting up ● Verbally abusing and degrading the victim
12 Years	<p><u>For offences that demonstrated the offender had:</u></p> <ul style="list-style-type: none"> ● Sexual intent to violate the victim but was stopped and interfered with by a person who was intervening and helping the victim ● Premeditated and choosing to go through with the assault ● Became aroused or empowered when the victim was struggling to free themselves from the offender ● Verbally assaulted the victim and attempted to assault the victim ● Was emotionally aggressive, narcissistic or delusional throughout the attack

8 Years	<p><u>For offences that demonstrated the offender had:</u></p> <ul style="list-style-type: none"> ● Had no sexual intent to harm the victim and did not violate them ● The offence was opportunistic and disorganised rather than premeditated and the offender did not know what the outcome was going to be when they attacked the victim ● Attempt of restraining the victim but being unsuccessful ● Released the victim without (further) physically harming/ assaulting them ● Became paranoid and left the scene posthaste and leaving the victim by themselves
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It should be encouraged that the liability rests upon the offender for carrying out the offence and committing an unlawful act against a person. It is understandable that the courts aim to approach the offender with respect and treat the offender humanely, however this would further harm the victim and affect their view on the legal system. Therefore, it would be advisable for the courts to rescind the proposal of having the maximum penalty be attenuated to a fine or community sentence; instead the offender should face accountability for their actions through severe retribution that reflects what their actions have done to the victim.

PART D: What should this offence be named?

With acknowledging that the central actions of this offence is primarily associated with inappropriate contact and the aggressive nature of the attack, the offence could potentially be named after attributes and general conceptions of the offence.

A suggestion for the offence's title could be:

Unlawful Contact & Aggressive Attack Legislation (*UCAA Legislation*)

The name is contrived from the most recognisable and common elements of the offence. For instance:

Unlawful Contact:

By exercising the term 'unlawful contact', the offence would concisely encapsulate offences that were not induced by indecent and iniquitous intentions towards the victim, instead the offender's intentions were more superficial. For instance, the offender made physical contact with the victim to either steal from them and had no disregard for the victim and only wanted to acquire an asset then leave the scene or the offender could have a mental disturbance where the offender wanted to get a thrill from witnessing an unwilling victim become emotionally distressed from being suddenly physically contacted by the offender, however there is no sexual motivation behind the contact as it is considered entertainment and fun for the offender. The interplay of the term 'unlawful contact' would manage and control the offences where there were no signs/motive of sexual assault, yet restrict offenders who have committed 'grab and drag' actions from being excused of committing a crime as there is unsupported and inefficient evidence that the offender had 'legally' broken a law. Instead, offenders who still commit 'grab and drag' actions will still be receiving admonition and potential sanction from violating an unsuspecting person within the community without their permission.

Aggressive Attack:

The term 'aggressive attack' refers to the mental state of the offender (the nature of the offender) and physicalities of the offence. The term outlines the degree of the offence, such as the degree of control and power the offender has in the offence, the physical aspects and the overall behaviour of the offender; therefore guiding the courts to have an indication on whether the assault was fueled by emotional factors (revenge, hate, disgust) or if the assault was fueled by sexual arousal and attraction towards the victim. The 'aggressive' aspect is intended to be vague so the legislation is not creating one specific general regulation that might bind the legislation to only consider common elements instead of considering complex cases where the offender might be released due to the legislation being expressed in one way. In regards to the mental element of the term 'aggressive', this would refer to the emotional thoughts and feelings of the offender. For example, the offender displayed signs of gratification from overpowering and dominating the victim; whereas the physical element of the term 'aggressive' would refer to the offender being physically violent to the victim.

As stated above, the association of the elements of the offence can cover both specific and complex cases where there was irreparable harm applied to the victim. The title is also easy for the public to understand and reflects the nature and elements of the offence that the offender had committed.

With the name being quite vague and ambiguous, it allows the courts to adequately convict and punish an offender who has committed this offence -or similarly, 'grab and drag' actions through another offence (e.g. theft) without obfuscation- while simultaneously granting justice for the victim and strengthening their faith in the State's legal system.

QUESTION TWO: Should existing offences be changed to better address 'grab and drag' actions? If so, how?

The overall offence of the 'grab and drag' should be legislated independently and enacted separate from similar existing offences, however with current matters affiliated with sexual harassment, there ought to be a section or overlap that involves 'grab and drag' actions introduced in existing laws.

Existing offences should be modified to better address 'grab and drag' actions to better address the specificities of the 'grab and drag' offence that may be paramount and relevant in certain cases that involve 'grab and drag' actions. Existing offences can better address 'grab and drag' actions by inaugurating a discrete clause aimed for cases where the offender displayed 'grab and drag' actions when assaulting the victim. This would mean that any cases where an offender who applied 'grab and drag' actions in their offence but who did not sexually advance or perform sexual acts on the victim would still be responsible for their actions and punished for the offence they have committed.

QUESTION THREE: Is there a need to change the law to deal with 'grab and drag' actions?

In conjunction with the influx of 'grab and drag' actions committed against persons within the State, there is an absolute need to change the law to deal with 'grab and drag' actions.

Without any clear direction concerning the sentencing for 'grab and drag' offenders, the community would be exposed to more offenders and the risk of being the next victim.

In present circumstances, cases associated with 'grab and drag' laws are still a prevalent issue in our community. Understandably, 'grab and drag' offences are complex to prove, which customarily leads to the offender being dismissed or attaining a conviction that would not satisfy the victim who could now be burdened with emotional and mental trauma, which would result in the continuation of disserving the victim and continuing the injustice that many victims accept with acquiesce. However, 'grab and drag' actions should be identified in the law. If they are not, justice for the victims and the community will be delayed or even denied, which would ultimately lead to the victim and community losing faith in the legal system.

It is also imperative for authorities to acknowledge that members within the community are already paranoid and feel unsafe when travelling to destinations they need to get to, such as to go to work, buy groceries, meet someone, etc, and they will constantly check their surroundings, speed walk if they feel unsafe or make a phone call to feel less alone. The out-dated narrative that the media has indoctrinated into the community is that persons should not walk alone as they are putting themselves at risk and are in a compromising situation. The law should not be placing the onus on the members of the community to take responsibility for themselves if they decide to travel alone, instead the law should be admonishing offenders who commit 'grab and drag' actions. By acknowledging that the offender is responsible for their actions and fueling the fear within the community, more victims could feel confident that their case might have a successful outcome where they finally receive closure and justice and by the law duly putting the responsibility onto the offender and find an adequate solution to mitigate and prevent further 'grab and drag' offences within the community and perhaps stop potential offenders from committing this offence.

By the law being changed to address 'grab and drag' offences, victims will no longer be burdened with having the inaccessibility to feel liberated and emancipated from the offender and their crime committed against them and the law being unable to provide them adequate justice for the offence that made them feel violated. If 'grab and drag' offences were addressed in the law, there may be a potential decline in carnal and aggressive crimes and perhaps there might be a collective change in how the community views others, which could lead to the community not tolerating and abating objectification, overt sexualisation and physical contact actions towards persons without their consent.

It would be practical that the law should involve 'grab and drag' offences to instil the notion to the upcoming and future generations that 'grab and drag' offences are prohibited within the State and that the act will be punishable.

'Grab and drag' offences are not a subjective matter and cannot be treated as such.

QUESTION FOUR: Do you have any other ideas about how to deal with 'grab and drag' actions?

In relation to the management of handling 'grab and drag' actions, it would be encouraged if there were syndicated protocols and guidelines that the courts could oversee and assent to.

A few suggestions that could be considered to bring into fruition could involve the courts to provide and allow for psychologists/psychiatrists present for both parties and provide mandatory sessions that both parties attend throughout the trial. By having a psychologist/psychiatrist present throughout the trial, the psychologist/psychiatrist can determine what motives the offender had, why the offender acted upon their impulses, what the offender has/was going through up to the point of the offence, etc. This way, psychologists/psychiatrists can evaluate how dangerous the offender is. By also recognising the trauma that the offender could have bestowed upon the victim, a psychologist/psychiatrist can support and assist the victim to identify with the trauma and help them through healing and recovering. This could be an advantage for the victim, as the victim can confidently express their emotions and communicate to someone at their own pace where they must prove that their recount of the offence against them is true, therefore the victim could regain their confidence back instead of suppressing their trauma and have faith in the courts. Psychologists/psychiatrists can also pick up certain behaviours, mannerisms and patterns by being present in the trial and can make impartial comments that might expedite the trial. With the presence of psychologists/psychiatrists who are quasi-independent, members of the courts could have a conference with them to determine an appropriate sanction and duration that the offender should receive.

An additional suggestion could be the law enforcing workshops/classes/interventions -operated by trained and professional councillors/advisors for persons- who may have carnal, violent fantasies or thoughts and wish to seek help in person or anonymously (e.g. contact through hotlines or online services).

By there being a facility where persons feel understood and not judged, there may be a reduction of offenders from committing 'grab and drag' actions. With the facility understanding the complexity involving perceptions of relationships and the person's view on other people and their relationships (e.g. their parents or from the films they watch) is crucial. This way, the facility can help the person through their thoughts and guide them stop having fantasies or thoughts. It would be advisable that those operating the facility were not judgemental or intimidating and were instead cognisant of the offenders thoughts and behaviour, councillors/advisors will have a better understanding of what the person is thinking and how to find proactive solutions to impede the person from committing 'grab and drag' offences. The facility is also inclusive for persons who are struggling with the concept of love and connectivity, feel rejected from society and those who have low self esteem issues. By including persons that feel hostility towards the community, the facility could talk to these people and prevent them from feeling such rejection that their emotions and thoughts exacerbate into a criminal act against another person. The outcome of the facility is to help persons who have carnal, violent fantasies and thoughts to become a better person where they find confidence within themselves to not blame others for their self-loathing and to change their perception on love, connectivity and relationships where they do not need to force someone into submission to interact with them.

The government and/or local council could also install high-quality cameras and use bright lights throughout the streets, especially in areas that are not lit up or safe (e.g. one-way streets and secluded lanes). With the implementation of this idea, members of the community can feel safer on the streets, especially if they need to go down a street that is not well-lit and would overall promote safety measures within the community. The use of cameras and bright lights could also deter potential offenders from committing an offence as the street is well-lit and they are being recorded through the camera, which would be sufficient evidence for the courts to convict them of their crime.

Another suggestion that could be reviewed is having the courts acknowledge how different victims have different personalities and behaviours and how each victim can respond when they are in danger or feel threatened. In terms of the victim being approached by the offender first and the offender begins to initiate conversation, the victim can either be congenial and polite to placate the offender from becoming unpredictable and harming them or the victim could be forceful with their tone and dismissive of the offender's advances. These are both natural responses for the victim to have when faced with a threat or if they feel unsafe. It should be recognised that the victim was aware of the situation they were in and was being congenial and polite to placate the offender from becoming

unpredictable and harming them. It should be recognised through the courts that victims should not be blamed for how they associate with the offender (with the exemption if the victim was forcefully offensive or aggressive in their nature) as their behaviour and the way they talk to the offender may be a way of surviving. The courts should not place any blame or responsibility on the victim for their behaviour (with the exemption if the victim was forcefully offensive or aggressive in their nature) as the victim was looking to survive the offender's unpredictable motives. The blame of the offenders actions and intentions should solely rest upon them.

Another suggestion could be introducing a mandatory curriculum for schools and other organisations to educate future generations why physical contact that is unwarranted is wrong. By introducing students to what harassment is and why it is outlawed, students will collectively acknowledge and condemn such actions against a person. It is reasonable that these conversations may be uncomfortable for parents to acknowledge that their child is learning about such issues, however by addressing and raising these aspects to their children, the child would be less likely to be naive or taken advantage of when they are out in public. The curriculum could also prevent students from harassing/attacking someone in the future as all criminals were once a child.

The 'grab and drag' offence should not be a menial act of legislation where the elements and complexity of each case are glossed over nor should the act be confrontational for the victim. The overall legislation for the 'grab and drag' offence should protect the victims and make them feel validated and important.