

**Victorian Law Reform Commission**  
**Improving the response of the justice system to sexual offences.**

Written by Dr Catherine Barrett

Thankyou for the opportunity to provide feedback for this important review. I have attached my responses to each of your questions and I also attached key resources below. The first five resources could be covered in 90 mins and I urge you to familiarise yourself with them. The final two resources may be more useful as references.

Thankyou for including older people in your focus.

## Key resources

1. Power project timelines: <https://www.opalinstitute.org/timelines.html>
2. Margarita's film: <https://www.opalinstitute.org/margarita.html>
3. Margarita's strategies for listening to older women:  
<https://www.opalinstitute.org/shetoo.html>
4. Sandra and Margarita's stories for the #InHerShoes project:  
<https://www.opalinstitute.org/inher shoes.html>
5. Submission to the Royal Commission (please read narratives):  
<https://www.opalinstitute.org/uploads/1/5/3/9/15399992/sexualabuse.pdf>
6. AAG resource: <https://www.aag.asn.au/news-publications/policy-papers/a-fair-future-for-older-women-who-experience-sexual-abuse>
7. Norma's project report:  
<https://www.opalinstitute.org/uploads/1/5/3/9/15399992/researchreport.pdf>

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## Barriers to reporting sexual harm

The most significant barrier to reporting sexual assault is ageism (and sexism). Older women are silenced in so many ways including the following:

1. Historical rape immunity laws – many older women don't relate to the term 'sexual assault' because they have been taught men are not expected to negotiate consent (and therefore miss the messaging about sexual assault services)
2. Women with dementia are targeted by predators who know these older women can't report and those that can won't be believed because of assumptions about cognitive function and dementia
3. Older women who report are often shut down by service providers who dismiss the report as an indication the older woman has a urinary tract infection and is confused
4. The lack of education of the aged care work force in particular and health services more broadly means they don't know what to look for (eg: home care workers who don't pick up an older woman's husband won't leave her alone with them in case she discloses)
5. The lack of education for service providers who think that sexual assault is about sexual attraction and because of this myth that sexual assault is about sexual attraction they assume older women could not experience sexual assault because they believe older women are not sexually attractive
6. The fear of our own ageing and vulnerability contributes to absolute horror that sexual assault could occur – and a dismissal of it as a kind of cognitive defence
7. I know of almost no family violence services reaching out to older women to invite them to report sexual assault and to ensure that older women know that family violence services are for them
8. South East CASA is one of two sexual assault services nationally that has information for older women on sexual assault – how do older women know they can report sexual assault if the services are not promoted
9. There is very, very little research on the ways to reach out to older women to open up conversations about sexual assault (see for example *Its Gone Wild Out There*)
10. Older women may experience sexual assault by male partners who have dementia and are hypersexual or sexually disinhibited – in these cases – older women may 'submit' to sexual assault because they don't know other ways to quieten their husband (an SRI could address this very simply) and will not report out of loyalty to their partner – and because none of the service providers they are accessing are giving them permission to talk about what they are experiencing
11. Older women who report sexual assault – face losing family home and contact with children and grandchildren at the end stage of their lives – where do they go when they are no longer safe at home?
12. At every point along the responses to older women who chose to report – we fail them. I have documented research where older women have been sedated and shackled in response to their reports (an assumption they are agitated because they have a UTI) – and no one thought that responding to the agitation could include following up the allegations of sexual assault. I have seen police notes where an older woman reported rape and the police didn't respond because she had a diagnosis of dementia – not because of her cognitive function – but – because of her diagnosis (the police notes record the report as 'rape fantasy')
13. Elder Abuse services report that financial abuse is the most common form of abuse and that sexual abuse is rare (see for example our state strategy for preventing elder abuse) – we don't know that financial abuse is the most common form of abuse – it would be more accurate to say that financial abuse is the mostly commonly reported form of elder abuse and that sexual

assault is rarely reported – and we need to understand why that is the case (ie: how we silence older women)

14. Many older women who are raped are tipped into a state of delirium and die within a year
15. In summary on this question – where is the permission for older women to report? There are no posters or stickers or booklets or TV campaigns or radio adverts and promos through local groups for older people or information for GPs and there is no information pushed out through carers groups. There is no Gov mandate that all relevant Gov funded services (family violence, elder abuse, refuges, women's services, sexual assault services) are required to reach out to older women. They are the barriers that silence older women.

## Why reports of sexual harm may not proceed through the justice system

1. Many older women die within a year of sexual assault
2. The justice system is onerous for an older woman
3. Video evidence is possible – but where is the information about this?
4. What about third party support? (like the fabulous service OPA has for people with a disability)
5. I bet there are very, very few older women that have ever proceeded through the justice system – and I suspect those that have were sexually assaulted by stranger. Sexual assault by family member or service providers results in older women being very disempowered

## How to reduce the trauma of victim survivors in the justice system

1. Teach all service providers how to listen – women that haven't had to fight to be heard are less likely to be traumatised
2. Would be great to learn from work done for people with a disability – and then ask older people who to reduce the trauma for them – the act of engaging older people would be quite powerful

## How to improve data collection and reporting

1. Is data collected on older people? (or just 55+)
2. In residential aged care (some are funded by Vic Gov) there has been a requirement that 'unlawful sexual contact' only needs to be reported if the perpetrator does not have a cognitive impairment – this has led to the conceptualisation of sexual assault as being something less of a crime for older women
3. Gathering the data is a great first step in the quality cycle – next steps are to do something with the data, use the data to make a difference/prevention

## Best ways of responding to sexual offences, inc alternatives to the justice system

1. Start by believing – the power of being heard. I have families and some older women who call me to say they have been/mother has been sexually assaulted, and they have such a long list of people they called and they feel they are not being heard. They ring me or a journalist because they don't know who else to talk to and they don't feel heard. They are frustrated and traumatised. I have professional debriefing so I am not carrying their stories around. I try to help them find someone to listen. So frustrating. I go to meetings then where service providers whose responsibility it is to address sexual assault/elder abuse – tell me it isn't a problem. To be honest I want to scream at the injustice. The Royal Commission into Quality and Safety in Aged Care has release [REDACTED] – search by 'sexual assault' = nothing. They got a submission from me on sexual assault and from ½ dozen others. I know res care is mostly fed funded ... but this all contributes to the silencing and the lack of leadership. We need Gov to act. What can the VLRC do? You asked me to make a submission, that's great. But I want to ask you – how can you help to put this issue on the agenda? You could make such a difference

## How to build on previous reforms.

What reforms?

Nothing has been done

Blunt.

Sorry.

But accurate

## Expertise related to topic

In 2016 I established a project called the Power Project to raise awareness of the need to prevent the sexual assault of older women. The pages are the only national resource on the topic and will remain live until this issue is picked up by the key stakeholders with power to prevent sexual assault. Link: <https://www.opalinstitute.org/power-project.html>

- 2020 (June): [workshop](#) on preventing sexual assault of older women with Yumi Lee (Older Women's Network NSW) and Kerrin Bradfield (Gold Coast Centre Against Sexual Violence), moderated by journalist Caroline Baum for Compass
- 2019 (Dec): participated in a Round Table at Parliament House Canberra, hosted by Senator Rachel Siewert (Hansard, see pages 19-21: [link](#); SBS News: [link](#); The Wire: [link](#); HelloCare news: [link](#))
- 2019 (November): workshop on [Unlawful Sexual Contact - compliance, resourcing and prevention](#) with the Aged Care Quality and Safety Commission prior to the Australian Association of Gerontology Conference in Sydney
- 2019 (August) developed a [submission](#) to the Royal Commission into Quality and Safety in Aged Care, on the sexual assault of older women
- 2019 (August): presented the perspectives of older women at a National [Forum](#) on preventing sexual assault in residential aged care. Forum hosted by the Victorian Institute of Forensic Medicine at Monash University
- 2019 (July): worked with 97 year old Margarita Solis to deliver a [plenary presentation](#) on her experience of sexual assault and her strategies for prevention at the National Elder Abuse Awareness Conference in Brisbane
- 2019 (July): participated in a panel on elder abuse (reflections on sexual assault) at the National Elder Abuse Awareness Conference in Brisbane
- 2019 (August): worked with the Australian Association of Gerontology on a [paper](#) outlining the outcomes of the November pre-conference workshop on sexual assault
- 2019 (March): worked with Margarita Solis to launch a social media campaign and online resource called [#SheToo](#) which raises awareness of the importance of listening to older women who report sexual assault and developed strategies to improve listening
- 2019 (October): wrote an article for the Australian Journal of Dementia Care included a feature on listening to older women who experience sexual abuse. It focused particularly on sexual abuse and dementia (link [here](#).)
- 2018 (March): co presented a webinar for the Australian Association of Gerontology on the role of aged care service providers in preventing the sexual assault of older women
- 2018 (November): Facilitated a preconference workshop on sexual assault prevention at the Australian Association of Gerontology Conference in Melbourne
- 2017: produced a film called [Margarita](#) which documents the experiences of Margarita Solis after her sexual assault, as a tool to educate service providers and community members
- 2017 (November): participated in a forum hosted by Senior's Rights Service NSW on [Older Women, Ageing and Disadvantage](#)
- 2017: coedited a [book](#) on the Sexual Rights of older people including their right to be free from sexual violence. In a world first, the book takes the World Association for Sexology's Charter of Sexual Rights and applies them to the lives of older people

- 2017: coordinated an interdisciplinary panel on sexual assault at the National Elder Abuse Awareness Conference in Sydney, which was hosted by Virginia Trioli. [Video](#) produced from panel and also [podcast](#) on sexual assault with Ellen Fanning
- 2017: developed training and a [policy](#) for aged care service providers on addressing sexual rights of older people and on sexual boundaries in home services. Made the policies available free online and delivered the training
- 2017: delivered presentations on sexuality and aged care at the Better Practice conferences in four states/territories
- 2016-2017: *Older Women's Right To Be Safe At Home and in Care*: researcher on a [project](#) being conducted by the Council on the Ageing, Victoria and ARCSHS to document aged care service providers strategies for preventing sexual assault and to work with peak bodies on the development of a state wide strategy to prevent sexual assault. Project funded by Victorian Women's Trust
- 2015-current: member of Victoria Police's Community Consultation, Seniors Advisory Group to present issues related to sexual assault
- 2015: *Its Gone Wild Out There*: chief researcher for a [project](#) in partnership with Women's Health in the South East (WHiSE) that documented older women's experiences of sexual wellbeing and safety
- 2014-2015: *Norma's Project*: chief investigator for [Norma's Project](#) which documented the first evidence base in Australia on older women's experiences of sexual assault - and strategies for the primary prevention. The project was conducted by ARCSHS in partnership with Alzheimer's Australia, Council on the Ageing, National Ageing Research Institute and the University of Melbourne and was funded by the Federal Government
- 2007-2011: researcher at La Trobe University working on projects addressing sexual safety for people living with a disability and project for White Ribbon Foundation
- *Victoria Police's Senior's Working Group* (2015 - current): working group member.