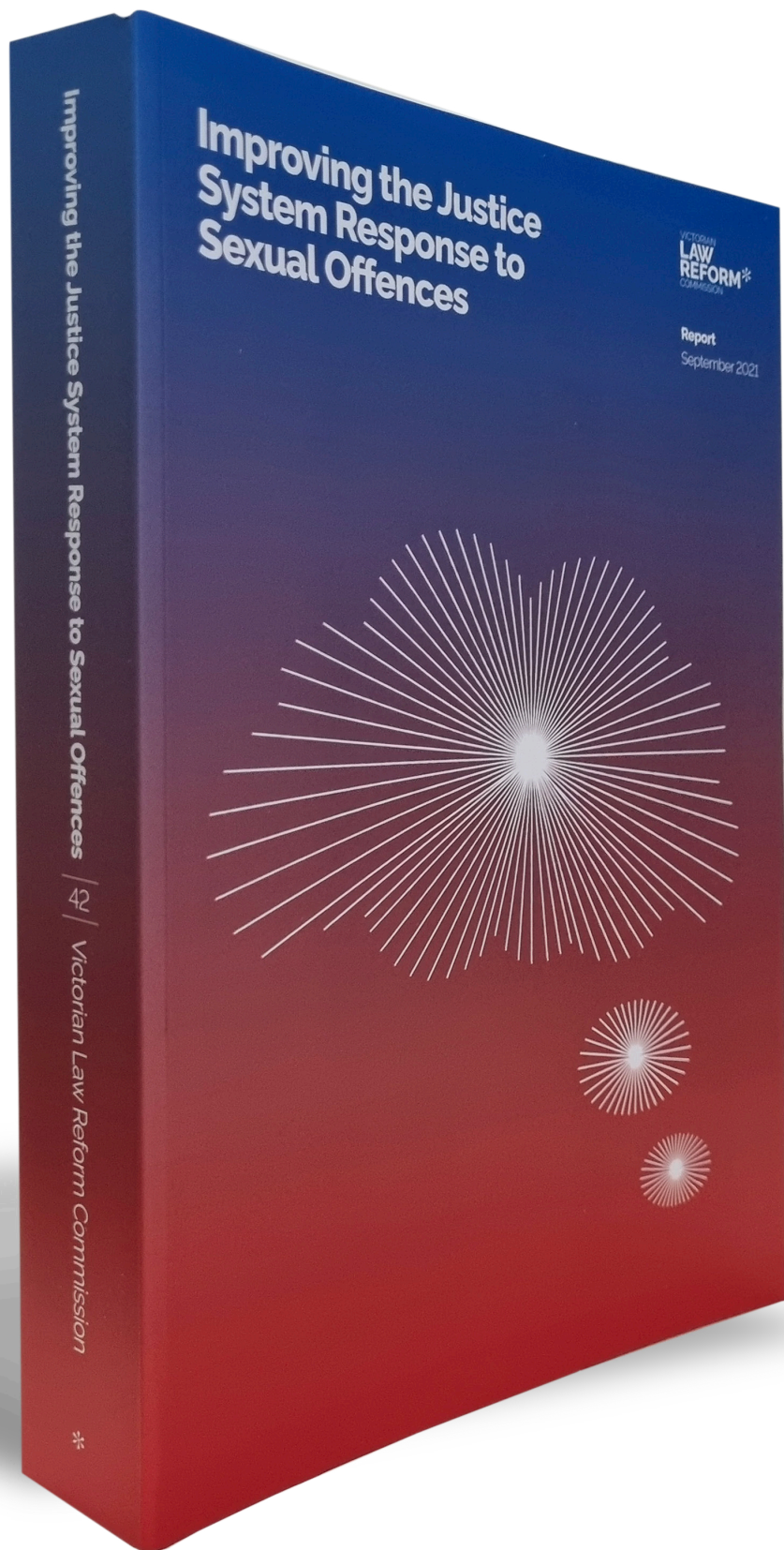


CASE STUDY 1
**IMPROVING THE JUSTICE SYSTEM
RESPONSE TO SEXUAL OFFENCES**



Sexual violence is widespread in the community. It is estimated that almost one in five women (18%) in Australia have experienced sexual violence since they were 15 years old. For men, the figure is one in twenty (5%). Children and young people also experience high rates of sexual violence. A national study suggests that almost eight per cent of adults have experienced child sexual abuse.

The effects of sexual violence can be profound. Emotional and psychological distress, physical harm, and disruptions to work life are just some of the impacts sexual violence can have.

However, the justice system does not respond well to sexual violence. This inquiry was about how to improve the justice system's response to this serious and widespread harm.

TIMELINE

1 April 2020

The VLRC commenced the inquiry after receiving terms of reference from the Attorney-General.

5 October 2020

The VLRC published eight short issues papers on topics such as the trial process and alternatives to criminal justice, and invited the public to make submissions. We also produced an animated video 'The justice system and sexual offences—tell us how to make things better'. We published

an online questionnaire and a consultation paper encouraging people who had experienced sexual violence to provide input.

October 2020-July 2021

The Commission held 99 consultations with people and organisations including victim survivors, police, lawyers and the courts, academics, and community and victim advocacy and support organisations (see the VLRC website for complete list).

23 December 2020

We received 71 submissions

and 67 responses to the online questionnaire.

20 September 2021

The report was delivered to the Attorney-General.

16 November 2021

The report was tabled in Parliament. The Victorian Government announced that it would use our recommendations to overhaul how sexual offences are reported and dealt with in Victoria.

6 April 2022

An additional report on 'Grab and drag' offences was tabled and published.

WHY DID THE LAW HAVE TO CHANGE?

Even though sexual violence is common, it is one of the most under-reported crimes. About 87 per cent of people who experience sexual violence do not report it to the police. Only about half seek any support at all, usually from friends and family.

When sexual violence is reported, police lay charges in about a quarter of cases. A further ten per cent of incidents reported to police drop out of the criminal justice system at the prosecution stage. Features of our justice system make it hard for sexual offences to be proved in court, and traumatic for victim survivors to go through the process. Many misconceptions about rape and sexual assault still exist, which can affect the outcomes of trials.

Victoria needs better ways of dealing with sexual offences, and new approaches to supporting victims. The law relating to giving consent was outdated and needed to change to reflect the reality of sexual violence.

CASE STUDY 1

IMPROVING THE JUSTICE SYSTEM RESPONSE TO SEXUAL OFFENCES

Continued

The Commission's task

The Attorney-General gave the Commission these terms of reference:

The Victorian Law Reform Commission (VLRC) is asked to review and report on Victoria's laws relating to rape, sexual assault and associated adult and child sexual offences. The review should identify opportunities to embed and build upon previous reforms, identify the barriers to reporting and resolving sexual offences, and make recommendations to improve the justice system's response...

In particular, the terms of reference asked us to look at:

- > barriers to reporting sexual offences: what prevents people from reporting sexual violence
- > why reports of sexual violence may not proceed through the justice system
- > how to reduce the trauma of people who have experienced sexual violence, when they engage with the justice system
- > the best ways of responding to sexual offences—including alternatives to the justice system
- > how to build on previous reforms.

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For the complete terms of reference visit lawreform.vic.gov.au

What did the community say?

We asked for the community's views through consultations, submissions, and an anonymous online questionnaire, receiving hundreds of responses. This is some of what we heard.

A strong message the Commission heard from the community is that people who have experienced sexual violence have a range of justice needs. Some want the perpetrator charged, but some people think other options are preferable, such as restorative justice. Everyone needs information and support and wants to have their voice heard.

Several people spoke of the reasons they didn't report a sexual offence. Some spoke of the fear of being disbelieved and shamed. This was even more of a deterrent for people who experienced sexual abuse as a child. Some told us they didn't understand at the time that what had happened to them was wrong, or that it was sexual assault.

Some people found it difficult to report to police, while others told us they had positive experiences. There were more positive experiences with specialist police. People told us that they would have liked other ways of reporting, rather than going to the police.

We were told that people need more information about where to get support and how. We heard that it was difficult to find out what support was available, and how to access it. There are long waiting lists before people can access counselling and other support, especially in regional areas.

We heard that criminal trials are traumatic for victims. We also heard that victims often feel left in the dark and do not know how a prosecution is proceeding. It is particularly devastating when charges against a person are reduced or dropped.

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For more community responses, see the publication [Online Responses from People with Experience of Sexual Assault](#) on our website.

Report and recommendations

The Commission made 91 recommendations for reforms to the law. These were some of the key recommendations:

- > Restorative justice and other alternatives to the criminal trial should become a mainstream option.
- > Victims should not feel alone. They should be able to access support from a 'victim advocate' who walks with victims on their path through the justice system, providing counselling, emotional support, advice and advocacy.
- > Victoria needs a stronger model of 'affirmative consent', which requires a person to take steps to find out if there is consent, not just assume it.
- > The law should be clarified so that everyone knows that 'stealthing' is a crime.
- > A Commission for Sexual Safety should be established in Victoria.
- > Criminal trials should be less traumatic for victim survivors. Juries need better directions from the judge about rape myths, and more access to expert witnesses. The rules about cross-examination should be enforced so that improper questions are not asked.
- > There should be an enforceable duty on employers and others, such as universities, to take steps to eliminate sexual violence and harassment.
- > There should be stronger laws on image-based abuse.
- > Reporting sexual violence should be easier and there should be more options, including online options.

- > Police, lawyers, judges and magistrates should receive more training on dealing with sexual offences. Lawyers, magistrates and judges should require special accreditation before appearing in sex offence cases.
- > There should be more public education for the community about sexual offences and better sexuality education in schools.
- > There should be more support and funding for organisations that respond to sexual violence and work with victims.
- > It should be easier for victims to access financial assistance.

What happened next?

When the report was tabled in Parliament, the government immediately announced that it intended to implement the VLRC's recommendations about affirmative consent and stealthing.

It also announced that it would deliver a \$5.2 million funding boost to specialist sexual assault services.

It said that all the VLRC's recommendations would be considered and would shape the Government's 10-year strategy to address sexual violence and harm.

Legislation was passed by Parliament in August 2022 to implement:

- > our affirmative consent and stealthing recommendations
- > some of our recommendations to improve jury directions.

* Visit [lawreform.vic.gov.au](https://www.lawreform.vic.gov.au) and look under All Projects for more about this reference.