

WITH YOU  
WE CAN

# What No One Told Us

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How critical gaps in legal literacy shape poor responses to sexual assault in Australia, and the way forward.

*November 2025*

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# About With You We Can

**With You We Can is an online resource demystifying the police and legal processes for victims of sexual violence while working to improve them.**

Led by lived expertise, and uniquely informed by advocates, experts and frontline services, we want victims for whom it is safe to report to be empowered to do so, and for all victims to be informed of their options.

If we create understanding around our criminal justice system, not just for the victims going through it but for the general public who might not otherwise engage, we are better placed to reform it.

**With us you can share your story. With You We Can change the narrative.**



# Terminology and context

*With You We Can understands the deep, enduring harm caused by sexual violence and the failure of systems to protect and respond, and sees the remarkable resilience of those impacted. In particular, we extend deep acknowledgement and respect to First Nations victims, who are disproportionately affected by sexual violence yet remain systematically excluded from and intimidated by colonial justice mechanisms.*

*While statistics help to illustrate the scale and consequences of sexual violence, we recognise that data cannot capture the full depth of individual experiences. Each figure represents a person whose life has been irrevocably altered. The insights within this report sit alongside, not above, the knowledge held by those with lived experience, and by the people and communities working to support and uplift them.*

**Independent Legal Representation:** a lawyer who acts for the victim complainant to advocate for their interests and protect their rights before, during and after legal proceedings.

**Legal literacy:** the knowledge, skills and confidence needed to understand, engage with and navigate through the legal system. It includes awareness of one's rights, available legal options and processes involved in seeking justice, as well as a foundational ability to critically assess legal information and make informed decisions within legal contexts.

**Sexual assault:** while colloquially an umbrella term used to describe many different sexual offences, this report is referring to sexual assault as intercourse without consent. This is termed *rape* in Victoria, Queensland, Tasmania and South Australia; *sexual assault* in New South Wales, and *sexual intercourse or penetration without consent* in the ACT, Northern Territory and Western Australia.

**Victim:** used to refer to sexual assault complainants within the criminal justice system, and in statistical or legal data. Its use in this report reflects these procedural and institutional contexts, rather than an assumption about personal identity or preferred terminology, recognising that many people who have experienced sexual violence identify differently outside of these settings.

**Victim-survivor:** refers to people with lived or living experience of sexual violence, who may identify with one or more terms that reflect their experience and sense of self like 'victim' or 'survivor' or both. These labels are multifaceted, personal and dynamic. In this report they are used to describe advocates outside of legal contexts.

**Diverse victim-survivor voices:** beyond demographic or experiential diversity, diverse perspectives include decolonised and critically informed viewpoints. These voices highlight how

systems of power, racism, sexism, ageism and heteronormativity shape dominant narratives about sexual violence and those who experience it. They draw attention to whose experiences are centred or silenced, and emphasise identifying service and justice gaps to better meet the needs of all communities.

**Trauma-informed:** recognising that trauma uniquely shapes how people experience safety, trust and connection. Being trauma-informed means centring victims' justice needs, including safety, trust, choice, collaboration, and empowerment, and making each process a step toward repair rather than retraumatisation. In practice, trauma-informed care respects each victim's story and identity, grounds responses in community and cultural context, takes responsibility for systemic harm, and fosters reciprocity through shared learning and collective healing.

# Foreword

For over sixty years I have watched Australia return again and again to the realities of sexual violence. I grew up in rural Australia, in the long distant 1940's and 50's, where sexual violence was not uncommon and most often assumed to be provoked by bad girls and alcohol. Many of those girls still carry the pain and shame of that time.

Phrases like 'she asked for it' or 'serves her right' were common. If the violence resulted in pregnancy, the secrecy and emotional weight of backyard abortion or putting your baby out for adoption were discussed behind closed doors.

These stories were rarely framed in a human rights framework and personal pain was swept under the carpet. But the girls were the victims. We now understand much more about the intergenerational trauma of that violence and its consequences.

When my young friend Sarah Rosenberg, herself a victim of sexual violence invited me to write the foreword to this significant document I was honoured that she trusted me to do so.

At the same time, I felt immeasurably sad that we are so far away from justice for victims of sexual violence. And to be honest as a feminist elder I felt guilty that I had not found my voice to support these issues. How could it be that I was lacking in awareness of the detail of these matters? Why has it taken so long to put this right?

This is my public commitment to support the campaign she is leading, and I hope many of you will join me. While the language

has evolved, the data has strengthened, and victim-survivors have carved out a place for their stories in public life, one truth endures: sexual violence is a public health crisis with social, economic and democratic consequences. It is not confined to any one community. It stretches across generations and institutions, leaving measurable harm in its path. When harm is this widespread, its remedy must be shared.

We now understand what victim-survivors have long known. Sexual violence is a driver of lifelong health inequity. It increases the risk of mental ill health, chronic disease, homelessness, and disrupted education and employment. These are not isolated outcomes, but patterns that place pressure on families, services and the national economy. When one form of harm maps so consistently onto poorer life outcomes, the responsibility to act becomes a national one.

This report arrives at a time when trust in public institutions is fragile. Across the country, victim-survivors describe pathways that are slow, unsafe, opaque and retraumatising. A justice system that cannot reliably protect those with the least power does not only fail individuals, it undermines the social contract that sustains our democracy.

Public confidence is not restored by statements or strategies. It is earned in waiting rooms, court corridors, police interviews and service encounters where people discover whether fairness lives in practice or only in principle.

When systems fall short, the cost is borne not only by victims but by our civic life.

Australia has shown that when we treat an issue as a public health priority, we are capable of coordination and impact. We did so with removing abortion from the criminal code to make it a health matter. Add to that smoking reduction, road safety and the HIV response. We already have the tools and knowledge. What has been missing is the national will to apply them to sexual justice.

A stronger future will depend on a shared response. This is the work of educators, health workers, community leaders, employers, media and governments alike. It is also the work of institutions that must now prove that fairness, safety and transparency are not aspirations but standards.

For generations, victim-survivors have carried the burden of navigating systems not built for their healing or justice. Their courage has moved this country forward. It is time for our institutions, and our democracy, to meet their leadership with equal resolve.

**- Wendy McCarthy AC, social activist, mentor, writer, author of 'Don't Be Too Polite Girls', company advisor, Patron of Sydney Women's Fund and The Parenthood**

# Introduction from the Executive Director

## Sarah Rosenberg, Executive Director, With You We Can

Calls to strengthen Australia's criminal justice system are not new. Countless reports, inquiries and action plans have detailed the need for reform, while in recent years multiple separate inquiries have considered matters affecting complainants and their recourse to justice. Rallies, roundtables, strategies, action plans. And yet, the police and legal systems continue to fail victims of sexual violence.

Victims feel excluded, dismissed, ill-prepared, humiliated and distressed, describing the process decades ago as 'state-sanctioned victimisation<sup>1</sup>, and now, still, 'barbaric and inhumane.'<sup>2</sup>

Reporting is a public service; victims deserve better. I deserved better.

Following my assault, there was no one in my corner. The people who were meant to have the answers didn't have them. Over and over my rights were circumvented, my privacy invaded and my agency stripped, as I waited for two years, alone and in the dark, for the trial of my rapist. A bystander in a system that would collapse without me. And I'm one of the 'lucky ones.'

The 'perfect victim' stereotype still defines whose stories are believed and whose are dismissed. Structural bias and deep

mistrust of police mean that First Nations women, sex workers, LGBTQIA+ communities, people with disability, trafficked and migrant women, and those on temporary or partner visas often fear being disbelieved, misidentified or criminalised if they report. For many, seeking justice doesn't just feel unsafe - it is unsafe. The result is a two-tiered system where those most likely to experience sexual violence are least likely to be heard or protected.

Even for those who want to speak up, most wouldn't know how. I certainly didn't. Australia's lack of legal literacy leaves victims to navigate the justice system blindly. This gap underpins the system's collapse: high attrition rates and low conviction rates, when the state's ability to prosecute is already limited by extremely low reporting rates and no enforceable duty for police to investigate. What's revealed is a structure that is neither fit for purpose nor economically efficient.

Legally and operationally, the state is considered the wronged party in sexual assault cases. So when victims, not perpetrators, are the ones put on trial, it undermines society's legitimate right to bring offenders to justice. And it's happening every day, on taxpayer dollars.

This paper exposes the hidden cost of legal illiteracy - the gap between the rights victims are promised and the rights they can actually exercise. It lays out what no one told us: that without democratised access to information about how to navigate the justice system, or access to independent representation to enforce the few mechanisms that exist to protect victims, justice remains out of reach.

Early, effective legal responses reduce harm and generate benefits that ripple far beyond the courtroom. By embedding legal literacy in schools, workplaces and communities, and scaling up independent legal representation across the country, we can transform victims from props into participants in justice and enhance the integrity of the system for all of us.

The crisis of confidence victims have in the criminal justice system is justified and the public can no longer afford to look away. Justice is not an abstract concept; it is a shared civic responsibility. We are inviting the community to understand the system, to demand better of it, and to stand beside those forced to navigate it alone.

We know what needs to change. The question now is whether we have the courage to change it.

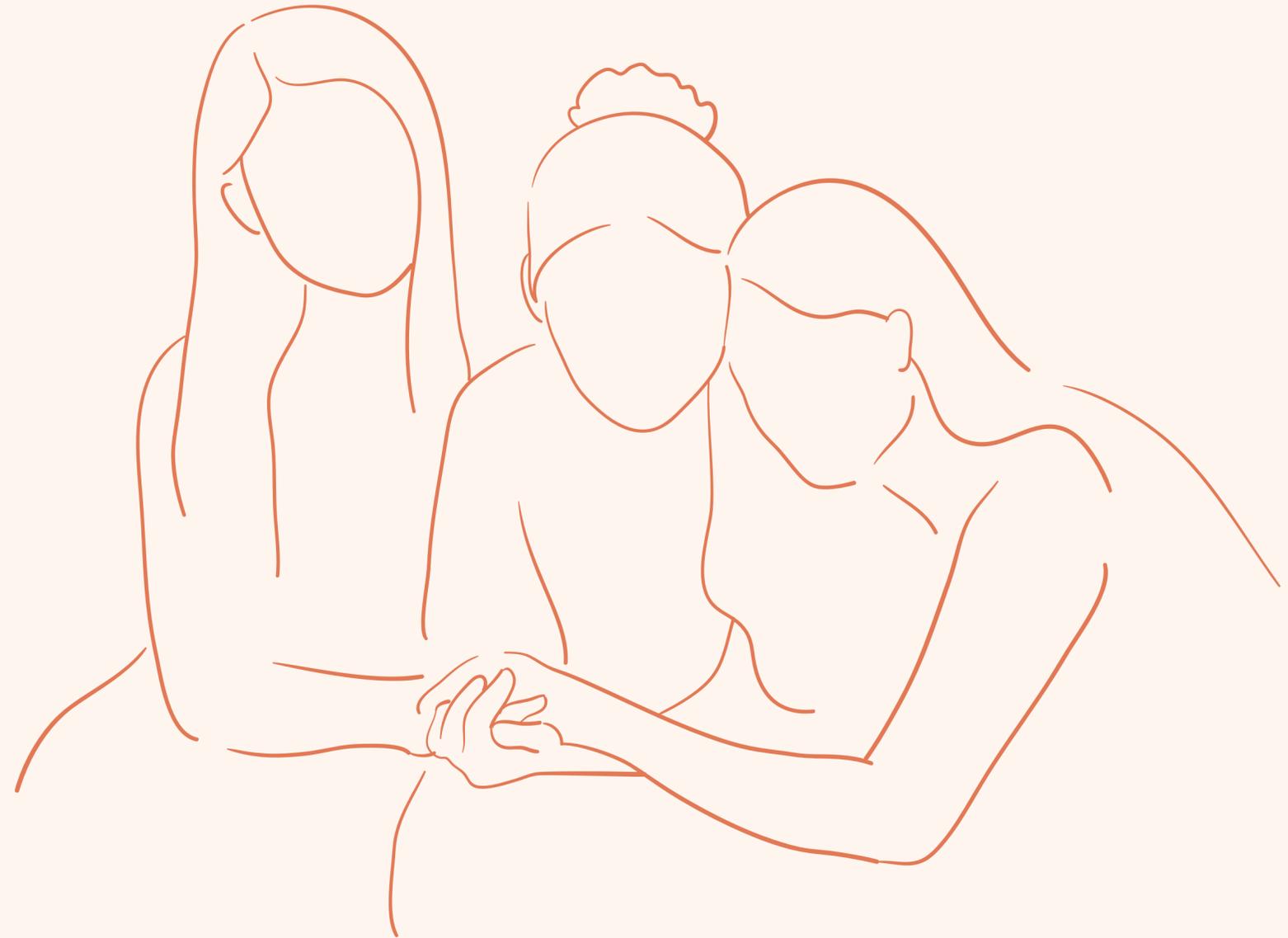
# Methodology

**Stakeholder consultations:** interviews with academics, legal professionals, policy officers, healthcare professionals and community advocates to understand real-world experiences, challenges and best practices in advocating for increased legal literacy and Independent Legal Representation.

**Case studies:** in-depth, comparative review of Independent Legal Representation models and victim participation rights across Europe, the United States and the United Kingdom, identifying features that improve procedural fairness, victim agency and system performance.

**Lived experience voices:** consultation with victim-survivors and family supporters, to ensure findings and recommendations are grounded in authentic experiences of reporting, investigation and court processes.

**Data analysis:** analysis of literature and statistics to give a snapshot of prevalence, reporting and gaps in legal literacy as it pertains to adult sexual assault in Australia.



# Contributors



**Karen Bevan**

CEO, Full Stop Australia



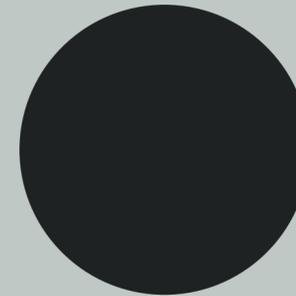
**Eleanor Danks**

Lawyer, somatic psychotherapist, Independent Legal Representation pilot lawyer, victim-survivor



**Dr Gemma Hamilton**

ARC DECRA Fellow and Senior Lecturer, Criminology and Justice Studies



**Sandra**

Lived experience advocate



**Julie Rosenberg**

Community advocate, mother of Sarah (With You We Can)



**Michael O'Connell**

Consulting Victimologist, inaugural Commissioner for Victims' Rights (SA)



**Kerstin Braun**

Professor and Associate Head (Research), School of Law and Justice, University of Southern Queensland



**Jacob Gooden**

Co-Founder & Innovation Lead, SAYFE, former Victorian police officer



**Yumi Lee**

CEO, Older Women's Network NSW



**Sarah Odoni**

Specialist Family Violence Advisor, Mental Health & Wellbeing Services



**Julie Sarkozi**

Senior Solicitor, Victims Advocate and Sexual Offences specialist (QLD)



**Nicole Meyer**

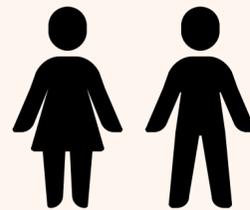
Lived experience advocate, law student and Ambassador for National Survivors Foundation and Loud Fence

# Sexual assault in Australia

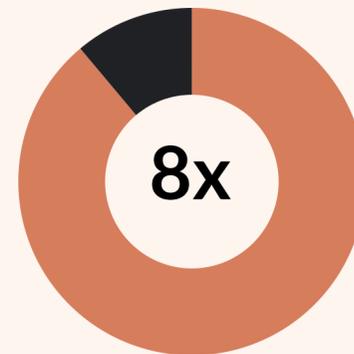
## The prevalence of sexual assault in Australia



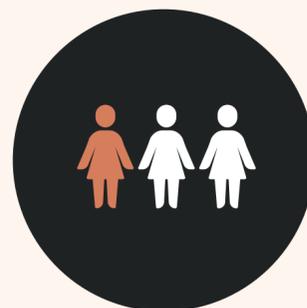
In Australia, one in five women and one in 16 men have experienced sexual violence as adults<sup>4</sup>



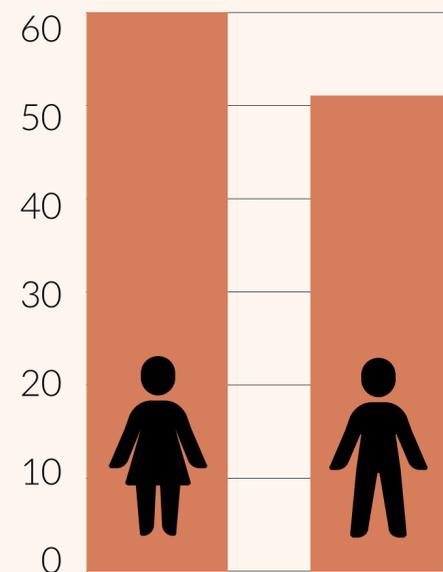
Both women and men are more likely to experience sexual assault by a known person than by a stranger<sup>6</sup>



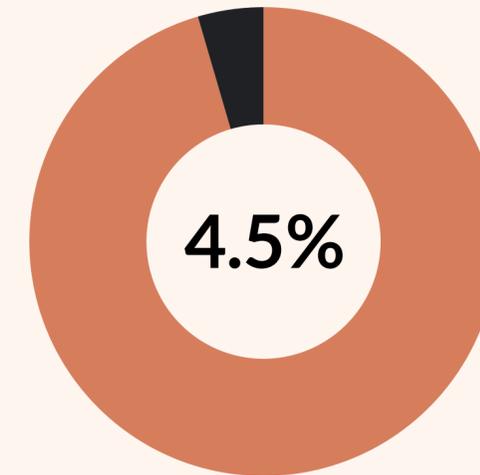
Women are eight times more likely than men to experience sexual assault by an intimate partner<sup>7</sup>



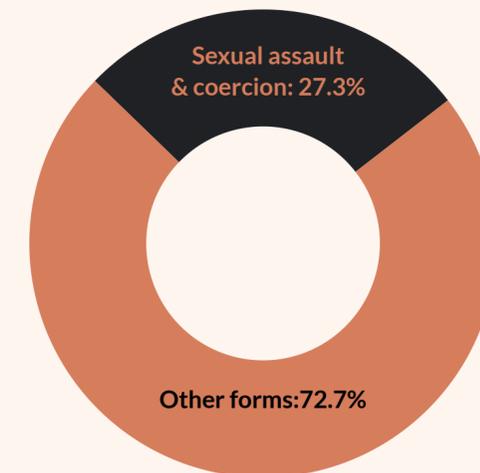
Globally, one in three women experience physical or sexual violence by an intimate partner or sexual violence from a non-partner<sup>8</sup>



60% of women and 51% of men who have been sexually assaulted experience more than one incident<sup>5</sup>



1 in 20 (4.5%) students have been sexually assaulted since starting university<sup>9</sup>



The most common type of in-person dating app-facilitated sexual violence is sexual assault and sexual coercion (27.3%)<sup>10</sup>

## Sexual assault reporting in Australia

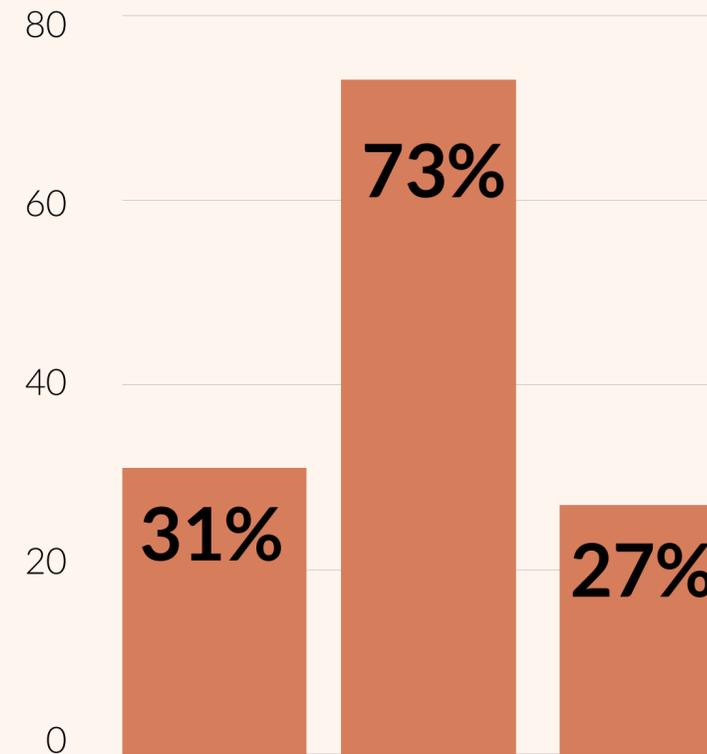


92% of women don't report their most recent sexual assault<sup>11</sup>



**90%**

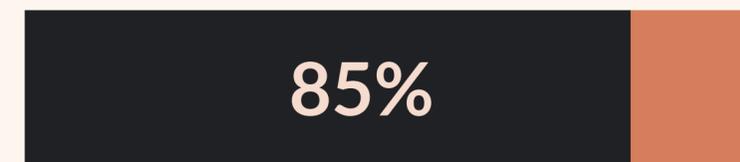
Rates of non-disclosure are higher in Indigenous than non-Indigenous communities. At least 90% of physical and sexual violence against First Nations women is undisclosed<sup>12</sup>



31% did not report their sexual assault because they felt ashamed or embarrassed<sup>13</sup>

73% of women did not perceive their sexual assault as a crime at the time it occurred<sup>14</sup>

27% perceived their sexual assault as something that 'just happens'<sup>15</sup>



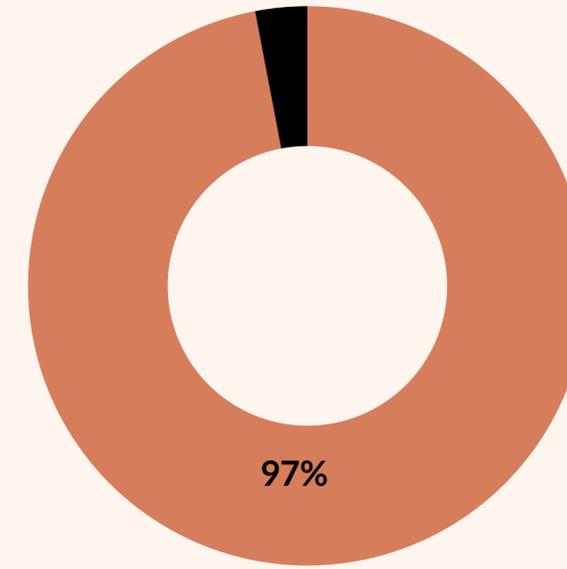
85% of reports that are made do not progress to a charge<sup>16</sup>

## Profile of an offender

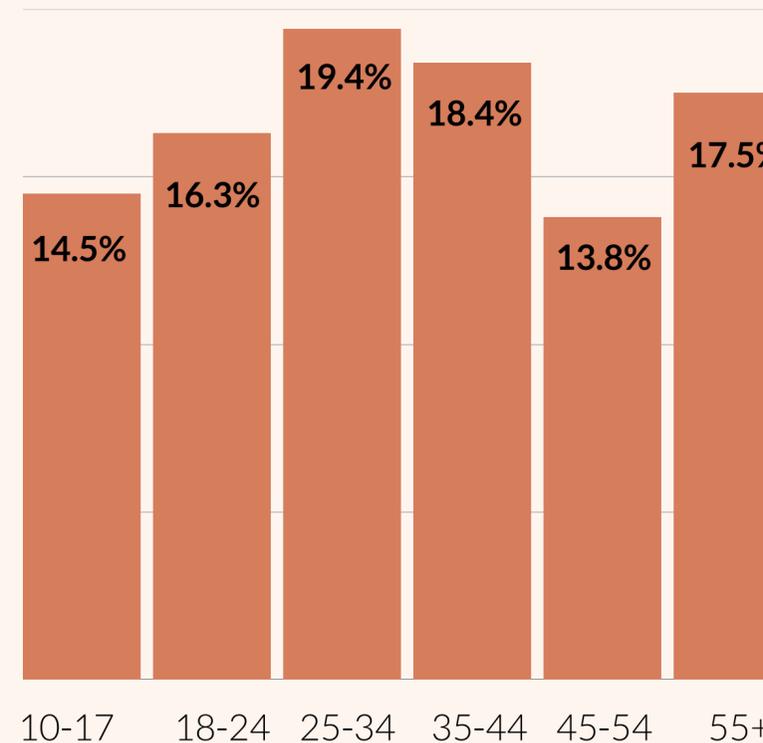
Among perpetrators of sexual violence, there are differences in the severity, frequency and forms of use of violence, yet patterns of co-occurrence and overlap are common: individuals who perpetrate one form of violence may also perpetrate others<sup>30</sup>.

Repeat offending is common, with roughly one in four having been proceeded against more than once in a 12-month period for any offence. For all types of domestic and sexual violence, the higher the number of prior offences, the greater the likelihood of reoffending<sup>31</sup>.

Men's violence against women is historically understood to be a manifestation of unequal power relations between men and women. Contributing factors include: condoning violence against women, men's control over decision-making and restrictions on women's independence, rigid gender stereotyping, dominant forms of masculinity and male peer cultures that emphasise aggression, dominance and control<sup>32</sup>.

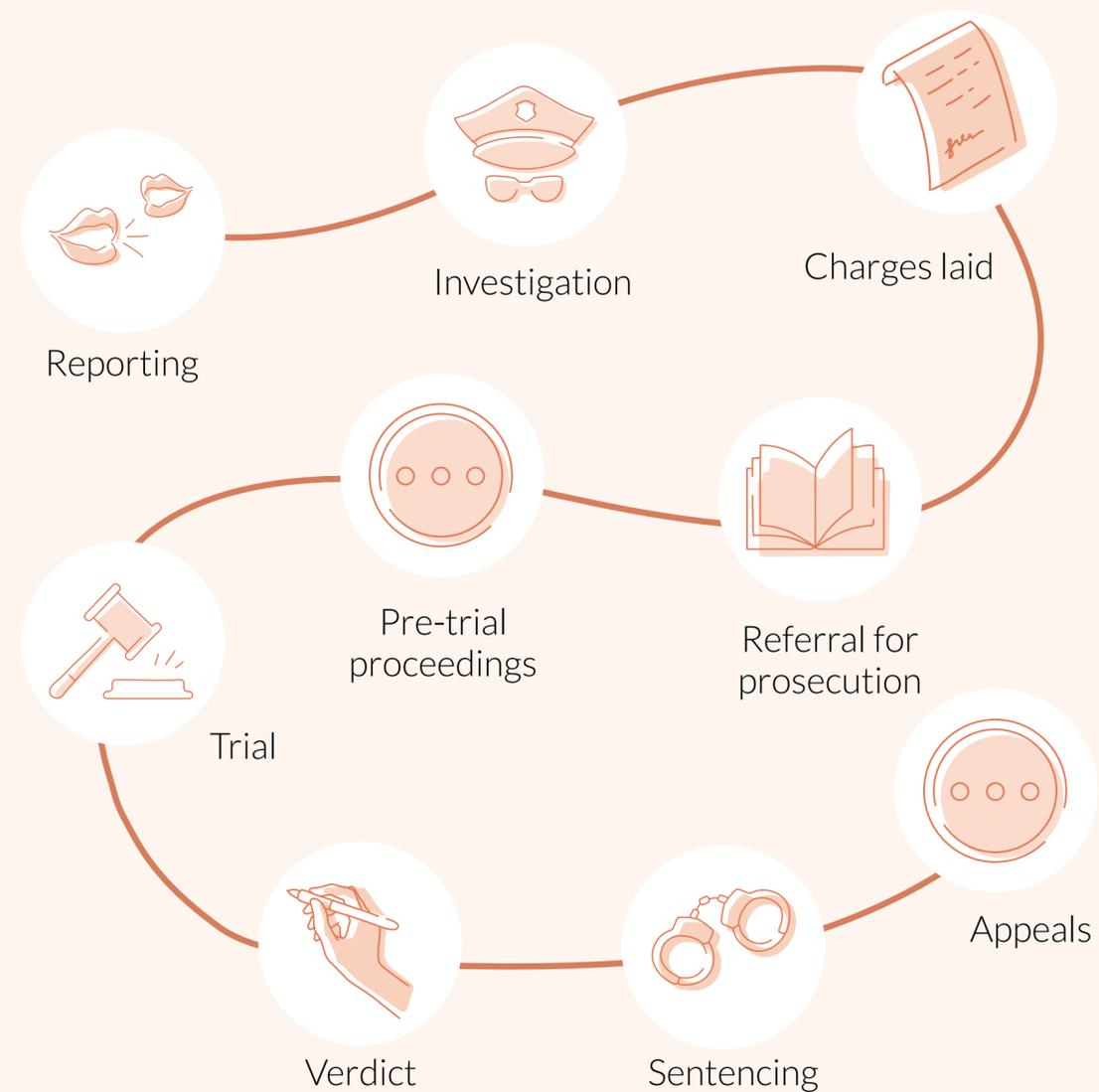


The vast majority of offenders, around 97%, are male.



Offenders span nearly all age groups.

## How the justice system responds



*'I hesitate to even call it the criminal justice system, because it really isn't that for victim survivors of sexual assault and rape.'*

Karen Bevan, CEO, Full Stop Australia

*'I once asked a room of lawyers: if your daughter or son were raped last night, who here would encourage them to submit themselves to the ordeal of a criminal trial? Not one stood. When it becomes personal, even the staunchest traditionalists see the deficiencies.'*

Michael O'Connell, Consulting Victimologist, inaugural Commissioner for Victims' Rights (SA)

*'Survivors navigating both mental health and justice systems consistently describe exhaustion and loss of trust. Legal processes remain adversarial and retraumatizing, particularly when trauma responses are used to question credibility.'*

Sarah Odondi, Specialist Family Violence Advisor, Mental Health & Wellbeing Services

# Who gets left behind: the myth of the 'perfect victim'

The 'perfect victim,' someone who is young, attacked by a stranger, has visible signs of injury, immediately seeks help and immediately reports, excludes most victims and compounds harm for those whose experiences don't fit the stereotype.

Sexual assault is diverse in perpetration and impact, yet legal and social responses remain narrow, leaving marginalised communities over-represented as victims and under-served by justice. As a result, groups including First Nations women, sex workers, trafficked women, migrant women (particularly those on temporary protection and partner visas) and many others often fear potential misidentification as perpetrators or a potential charge on an unrelated crime on presenting to a police station to report sexual assault.

## Age

Older women are also at risk of sexual assault, yet ageism and disbelief mean they are dismissed or not seen as victims at all.

Older women face unique barriers to help-seeking and reporting: many grew up when marital rape wasn't recognised or sex was taboo. Ageism within institutions compounds these harms. Health professionals may misread trauma responses as confusion or cognitive decline while police and courts can discount credibility based on age or frailty. Limited data exists on assaults within aged-care or health facilities, despite clear evidence of vulnerability.

The lack of visibility across research, policy and media means violence against older women remains an unacknowledged crisis requiring urgent, specific attention.

## Disability

Women with a disability are twice as likely to report sexual violence than women without disability<sup>17</sup>. In Australia, the proportion of adults in 2016 who had experienced sexual violence since the age of 15 was higher among adults with disability at 16% (compared to around 9.6% for those without disability) and women with disability experience sexual violence at higher rates (4.0% vs 2.5% for women without disability). Moreover, for those with psychosocial or cognitive impairments the rates are substantially elevated, approximately 12% in the last two years for women with psychosocial disability<sup>18</sup>.

Despite being over-represented as victims, people with disabilities are frequently presumed unreliable as witnesses. They are twice as likely to have reports dismissed as false and least likely to reach court.

## First Nations people

Aboriginal and Torres Strait Islander people are significantly more likely to experience sexual assault than non-Indigenous Australians. Recent national and state data show that rates of sexual assault victimisation among Aboriginal and Torres Strait Islander peoples range from around 269 to 537 per 100,000, depending on jurisdiction<sup>19</sup>.

In Queensland, Aboriginal and Torres Strait Islander women and girls are 2.5 times more likely to be victims of rape than non-Indigenous women and girls, and Aboriginal and Torres Strait Islander men and boys are more than 4.5 times more likely to be victims than their non-Indigenous counterparts<sup>20</sup>.

Nationally, Aboriginal and Torres Strait Islander women are estimated to be around three times more likely to experience sexual violence than non-Indigenous women<sup>21</sup>.

For Aboriginal and Torres Strait Islander people who have experienced violence, hyper-surveillance and intervention by police and other government services has hindered trust in police, amplified by Aboriginal women's experiences of not being believed when they do report violence<sup>22</sup>.

## LGBTQIA+ communities

LGBTQIA+ people experience disproportionately high rates of sexual violence. National data show that around one in two LGBTQIA+ people have experienced sexual assault in their lifetime<sup>23</sup>. More recent findings indicate that prevalence may be even higher, with around 76% of participants reporting lifetime sexual violence, and over half (52%) experiencing it both in childhood and adulthood<sup>24</sup>.

Cisgender women and trans men reported the highest rates (around 82% each), while rates were also elevated among queer-identified (84%) and bisexual or pansexual participants (78%)<sup>25</sup>. Significant offending also occurs in same-sex relationships, yet enduring myths continue to erase these experiences from public and legal consciousness.

The prevalence of sexual assault and coercion is higher among LGB+ males and females than their heterosexual counterparts, and this risk is further compounded for LGBTQIA+ adults with disability, particularly those experiencing severe disability, who report especially high rates of sexual assault and coercion<sup>26</sup>.

## Men as victims

Around 4.3 % of men have experienced sexual assault since age 15<sup>27</sup>. More recent data show that 6.1 % of men reported experiencing sexual violence (assault or threat) since age 15, and 5.1 % reported sexual assault alone<sup>28</sup>. These figures are likely underestimated due to societal misconceptions that men cannot be victims or do not suffer harm. Most male victims are offended against by other men, many of whom identify as heterosexual. Sexual violence occurs in both community and institutional settings, including military and prisons.

Help-seeking and reporting among men is notably low. Men are less likely than women to report sexual assault to police or disclose their experiences informally, often due to stigma, shame and gendered expectations about masculinity<sup>29</sup>. This under-reporting highlights both the hidden prevalence of sexual assault among men and the need for services and supports that are accessible, affirming and responsive to male victims.

*‘Services often don’t see older women as victims. Everything that deters younger women from reporting applies — plus the age layer.’*

Yumi Lee, CEO, Older Women's Network NSW

*‘Every disclosure is an opportunity to respond differently, to see the whole story, and to respond in a way that says: you are believed, you are safe here, and you matter.’*

Sarah Odondi, Specialist Family Violence Advisor, Mental Health & Wellbeing Services

*‘First Nations women don’t report because we already know what happens when we do, nothing. You get dismissed or blamed, or they tell your story to the very person who hurt you.’*

Sandra, Lived experience advocate

# The current legal landscape is characterised by attrition

Attrition refers to the gradual reduction in the number of cases that progress through each stage of the criminal justice system, from report to investigation, charge, prosecution and conviction. In sexual assault cases, attrition is extreme. Those who do report face systematic drop-off at every stage, with the justice system itself becoming a source of further harm rather than resolution.

## Stage 1: Police investigation

Of the small number of sexual assaults reported to police, the vast majority fall away during the investigation stage. While many victims feel unsupported throughout the reporting process, leading to withdrawal, the primary reason for attrition at this stage is a failure to investigate by police. Police do not have a mandatory duty to investigate and there are no national principles to guide investigation<sup>33</sup>.

Police decision-making is heavily influenced by rape myths and a misapplication of legal principles, including the belief that they must prove a case 'beyond reasonable doubt' at investigation stage. This is referred to as 'downstream orientation' - making decisions based on what they think a jury will believe rather than whether a crime occurred.

In the ACT, 42% of cases analysed were closed as 'victim withdrawal' however victims are not withdrawing the complaint; they disengaged from a police process they described as 'triggering'. Their feelings of powerlessness were reinforced by a lack of meaningful communication between police and victims<sup>34</sup>.

In NSW (2018), only 15% of the 5,869 sexual assault incidents reported to police resulted in charges being laid<sup>35</sup>. Since then, NSW has implemented an 'exceptional clearance' investigation model, requiring investigators to collect all available and time-critical evidence, with investigative standards assessed at the Command and Region level<sup>36</sup>.

*'The highest attrition is at investigation and charging. What happens at first contact with police, the willingness to investigate, the quality of information given, drives whether people stay or disengage.'*

Julie Sarkozi, Senior Solicitor, Victims Advocate and Sexual Offences specialist (QLD)

*'Police can engage in problematic behaviours. They can indicate that they think the victim-survivor is making a false allegation, demonstrate scepticism, or ask accusatory questions which make victim-survivors feel disbelieved and like they're not being taken seriously.'*

Dr Gemma Hamilton, ARC DECRA Fellow, Senior Lecturer in Criminology and Justice Studies, RMIT University

*'The way a survivor is made to feel at their first point of contact with police plays a huge role in whether they choose to continue. One of the most important lessons I learned was that the "stoic, teflon cop" approach is not conducive to positive outcomes for people who come to you in their time of need. It is far better that they see you as a human being who happens to be in a profession capable of helping.'*

Jacob Gooden, Co-Founder & Innovation Lead, SAYFE

## Stage 2: Decision to prosecute

Attrition at this stage occurs as a result of prosecutorial decision-making. Despite prosecution almost always being in the public interest, prosecutions in Australia are only likely to proceed when they align with rape myths<sup>37</sup>.

Like police officers, prosecutors can make decisions about whether a case proceeds based on downstream orientation - their expectations of whether it will result in a guilty verdict.

Having endured lengthy delays, and a process that offers little communication, support or agency, victims may again disengage at this part of the process.

Of the 15% of reports that result in charges, two out of five defendants (40%) have all charges withdrawn by prosecution, dismissed due to mental health or otherwise disposed of before verdict<sup>38</sup>.

*‘Too often prosecutors decide first, ‘consult’ later. I’ve seen victims with information that could have altered a charging decision told ‘after the fact’ what has been agreed between the prosecutor and the accused.’*

Michael O’Connell, Consulting Victimologist, inaugural Commissioner for Victims’ Rights (SA)

*Victim-survivors can feel really cheated by systems because the process doesn’t really have a satisfactory end and it takes such a long time.’*

Karen Bevan, CEO, Full Stop Australia

## Stage 3: Court proceedings

For the small number of cases that survive investigation and charging, delays are brutal. Sexual violence matters can take twice as long as other criminal cases, with repeated adjournments. That uncertainty is its own harm, compounding trauma and eroding victims’ capacity to stay engaged.

Fair treatment, or procedural justice, is of equal, if not greater, significance in shaping victims’ perceptions of justice than the outcome itself. Yet procedural justice is routinely undermined. Victims’ private information, including phone records, medical histories, counselling notes, school and employment records, is accessed or threatened with access, a tactic defence uses to encourage withdrawal. When records are obtained and used in questioning, circumvention of privacy protections impairs the clarity of victims’ testimony, makes them vulnerable to suggestible defence questioning, and leaves inappropriate statements by defence unchallenged. Disregard for procedural justice doesn’t just harm victims; it undermines the state’s prosecution. This invasion of deeply personal material, and the prospect of being questioned on it during cross-examination, is a key factor driving victims to withdraw from the process<sup>39</sup>.

Overall, only 7% of sexual assaults reported to NSW Police result in a guilty verdict<sup>40</sup>.

For the small number of matters that progress to trial, only 41% of defendants are found guilty of a sexual offence<sup>41</sup>.

*‘A ‘good experience’ isn’t only about getting a conviction. Many victims understand that a conviction is very hard to achieve in these matters. What they remember is whether they were believed, informed and accompanied — or left to navigate the system alone.’*

Eleanor Danks, lawyer, somatic psychotherapist, Independent Legal Representation pilot lawyer, victim-survivor

*‘The justice process isn’t a battle for the truth; it’s a battle to instil doubt.’*

Yumi Lee, CEO, Older Women’s Network NSW

# Sandra's story

I'm a proud First Nations woman from remote Australia. For most of my life, I've lived and worked across some of the most isolated parts of the continent, alongside my people. I'm also a survivor of the Stolen Generations, a woman living with disability and someone who has learned the hard way how deeply systems can fail the very people they are meant to protect.

In my early sixties, I left a long-term relationship marked by coercive control, physical and sexual violence, after years of being cut off from community and support. The injuries and trauma I carry today are not only from the violence itself, but from the neglect that allowed it to continue.

When I finally fled, I had no identification, no money and no safe place to go. For weeks, I slept rough in the middle of winter. Every door I turned to for help came with conditions. Services told me I needed an appointment. Others said they couldn't help unless I made a police report. Reporting wasn't safe for me; my abuser had ties to law enforcement. If the person who hurt you is police, or mates with police, what chance do you have? And without a police report, you can't get legal help, housing help, or counselling. When I did go to the police for help, the officer looked at me, bruises all over me, and said,

'Go home and sort it out with your husband.' That was in 2021, not 1950.

The barriers weren't just bureaucratic. They were cultural, systemic and racially charged. As a First Nations woman, my credibility was questioned again and again. Every time I spoke up, I was made to feel like I was the problem, not the man who hurt me. I was asked for proof, interrogated about timelines, and offered only minimal support. At times, the very services meant to help became sites of re-traumatisation. In hospital, despite records showing my history of sexual violence and PTSD, I was still pressured into invasive procedures. A housing service promised to install a reinforced bedroom door for my safety, but when it didn't fit, no one came back.

Out bush, the more remote you are, the less chance you have of getting help, and the more likely the perpetrator will get away with it. There's usually one police officer for hundreds of kilometres. If that officer is racist or misogynistic, who can women turn to? Too often, police are part of the problem. Many come out to remote communities for the promotion, not the people, and they bring their biases with them. I've seen women reporting sexual violence laughed at, ignored or accused of lying. Cultural laws that stop women from speaking openly to men

are disregarded. Meanwhile, the First Nations Police Aides who understand community are underpaid and underused, treated more like drivers than respected officers.

Legal support is just as hard to reach. Aboriginal Legal Services are overworked, underfunded, and there are waitlists for everything. We need legal education that's written in our language, not legal talk. Half the words they use, people out bush have never even heard before. Sometimes it feels like you have to survive the system before you survive the violence.

What I want to see is respect for cultural protocols: gender, language, and community law. I want First Nations-led reporting and support pathways, grounded in community knowledge. I want legal help that doesn't rely on police access or force people to relive their trauma. I want plain-language education tools, written in local languages, and real representation, not just consultation.

Don't design for us; design with us. Sit with us. Ask the Yapa. Listen.

# Nicole's story

I entered the Australian court system believing it would be a space for truth-telling and accountability. Instead, I encountered a legal process that rendered me invisible.

Even in my first contact, when I gave my initial police statement, I went back to work with zero support. I didn't know who to call, who to speak to, and there was no clear pathway to guide me through the rest of the process. I'd endured six and a half years of abuse but just before trial, I was informed that the original 74 charges had been reduced to 29. Only five related to me. The prosecution had stripped it down to a handful of serious charges, including one that covered an entire year with no specific incidents. That completely invalidated hundreds of incidents.

I was given no say in which charges were taken forward. We asked for independent legal representation and were told 'we strongly discourage it, they will have no legal standing.' Efforts to introduce expert testimony to speak to the jury on trauma were blocked. Even basic accommodations, like shielding me from visual contact by the accused, were overlooked.

The system was not designed to support survivors, but to contain us within rules that favoured the rights of the accused.

One of the most disempowering moments was sitting in the silent courtroom as journalists flipped through their charge lists,

checking off guilty and not guilty verdicts. The noise of pen on paper underscored a brutal realisation: procedural efficiency had overtaken justice.

My sisters and I were to give evidence in closed court, and we were not prepared for the explicit details of every single sexual abuse charge to be publicly detailed in the media during the opening days of the trial. You walk into court thinking you'll have a chance to tell your whole story. You do not. You answer questions of evidence to a very prescribed statement. That is it.

Defence lawyers have a job to do, rightfully so, but the way they behave dehumanising victims of secular abuse with the level of condensation goes far beyond the confines of their role. The mocking and sniggering and shuffling throughout giving explicit horrific details of sexual abuse causes a severity of mental and emotional strain on the victims that causes additional trauma. The cross examination making victims feels they are on trial not the abuser and very often venturing into areas that were not permissible to speak on before being objected to. Defence lawyers need their own training in treating victims of trauma and sexual assault in a sensitive and lawful manner.

When the verdicts on my charges came back not guilty, I was immediately cut from the remaining process. I wasn't a victim anymore. Suddenly, I was removed from the whole system

because I was a witness who had been discredited. I wasn't permitted to read my victim impact statement alongside my sisters. I felt like I didn't belong, as my name was not even mentioned in the plea or sentencing hearing, other than receiving not guilty. Then came the judge's closing remarks. Because the trial didn't go to appeal, the transcript was never formally recorded. According to multiple attendees, the judge said I had 'allowed myself to be abused' when summarising the defence - these were not words the defence directly used. Judges' closings are not transcribed unless there is an appeal, so in essence, a judge can summarise with what seems like a lack of transparency. Where is their level of accountability and responsibility to the victims who come into their courtrooms?

If I had the chance, I would do it all over again. Going to court, accountability for the perpetrator on some level, regardless of guilty or not guilty — that still matters. But the system has to change.

Today I'm studying law and mentoring other survivors through these complex systems. My focus is structural reform: legal standing for victims in court, access to independent legal advocates, trauma-informed procedures, and judicial accountability. The injustice I experienced shouldn't define anyone else's journey through this system.

# Common myths

## How rape myths inform attitudes within the community, policing and legal systems

Myths	The Reality
<b>Victims report rape or sexual assault immediately.</b>	In reality, most victims delay or never report. Reasons include fear, self-blame, and belief they won't be believed.
<b>False rape allegations are common.</b>	False reports are rare. Research shows that less than 5% of sexual assault reports are false - keeping in mind that the withdrawal of a report by a victim is categorised as false, as is a report that someone might make on behalf of their friend, if the victim chooses not to follow through. Unsubstantiated reports, too, are marked as false.
<b>'Real' rape victims fight back against their attackers.</b>	Most victims do not physically resist. A U.S. study cited in the AIC report found 57% of victims did not actively resist, and similar findings have been observed in Australian contexts. Victims may freeze or comply due to fear or shock. Verbal resistance, such as trying to talk a perpetrator down, is most common. Offenders often use coercion or manipulation, not weapons or overt violence, and victims are known to match the aggression level of their perpetrators.
<b>Victims of rape usually have visible injuries.</b>	Lack of injury is common. Australian research shows injury is not a reliable indicator of non-consensual sex, as both consensual and non-consensual intercourse can result in similar medical findings. Most sexual assaults do not use overt physical force or weapons.

Myths	The Reality
<b>Genuine victims of sexual assault are emotional and distressed when reporting.</b>	Victims' emotional responses vary widely. Some appear calm, detached, or even cheerful as a coping mechanism. Research shows demeanor is not a valid indicator of truthfulness - both highly emotional and flat affect responses are normal.
<b>If a victim's memory is inconsistent or fragmented, they must be lying.</b>	Trauma disrupts memory. Victims may recall only fragments or details over time. Such inconsistency is normal, not deceitful. Psychological research shows fragmented or incomplete recall is typical after trauma, including sexual assault, and does not correlate with dishonesty.
<b>Drunk victims simply regret having consensual sex and later claim rape.</b>	Alcohol is involved in a majority of sexual assaults. An Australian study cited in the AIC report found alcohol was involved in 60% of reported sexual assaults. Intoxication does not imply consent, and memory for core events is usually reliable even if peripheral details fade. Many perpetrators supply alcohol to commit sexual assault, or rely on their victim being intoxicated.
<b>Rape is usually committed by a stranger.</b>	In Australia, rape is overwhelmingly committed by someone known to the victim. 85% of women sexually assaulted by a man were assaulted by a known male.
<b>Victims always end relationships with their abuser after the assault.</b>	Many victims remain in contact or continue the relationship. Reasons include fear, coercion, emotional manipulation, financial dependence, or safety concerns. Offenders often groom victims and exert control, making it difficult, and in many cases dangerous, to leave.
<b>'Real' rapes happen in dark alleys or public places and have witnesses or forensic evidence.</b>	Most sexual assaults occur in private homes, not public places. The ABS reported that two-thirds of sexual assaults in Australia occur in residential locations.

# What we weren't told

## Where our education system fails

Australia's criminal justice system is a vast, taxpayer-funded institution that largely depends on victims stepping forward - yet it offers them almost no education about how to navigate through it. The Australian Law Reform Commission, following advice and advocacy from their Expert Advisory Group, including Executive Director of With You We Can, found that victims need 'legal literacy' to navigate the justice system, but information after trauma is scarce and difficult to understand. This gap extends beyond victims to families, friends, frontline services and even legal professionals.

### Victims enter the system with no roadmap

Most victims report with expectations shaped by entertainment rather than law. The most common misconception is fundamental: that the prosecutor is 'their lawyer' and the case is 'victim versus accused'. In reality, it is the state versus the accused. The complainant is a witness - not a party. There is no client-legal privilege with police or prosecutors.

Victims often don't know what happens after reporting, how long investigation might take, or what rights they hold. Many are unaware of forensic exam options, anonymous reporting pathways, Victims Services compensation schemes, their right to an interpreter or support person or that an initial report is not the same as giving a formal signed statement. Without this knowledge, rights written into law remain passive.

### Families, friends and services are equally uninformed

When someone discloses, support people including parents, GPs, counsellors or aged care workers rarely know where to refer or what options exist. Even specialist services can be unaware of counselling privilege or that Independent Legal Representation exists in some states. Victims' rights are scattered across different legislation, making them difficult to identify.

### The justice system isn't taught - even to lawyers

The criminal justice system is not discussed in schools. Law graduates can finish their degrees without ever touching sexual assault procedure. Police, prosecutors and judges receive minimal training in trauma or victim participation rights. Until legal literacy becomes routine, victims will navigate the system without the knowledge they need to make informed choices.

*'Knowing and understanding the process matters. Understanding timelines, roles and next steps helps you brace for what's coming and provides some solid ground in what often feels like a lot of uncertainty.'*

Eleanor Danks, lawyer, somatic psychotherapist, Independent Legal Representation pilot lawyer, victim-survivor

*'Many so-called rights are drafted in the passive voice - a victim is entitled to information, for instance, if they ask for it, which assumes a victim knows their right to ask. In other words, victims' rights exist on paper but require victims to discover, interpret, and activate them, while individuals and institutions that fail to fulfil their obligations cite, among other excuses, workload to rationalise non-delivery.'*

Michael O'Connell, Consulting Victimologist, inaugural Commissioner for Victims' Rights (SA)

## Where our support systems fail

While counsellors, GPs and crisis lines provide vital emotional care, most lack the legal knowledge to inform victims of critical risks, the capacity to offer legal advice, or protection from legal intrusion into the therapeutic relationship. Compounding this, overburdened and underfunded frontlines mean victims must seek help across multiple fragmented touchpoints with no continuity or case management. The result: victims can be ambushed by their own records in court, isolated by a system with no single advocate tracking their interests, or deterred from seeking help at all.

### Counselling records aren't safe - and victims aren't told

Despite counselling privilege protections, defence barristers can apply for leave to access therapy and medical notes. Even if a judge disallows the defence from questioning the victim on this extremely private and sensitive information, the essence of privacy is that once invaded, it can seldom be regained. Many counsellors are unaware of how to claim privilege, don't proactively warn clients of subpoena risks, or fail to notify when records are accessed. Once obtained, those records are weaponised: defence points to 'inconsistent statements' across different tellings, or use the disclosure of mental distress to argue the sexual assault never happened - because the victim is 'unstable' or 'not of sound memory' given that very distress.

Medical and mental health histories, as well as information that lies outside of existing protections such as text messages, internet searches and school and employment records, trigger jury warnings that quietly reduce the weight given to a complainant's evidence.

The consequences are twofold: those who know the risk often decide not to seek help, and those who do can be blindsided when their most vulnerable moments are read aloud in cross-examination.

### Support services can listen - but can't legally advise

Counsellors and crisis services can validate, believe and stand alongside victims - essential foundations of trauma-informed care. But they cannot provide legal advice. They lack legal privilege and the formal training to explain court processes, evidence risks, rights to Independent Legal Representation, or how to protect records. Ultimately, while counsellors or victim support personnel can act as silent support during a trial, there is no improvement in the treatment of victims when non-legal supporters accompany them to trial.

### Fragmented systems and no continuity of care

Victims routinely cycle through multiple police officers, DPP solicitors, witness assistance workers and counsellors with no

case manager and no handover. Each new touchpoint requires re-telling. No single person tracks the case holistically or safeguards the victim's interests across investigation, prosecution and court. Without Independent Legal Representation, that fragmentation becomes isolation, and too often, disengagement. Without Independent Legal Representation, that fragmentation becomes isolation - and too often, disengagement. Then we blame them for it.

*'Records are used to attack credibility through "inconsistent statements" or by pointing to the absence of disclosure in therapy notes: "If it really happened, why isn't it here?" Different audiences produce different tellings, that's human, but it's weaponised in court.'*

Julie Sarkozi, Senior Solicitor, Victims Advocate and Sexual Offences specialist (QLD)

*'The fear around counselling-note protections is real — people read the headlines in the media and decide not to seek help.'*

Yumi Lee, CEO, Older Women's Network NSW

## Where our policing system fails

Police are the first institutional contact for many victims, and the point of highest attrition. The core problem is ‘downstream orientation’: police make decisions based on what they think a jury will believe, rather than whether a crime occurred. Influenced by rape myths, discrimination bias, trauma-illiteracy and a misapplication of legal principles, including the belief they must prove cases beyond reasonable doubt at investigative stage, police close cases that should progress.

### How downstream orientation drives decision-making

Police still overestimate false allegations and subscribe to ‘real rape’ myths: stranger attacks, visible resistance, physical injuries, immediate distress. Misconceptions like ‘real victims always fight back’ strongly influence investigators, contributing to under-reporting and high attrition. Officers make investigative choices based on perceptions of how juries will judge victim behaviour, demeanour or lack of resistance, decisions driven by the belief that a jury ‘won’t buy it.’ This demonstrates a fundamental misunderstanding of the realities of sexual assault and trauma, and of legal role. Without a legal obligation to investigate, and no national principles to guide investigations, cases do not progress.

*Speaking from my experience with Victoria Police, I believe the investigators trained as sexual assault specialists are exceptional at what they do. Empathy is at the forefront of that training and service delivery. However, in the overwhelming majority of cases, these experts are not the first point of contact for survivors.*

Jacob Gooden, Co-Founder & Innovation Lead, SAYFE

### The police postcode lottery - inconsistent, trauma-uninformed first contact

The quality of police response depends on the station and officer a victim presents to. Some victims are kept informed and supported; others hear nothing for years. Police manuals require trauma-informed practice yet in reality, scepticism, accusatory questions and a failure to explain why intrusive details are needed drive disengagement.

### When the door never opens - systemic exclusion of those most at risk

The perfect victim stereotype continues to define whose stories are believed and whose are dismissed. Structural bias and deep-seated mistrust of police mean that First Nations women, sex workers, LGBTQIA+ communities, people with disability, trafficked and migrant women, and those on temporary or partner visas often fear being criminalised, disbelieved or detained if they report. For many, seeking justice feels unsafe from the outset. The result is a two-tiered system where those most likely to experience sexual violence are least likely to be heard or protected.

*‘They send white officers out to communities who don’t understand a single thing about how we live. They don’t listen, they don’t ask, they don’t even try.’*

Sandra, Lived experience advocate

*Sometimes police think they’re being helpful by preempting and telling-victim survivors their case is not going to do well with a jury or judge. That downstream orientation, predicting negative outcomes without giving support or encouragement, leaves victim-survivors feeling very discouraged’*

Dr Gemma Hamilton, ARC DECRA Fellow, Senior Lecturer in Criminology and Justice Studies, RMIT University

*‘When a victim lives in a group home, residential care or presents with frailty, police may treat the matter as a welfare concern rather than a criminal offence. Trauma-informed policing must also be age-informed: officers require guidance on interviewing older witnesses, managing hearing or mobility issues, and ensuring dignity and accessibility throughout investigations.’*

Yumi Lee, CEO, Older Women’s Network NSW

## Where our legal system fails

The courtroom should be where victims find resolution. Instead, they are surprised to learn that they are mere witnesses to their own assault trial, in a system that enforces protections weakly or not at all, and offers no counsel to safeguard their interests. The result: victims have no voice, no agency and no advocate in the room where their credibility is dismantled.

### Prosecutors and judges fail to enforce existing protections

Rape shield laws, privilege protections and mandatory jury directions exist but are weakly enforced. Prosecutors see shielding complainants from intrusive cross-examination as ‘not their job,’ even though the complainant is their chief witness and whose apparent credibility the case largely depends on. Judges must appear impartial to avoid appeal, and may not be the same judge who presided over pre-trial privilege hearings, leaving them unaware protections are in place. Neither prosecution nor judges object enough to questioning that isn’t probative but exists to embarrass and distress - even though they are obliged to under law. Legislated jury directions on trauma, memory and consent are routinely skipped.

### Victims are witnesses, not clients - and no one tells them

The most fundamental gap: victims believe the prosecutor is their lawyer. Australia’s adversarial system is between the state and the accused; the complainant (victim) is a witness, cooperating with the state after they have collected the required evidence of guilt and want to prosecute to protect public safety. There is no client-legal privilege, no existing

relationship between the prosecutor and complainant (many are assigned the case the day prior) and anything the complainant has disclosed can go to the defence. The wider public also assumes it’s ‘victim versus accused.’ That misunderstanding creates stigma whereby victims are blamed for outcomes they never controlled.

### Juries deliberate without context

Studies show that jury directions addressing rape myths are often forgotten, while the timing of the delivery of jury directions is also problematic. Currently, end-of-trial directions are lost in lengthy monologues, with the average summing-up being 120 minutes for a ten-day sexual assault trial<sup>42</sup>. There is an established link between rape myth acceptance and juror decision-making in favour of the defendant in diverse jurisdictions<sup>43</sup>. To be effective, jury directions should be given throughout the trial or at least before the complainant’s testimony<sup>44</sup>. However, even in Victoria where these integrated jury directions are given at the time the myth arises, they are under-utilised<sup>45</sup>. Therefore, jurors carry rape myths into deliberation with no framework to counter them.

Ramifications ripple out of the courtroom to widen the justice deficit, as victims are discouraged from reporting,

victim-blaming attitudes are validated, and offending continues, largely without accountability or deterrence.

*‘What actually drives a lot of decisions is the pre-emptive belief a jury ‘won’t buy it.’ That’s culture and rape myths bleeding into legal decision-making.’*

Eleanor Danks, lawyer, somatic psychotherapist, Independent Legal Representation pilot lawyer, victim-survivor

*‘During criminal trials intrusive and unnecessary questioning of victims (i.e., complainants) are too often permitted — these lines of inquiry serve little probative value but are plainly designed to embarrass or distress. Prosecutors, constrained by their perceived mandate, rarely intervene on the complainant’s behalf, shying away from any responsibility for shielding them from such tactics.’*

Michael O’Connell, Consulting Victimologist, inaugural Commissioner for Victims’ Rights (SA)

*‘The rules of evidence don’t decide whether you were raped or hurt. ‘Not guilty’ doesn’t mean ‘it didn’t happen.’ Legal literacy should prepare people for that reality so they don’t internalise system outcomes as personal failures.’*

Julie Sarkozi, Senior Solicitor, Victims Advocate and Sexual Offences specialist (QLD)

# Recommendation 1

## Embed legal literacy in our communities

Consent education is beginning to make vital progress in shifting attitudes and behaviour - but it's not the whole story. Victims, families and the broader community need more than an understanding of consent; they need civic and legal literacy about how the justice system works, what rights exist and what to expect when sexual violence is reported. Without this foundation, victims enter the system blind, supporters don't know how to help and societal misconceptions go unchallenged.

### Legal literacy in the consent curriculum

Legal literacy should be added as a core module to existing consent education programs in schools and universities.

This module should cover:

- How the criminal justice system works: including that sexual assault cases are prosecuted by the state, not the victim
- Victim rights and roles: what happens when you report, realistic timelines, the role of police and prosecutors
- Options and pathways: forensic exams, delayed or anonymous reporting, counselling privilege, Victims Services, and Independent Legal Representation where available
- Civic responsibility framing sexual violence as a public health issue where community participation and support matter

This is not about discouraging reporting - it's about equipping the next generation to engage with the justice system informed, supported and realistic about what lies ahead.

### A national legal literacy campaign

A nationwide public awareness campaign is needed to reach victims, families, frontline services and the general public. The campaign should be victim-led and co-designed, centering diverse victim-survivor voices to shift the conversation from forensic myth to lived reality.

Campaigns must span broadcast, digital and social media, with ongoing engagement to sustain awareness. Key messages should include: what to do after sexual assault, how to report, what rights exist and how to access Independent Legal Representation.

Until victim-survivors lead the conversation and we talk honestly about what sexual assault actually looks like, we won't shift the myths that fuel attrition, stigma and harm.

*'We need to have the conversation about sexual violence in the public arena from a victim centric point of view.'*

Karen Bevan, CEO, Full Stop Australia

*'Consent education is necessary — but it's not enough. We need civic and legal literacy taught alongside it: how the justice system works, rights, roles and responsibilities.'*

Julie Rosenberg, community advocate, mother of Sarah Rosenberg (With You We Can)

# Recommendation 2

## A national roll out of Independent Legal Representation

Independent Legal Representation provides victims with their own lawyer during criminal prosecution who is independent of the prosecutor and prioritises the victim's interests.

Research has long established that re-traumatisation can be minimised when justice processes treat complainants with dignity, recognition and a chance to be heard, and when victims feel that the process is fair. This is oftentimes more crucial than the trial outcome and can influence whether other victims report<sup>46</sup>. Independent Legal Representation is the most legitimate route through which to meet these needs<sup>47</sup>. It also helps secure victim evidence and supports the integrity and functioning of the justice system<sup>48</sup>. In short, Independent Legal Representation not only promotes procedural fairness, it is a key tool for achieving substantive justice.

In Australia, ACT, Victoria and Western Australia have introduced pilots. Pilots in all other jurisdictions will begin in 2026. However, awareness of Independent Legal Representation among victims and frontline staff is almost zero and scope remains limited. Independent Legal Representation is the remedy to fragmented, voiceless participation - the 'big bowling ball' that knocks over multiple siloed failures at once.

### Case management, advice and continuity

Independent Legal Representation replaces fragmented advocate bodies with one legally qualified source throughout the process. This creates vital continuity amidst confusion and provides:

- Case management: across police, court and post-trial stages
- Legal interpretation: of processes, rights, realistic outcomes and decisions being made about victims without their input
- Emotional support: from having someone present who is there solely for the victim

- Ongoing validation: that counters negative impacts of unwelcome verdicts

Adequate information and preparation make a significant difference to victims' experience. Legal knowledge, training and professional legitimacy allow independent lawyers to uniquely navigate the system in ways advocacy workers, however skilled, cannot. This responsiveness is a protective measure against secondary victimisation.

Independent Legal Representation changes two fundamentals: victims finally have confidentiality through client-legal privilege, and a lawyer whose obligations are to them alone.

### Protecting privacy and enforcing existing rights

Police cannot provide legal advice, but victims need it at first contact to understand rights, what gets disclosed to defence, realistic timelines and risks. Early access to a lawyer, even a brief consult, improves the initial police report, preserves relevance and reduces inconsistencies later weaponised in court. It also reduces feelings of powerlessness. A standardised, plain-English guide and automatic referral to Independent Legal Representation at reporting would give victims the knowledge and protection the system currently denies them.

Independent Legal Representation can make legal submissions to oppose subpoenas of counselling and medical records. They provide the necessary ‘balancing exercise’ of defendant, state and victim rights required for fair process. In court, they are given standing to intervene when questions are posed relating to private or sensitive information, for which protections were established pre-trial: ‘this line of questioning is not allowed.’

Independent Legal Representation enforces rape shield laws and jury directions already legislated but routinely ignored by prosecutors and judges. They act as a check when other parties can’t be trusted to follow procedures, ensuring victims’ rights are observed, not abandoned.

## Improving testimony and prosecution outcomes

Victims are universally unprepared to give evidence.

Prosecution rarely discusses how to handle inconsistencies or withstand cross-examination. Court stress and lack of preparation cause mistakes, difficulty recalling and incomplete testimony resulting in longer, less clear evidence that weakens the state’s case.

Independent Legal Representation cultivates readiness and confidence in testifying, securing the integrity of victim evidence. As the state’s chief witness, confident victim testimony is critical to effective prosecution. There is a clear

relationship between Independent Legal Representation and successful prosecution: procedural justice has utility for substantive justice. Independent Legal Representation improves the quality and relevance of what enters the system from the first police report onward.

## Australia needs national scale-up now

Current pilots are delivering results, yet remain invisible.

Independent Legal Representation must be:

- Automatic: offered at first contact with police, not hidden or discretionary
- Fully funded: non-means tested
- Nationally consistent: not a metro-only postcode lottery

The evidence is clear: Independent Legal Representation increases reporting, reduces attrition and re-traumatisation, and improves prosecution outcomes. It doesn’t just support victims - it lifts the whole system by informing police, supporting prosecutors and enforcing existing legislation. Australian judges and magistrates are already signalling openness, adjourning to ask whether Independent Legal Representation should be appointed in the interests of justice. With enforceable victim rights and resourced Independent Legal Representation, passive legal protections become active and victims become participants, not props.

*‘Independent legal representation changes two fundamentals: you finally have client-legal privilege (confidentiality), and you have a lawyer whose obligations are to you.’*

Julie Sarkozi, Senior Solicitor, Victims Advocate and Sexual Offences specialist (QLD)

*‘The right to be legally represented as a victim witness does not mean affording victims additional participation rights in the adversarial system but simply ensuring that a lawyer can protect the rights already afforded to victims.’*

Kerstin Braun, Professor and Associate Head (Research) School of Law and Justice, University of Southern Queensland

*‘Independent legal representation isn’t just for victims — it lifts the whole system: supports police, informs prosecutors, enforces existing directions, and ensures the victim’s rights are actually observed. It leads to better prosecution.’*

Julie Rosenberg, community advocate, mother of Sarah (With You We Can)

# Independent Legal Representation across the globe

Jurisdiction	Remit of Legal Advocacy or Independent Legal Representation (ILR)	Stage of Process
<b>Ireland</b>	May represent the victim when an application to adduce sexual history evidence and counselling records is being made.	Investigation and pre-trial process
<b>Northern Ireland</b>	May provide advice before reporting, may make submissions regarding disclosure of medical records and sexual history	Before reporting, during the pre-trial process
<b>Scotland</b>	May make submissions on whether evidence engaging complainers' Article 8 European Convention on Human Rights right to privacy and family life can be obtained (not adduced), which extends to counselling and medical records, and physical property e.g. mobile phone. Bill before Parliament currently to introduce ILR in relation to sexual history.	Pre-trial process
<b>Canada</b>	May make submissions regarding sexual history and counselling and medical records, and most states offer free ILR of up to 4 hours before trial	Before reporting, during the pre-trial process
<b>USA</b>	May make submissions regarding subpoenaing of private records and medical history	Pre-trial process
<b>India</b>	Complainants can hire ILR as needed Has been recommended that ILR be court-appointed in the police process	Entire process (cannot introduce evidence or cross examine)
<b>Denmark</b>	May object to sexual history evidence, may sometimes cross-examine the defendant, may, at judicial discretion, cross-examine other witnesses and may, at judicial discretion, make submissions regarding procedural issues	Entire process
<b>Norway</b>	Free legal advice of up to 3 hours available prior to reporting, may process case files and adduce and comment on evidence, cross-examine witnesses including the defendant, and appeal decisions made by prosecution	Prior to reporting, pre-trial process and during trial

<b>Sweden</b>	May suggest evidence and ask questions, object to questions and request adduction of evidence, and can cross-examine the defendant	Entire process
<b>Iceland</b>	May access the brief of evidence relevant to the complainant and protect their interests (usually in relation to their police statement and medical records), and if the case proceeds to court, may access the entire brief of evidence	Entire process
<b>Italy</b>	May access the brief of evidence, may present at court proceedings, may cross-examine the defendant and make objections	Pre-trial process and during trial
<b>Japan</b>	May make submissions regarding the use of evidence, may cross-examine witnesses including the defendant, may make closing arguments and may present the victim's opinion of facts and application of the law	Pre-trial process and during trial
<b>Germany</b>	May be present during police questioning, advise the victim pre-trial (case management), assist in gathering evidence, witness preparation, may access the brief of evidence, and during trial can speak on the victim's behalf, call witnesses on their behalf, object to questions, cross-examine the defendant, address the court regarding the guilt of the defendant; and regarding sentencing and victim compensation	Entire process
<b>Belgium</b>	Present at the reporting stage, may access brief of evidence at the end of the investigation, may speak on the victim's behalf during trial, call witnesses on their behalf (at the judge's discretion), object to questions, cross-examine the defendant, make submissions and address the court as to the guilt of the defendant - may not address the court regarding the sentence, but may address the court concerning compensation for the victim	Entire process
<b>France</b>	Complainants may appoint a lawyer during the reporting stage, but are often not informed of this right. May access the brief of evidence before the trial, speak on the victim's behalf in court, call witnesses on their behalf, cross-examine the defendant, make submissions to the court on the law, address the court concerning the guilt or innocence of the defendant and regarding victim compensation.	Entire process

## A roadmap

### Immediate (0–6 months):

- Fund national legal literacy campaign
- Mandate disclosure of Independent Legal Representation availability via pilots

### Mid-term (6–18 months):

- Embed legal process education in high school PDHPE or bolt on course for consent course
- Expand training for first responders, GPs, educators

### Long-term:

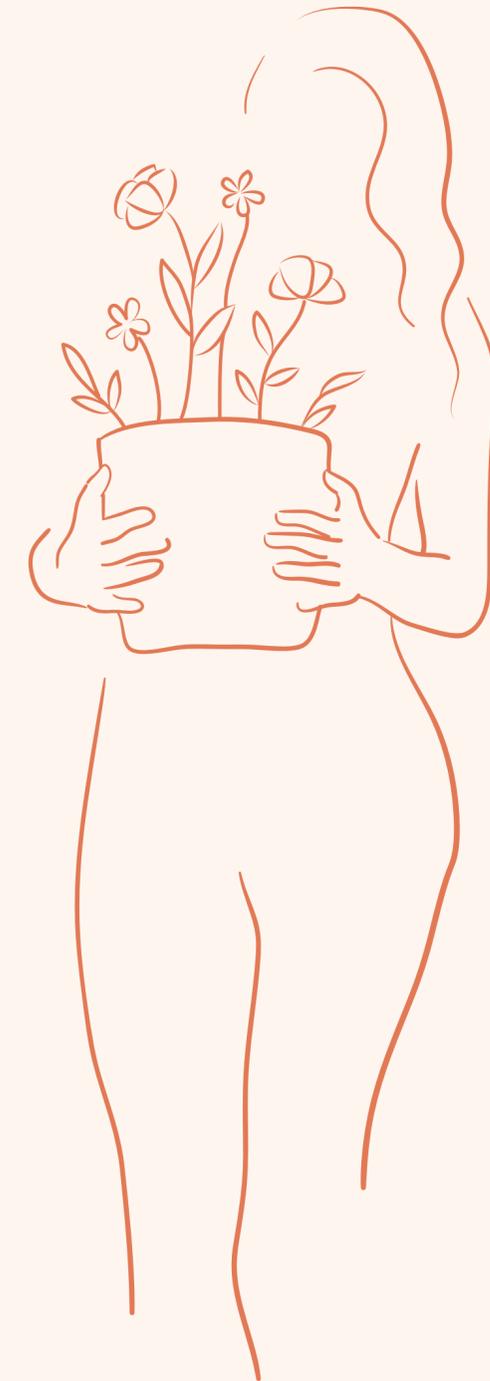
- Enshrine Independent Legal Representation in victims rights charters
- Build formal role for legal literacy in sexual violence services

*‘We need system level reform to make reporting and disclosure processes more accessible, and we must challenge harmful perceptions both through media representation and in our day to day interactions by calling out the microaggressions that sustain them.’*

Jacob Gooden, Co-Founder & Innovation Lead, SAYFE

*‘The sceptics said independent legal representation would slow cases and derail the criminal justice system. My experience — and the feedback from defence and ex-prosecutors who took on ILR briefs — is the opposite. With the victim’s perspective properly before them, prosecutors negotiated more robust charge bargains, matters resolved faster, and unjustified withdrawals were averted.’*

Michael O’Connell, Consulting Victimologist, inaugural Commissioner for Victims’ Rights (SA)



## Support is available

**1800 FULLSTOP (1800 385 578)**

**13 YARN (13 92 76)**

**Lifeline (13 11 14)**

**Blue Knot (1300 657 380)**

**QLife (1800 184 527)**

**MensLine Australia (1300 78 99 78)**

**Translating & Interpreting (131 450)**

## A call for courage

As a human rights lawyer and writer, specifically of the play, novel and now film *Prima Facie*, I think long and hard about what can eliminate the silence and despair of women who have experienced sexual violence. In order to live in a world where we can eliminate this, we need strong strategies of support in legal systems, increased community understanding, and to publicly acknowledge the bravery of those who speak out. We need to ensure the processes of reporting, trial delays and offering court testimony are not prohibitive to disclosure. All the while we must remember that sexual violence can destroy lives, and the shame of it does not rest on the complainant/survivors' shoulders, but on those of the perpetrators. I am proud to be part of a movement that seeks to create strong and workable steps towards supporting disclosure and bravery.

- Suzie Miller, international playwright, screenwriter and novelist

# Endnotes

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