

Submission to the Inquiry into the Crimes Amendment (Strengthening the Criminal Justice Response to Sexual Violence) Bill 2024

This submission is made on behalf of the University of Newcastle's Centre for Women's Health Research (CWHR).

Australian Longitudinal Study on Women's Health

The Australian Longitudinal Study on Women's Health (ALSWH) is a long-established national study that takes a comprehensive view of health, and the factors that affect health, across a woman's lifespan. Since 1996, ALSWH has collected data from over 57,000 women in four age cohorts using regular surveys and individual record linkage to administrative health databases, including Medicare (MBS, PBS), hospitals, and perinatal data. ALSWH provides evidence for the Department of Health and Aged Care and other government departments to inform policy development and the provision of health and other services, and to support new and revised clinical guidelines for health professionals. In this submission, we present findings from women in the three youngest ALSWH cohorts (spanning ages 18 to 73) which are highly relevant to this inquiry.

Submission summary

- This submission focuses on the experiences of vulnerable people engaging with the legal system, particularly women who have experienced sexual violence.¹
- This submission outlines:
 - Findings from ALSWH and other studies in relation to experiences of sexual violence;
 - Barriers to engaging with the legal system after experiences of violence; and
 - Support during legal proceedings for women who have experienced sexual violence.
- Recommendations for the proposed changes to the Crimes Act 1914 relating to vulnerable persons are presented, along with recommendations to further improve women's experiences navigating the legal system after experiencing sexual violence.

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¹ Please note that some of the evidence presented here in relation to the Crimes Amendment Bill 2024 has also been included in submissions to the *Inquiry into the current and proposed sexual consent laws in Australia* and *Scoping the Development of specialised and trauma-informed legal services for victims and survivors of sexual assault*.

Do women report experiences of sexual assault?

- Longitudinal findings from ALSWH have indicated a much higher prevalence of sexual violence among women than previously reported at the national level. The lifetime prevalence of experiencing sexual violence was [1]:
 - 51% of women in their twenties;
 - 34% of women in their forties; and
 - 26% of women aged 68-73.
- In the last 5 years, 34,580 sexual assaults have been reported in NSW [2]. In 2022, the population of NSW was 8.24M people [3]. Assuming sexual assault was only reported once by each person, this means only 0.4% of people in NSW reported a sexual assault in the previous 5 years. Noting the above national prevalence of 26-51% of women who have experienced sexual violence [1], there is an obvious gap in the percentage of people who experience sexual assault and those who report it.

Barriers to engaging with the legal system

For women who have experienced sexual assault, there are many barriers to engaging with the legal system:

- Women who have experienced sexual assault can be re-traumatised by the legal system and often face difficulties and obstacles while navigating court proceedings, including: inadequate support, information, and court preparation; societal victim-blaming myths and attitudes; and frequent legal delays [4].
- There is a misalignment of the needs of women who have experienced sexual assault and their experiences of the legal system, with women indicating a lack of information, validation, voice, and sense of control [5].
- Qualitative data from ALSWH participants have revealed some additional barriers and negative experiences with navigating the legal system after sexual violence, including long trial periods, emotional distress, and a lack of support:

I am currently fighting numerous sexual abuse charges against several people. This is a long drain-out [sic] process which is preventing me from getting on with life and enjoying my life...

– **Rochelle***, aged 50

I was sexually, mentally & physically abused by mothers ex-boyfriend from the age of 11-16 years. That is all going through court now & alot [sic] of emotional problems are stemming [sic] from it.

– **Siobhan***, aged 18

... I experienced sexual abuse as a child (5-12 years of age) and went to court regarding this when I was 20. I thought court was the answer to dealing with all this and thought my issues were "solved". Last [year] I found myself standing in the place where some traumatic events occurred [sic] and had a breakdown. Since then I have had flashbacks -and discovered that I had only "remembered" certain events. Ones that were too painful (e.g rape) were buried. I have experienced anxiety, depression and flashbacks related to these events and have been seeing a psychologist weekly since last October...

– **Meredith***, aged 36

The legal system is lacking in assistance for women's issues. Violence [sic] to women is still not recognised as an important issue and there are little control or protective measures in place. Ongoing support is lacking... My daughter was raped and stalked frequently ... The offender was found not guilty on a "legal technicality". Victims and family members of the victim have little

resources ot [sic] use for support during and after court appearances...

– Lauren*, aged 45

**Participant names have been changed to protect their privacy.*

Support during legal proceedings for women who have experienced sexual violence

- There is some evidence supporting the potential for informal support-based interventions to assist women taking legal action in response to sexual violence.
 - Among women who had experienced sexual violence, social support (emotional support and guidance, and affection and social interaction) was associated with good mental health [1].
 - An eight-week group program conducted in NSW provided survivors of sexual assault with information on all aspects of the legal process and training on resilience, mindfulness, and emotional regulation. The program was shown to empower women and reduce feelings of social and emotional isolation while preparing for court proceedings [4].
- Formal mental health services can also assist after experiences of sexual violence:
 - Mental health service use was associated with a 9-17% improvement in mental health in women who had experienced sexual violence [1].

Recommendations

- There is a lack of evidence on the experiences of vulnerable people who enter the legal system, especially for women who enter the legal system after reporting sexual violence. Further research on the experiences of vulnerable people is essential to identify system shortfalls and mechanisms to respond to unmet needs.
- There is a need for strategies to improve the interactions with the legal system for vulnerable people:
 - Workforce development – police officers, judicial officers, and first responders should receive specialised trauma-informed training to increase knowledge and, to enhance their responses and provide support to vulnerable people.
 - Formal support services:
 - Mental health services should be promoted, and integrated referral pathways made available throughout the legal experience. For example, the NSW Department of Communities and Justice offers free counselling services to victims of crimes. Similar initiatives should be implemented nationwide, and these should be actively promoted and made accessible to vulnerable people engaging with the legal system.
 - Access to a court-appointed psychologist as a support person would be helpful for those at risk of re-traumatisation during legal proceedings.
 - Informal support services – investment into support groups designed to equip vulnerable people with information about the legal system, mental and emotional preparation for the legal journey, and a support network would be beneficial.
- Amendments to the Crimes Act 1914, particularly those relating to arrangements for vulnerable persons at legal hearings and vulnerable persons not needing to give further evidence unless there the court orders, may assist with reducing re-traumatisation for vulnerable people. These changes should be implemented alongside a comprehensive

evaluation plan to assess the impact of the changes on the experience of legal proceedings for vulnerable people. Further consideration should be given to the appropriateness of vulnerable people being in the same room as a defendant, even if the defendant cannot see the vulnerable person.

References

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2. NSW Bureau of Crime Statistics and Research (2022). *New South Wales Recorded Crime Statistics Quarterly Update December Quarter 2022*. Available from: https://www.bocsar.nsw.gov.au/Publications/RCS-Quarterly/NSW_Recorded_Crime_Dec_2022.pdf
3. Population Australia (2023). *Population of New South Wales 2023*. Available from: <https://www.population.net.au/population-of-new-south-wales/>
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5. Clark, H. (2010). *"What is the justice system willing to offer?" Understanding sexual assault victim/survivors' criminal justice needs*. Family Matters, 85, 28-37. Available from: https://aifs.gov.au/sites/default/files/fm85d_0.pdf