

Women's Legal Service Western Australia – Response to Review of Criminal Justice Responses to Sexual Offending

Women's Legal Service Western Australia

Women's Legal Service Western Australia (**WLSWA**) is the only gender-specific community legal centre in Western Australia. For over twenty five years we have delivered state-wide specialist legal assistance to women in the areas of family law, protection and care, family and domestic violence and criminal injuries compensation. Our tailored, needs-matched legal services model ensures continuity in support and mitigates against re-traumatising clients that present with complex and multiple legal and social challenges. WLSWA prioritise women who experience intersecting disadvantages.

Through our community legal education and evidence-based advocacy on law and policy, we are working towards the redress of inequalities, promotion of human rights and legal and social change for women.

WLSWA do not advise on criminal sexual offences. However, most of our clients have experienced sexual violence within a family and domestic violence and coercive control context. WLSWA has an insight into the sexual violence experiences of women at both individual and collective levels, including experiences when reporting to police and interacting with the criminal justice system.

Acknowledgments

WLSWA acknowledge the Traditional Owners of the country on which we live and work, the Whadjuk people of the Noongar nation, and pay respects to their Elders past and present. We support the ongoing work of First Nations specialist women's organisations and advocates who have been working to unravel and heal the injustices imposed on First Nations women and communities since colonisation. We recognise the strength and foresight of the First Nations women who are leading the sexual violence response work.

WLSWA also recognise the resilience of the women with whom we work. WLSWA endorse this statement from the National Plan to End Violence against Women and Children 2022-2032:

Victim-survivors must be at the heart of solutions. Victim-survivors have specific and contextual expertise that comes from lived experience of abuse and violence. They have intimate firsthand knowledge of services, systems, and structures that are meant to support them but have

*sometimes failed them. They know from experience the weaknesses and strengths of interventions in practice.*¹

We cannot develop effective solutions to family, domestic and sexual violence without the input of the people most affected by it.

Introduction

WLSWA welcomes the opportunity to make this submission to the Office of the Commissioner for Victims of Crime (**OCVC**) in relation to their Review of Criminal Justice Responses to Sexual Offending (**Review**). This year has marked a pivotal shift in the nationwide discourse on family, domestic and sexual violence (**FDSV**) and consent, with Queensland notably legislating for an affirmative consent model and the criminalisation of coercive control earlier this month.

We are pleased that this Review coincides with the release of the draft Sexual Violence Prevention and Response Strategy (**Draft Strategy**). We are heartened by the Government's commitment to taking a whole of government approach to addressing sexual violence experienced across the life course of victim-survivors – from primary prevention, perpetrator accountability, improving the criminal justice system experience for victim-survivors, to recovery and support. We need long-term investment in preventing men's violence against women.

WLSWA direct the OCVC to our respective submissions to the WA Law Reform Commission's consultations on Objectives, Consent and Mistake of Fact (**Discussion Paper Volume 1**) and Offences and Maximum Penalties (**Discussion Paper Volume 2**). In our response to Discussion Paper Volume 1 we spoke in depth about the epidemic of sexual violence in the context of family and domestic violence and coercive control. Of the need to spotlight sexual violence in intimate partner (**IPSV**) relationships, we recommended several reforms to the criminal justice system including:

- an affirmative consent model and the development of clear IPSV and family violence provisions in consent law
- increased penalties for sexual violence offences
- codified rules to safeguard against aggressive and gratuitous cross-examination which could be enshrined in a Charter of Rights
- independent legal assistance for victim-survivors
- specialist police, prosecution and courts that have a robust understanding of the impacts of complex trauma on criminal proceedings and work to emotional and psychological safety for victim-survivors
- alternative justice avenues including restorative justice because of historical or current familial relationships with the perpetrator
- evidence-based public awareness and education campaigns developed by front line experts and delivered by various stakeholders in the community

¹ Department of Social Services, National Plan to End Violence Against Women and Children 2022-2032, Commonwealth Government, p. 68 <https://www.dss.gov.au/sites/default/files/documents/11_2022/national_plan_to_end_violence_against_women_and_children_2022-2032.pdf>.

We reinforced that all gender-based violence is rooted in misogyny and patriarchal systems, and we must incorporate that understanding throughout the criminal justice system. Ongoing training on the nuance of coercive control and IPSV is also essential.

A varied criminal justice system response is necessary for First Nations and culturally and linguistically diverse (CALD) women who face unique challenges in reporting violence and seeking justice. WLSWA work closely with CALD women and can advise on the distinctive barriers they face.

WLSWA endorse Full Stop Australia's submission to this Review.

Independent Legal Assistance for Victim-Survivors

Along with the Aboriginal Family Legal Service (AFLS) and Ruah Legal Services (RLS), WLSWA has received federal funding to pilot a specialised and trauma-informed legal service for victim-survivors of sexual violence.² Delivering this service with AFLS and RLS will work towards opening pathways for victim-survivors to exert control and choice over which service(s) they engage with.

As noted in our submission to Discussion Paper 1, sexual violence offences are, by their nature, profoundly violating and demoralising to a person's sense of self. Victim-survivors who have gone through a sexual violence trial have described being "completely dispossessed of [their] own story."³ This is because, traditionally, victim-survivors have not been recognised as participants in the criminal justice system and have merely been treated as witnesses for the prosecution. Women have told us that they feel completely stripped of agency, sidelined and often kept in the dark about key aspects of their case. The potential for independent advisers to improve victim-survivors' experience of the criminal justice system is known. And we direct the OCVC to Full Stop Australia's submission for a substantive discussion on these benefits.⁴

WLSWA are encouraged to deliver this victim-survivor centred service with AFLS and RLS. The pilot will broadly provide assistance for victim-survivors in navigating and engaging with the legal system, including:

- advice on whether to report sexual violence to police
- guidance when interacting with police and the Office of the Director of Public Prosecutions (ODPP) such as protection over counselling records and being the point of contact between a victim-survivor and the police
- support for managing intersecting and concurrent legal problems and applying for criminal injuries compensation

Critically, the pilot will focus legal assistance at known points of victim-survivor disengagement and withdrawal from the legal process. We are aware that the prescriptive approach of police and the ODPP is untenable for some victim-survivors and perpetuates victim-blaming attitudes. And evidence from Victoria shows that between 2015–16 and 2016–17, allegations of sexual violence involving current partners were the most likely to be withdrawn and least likely to succeed at trial with attrition highest at

² 'Legal support pilot to assist sexual assault victims', Government of Western Australia (Media Release, 20 September 2023) < [Legal support pilot to assist sexual assault victims | Western Australian Government \(www.wa.gov.au\)](#) >.

³ Women's Legal Service Western Australia, Submission to Law Reform Commission of Western Australia Discussion Paper Volume 1: Objectives, Consent and Mistake of Fact, 6 April 2023, p. 16 <[WLSWA-Sexual-Offence-Reforms-Apr-23.pdf](#)>.

⁴ Full Stop Australia, Submission to the Western Australian Government Review of Criminal Justice Responses to Sexual Offending, 16 October 2023, pp. 9-11.

the police investigation stage.⁵ Our pilot will also incorporate an outreach model. We will coordinate a meaningful and culturally safe response through our existing relationships in these areas. In Western Australia, historically high rates of sexual assault in the Kimberley region, which have at points been reported as well over twice the state average, reflect the high levels of victimisation in rural and remote communities.⁶

Finally, service delivery will seek to build and strengthen referral pathways to ensure we are addressing the intersecting needs of clients as necessary. This approach comes from the understanding that holistic, psycho-social support aids in victim-survivor recovery and safe participation in the criminal justice system. Most of our clients have experienced gendered violence and abuse, and we have specialist expertise in responding to family and domestic violence (FDV) and sexual violence that often occurs within this context. This means we are in the unique position to respond to sexual assault, as gender specialists through our experience in responding to FDSV.

WLSWA has also considered the Commonwealth Attorney-General's Department's et. al., (2023) report on 'Specialist Approaches to Managing Sexual Assault Proceedings: An Integrative Review'.⁷ On independent legal representation, the report says: "The availability of [independent legal representation] has the potential to address numerous justice needs, reducing re-traumatisation by, for example, providing a sense of participation, legitimacy and identity in the justice process, access to information, improving the quality of evidence by providing support during cross-examination, and protecting against inappropriate and inadmissible questioning."⁸ WLSWA strongly encourage the OCVC to consider this report. Canvassing current evidence will help us develop best practice measures for victim-survivors in the criminal justice system.

Gendered Violence and Acknowledging Sexual Violence as an Element of FDV

The OCVC's Discussion Paper 1 points out that "people of all genders are victim-survivors and people of all genders perpetrate sexual violence" and that for "this Review [they] are interested in the experiences of all adult victim-survivors with the criminal justice system, regardless of their gender or their relationship to the perpetrator."⁹ Whilst we appreciate and acknowledge the Government's commitment to improve the criminal justice system experience for everyone, sexual violence is a gendered crime and this must be recognised unequivocally. This is reflected in the statistics, with 84% of Australian victim-survivors of sexual violence being female and 97% of sexual offenders being male.¹⁰

Sexual violence is often described as gender-motivated and perpetrated against women collectively.¹¹ It is underpinned by the same drivers of FDV and coercive control. It harms women as a group because it occurs within broader systems of male power. The institution of sexual violence or rape therefore

⁵ Crime Statistics Agency (2021), Attrition of sexual offence incidents through the Victorian criminal justice system: 2021 update, Government of Victoria, pp. 1, 20 and 32 < [Crime Statistics Agency - Attrition of sexual offence incidents through the criminal justice system.pdf](#)>.

⁶ Alexandra Neame and Melanie Heenan (2004), Responding to sexual assault in rural communities, Australian Institute of Family Studies, Australian Centre for the Study of Sexual Assault, Briefing Paper No. 3, p. 9 <[Sexual assault in rural communities - Briefing - Australian Centre for the Study of Sexual Assault \(ACSSA\) \(aifs.gov.au\)](#)>.

⁷ Amanda-Jane George, Vicki Lowik, Masahiro Suzuki, Nichola Corbett-Jarvis (2023), Specialist Approaches to Managing Sexual Assault Proceedings: An Integrative Review, Australasian Institute of Judicial Administration Commonwealth Attorney-General's Department, and CQUniversity College of Law and Queensland Centre for Domestic and Family Violence Research < https://aiija.org.au/wp-content/uploads/2023/10/Specialist-Approaches-to-Managing-Sexual-Assault-Proceedings_An-Integrative-Review_05.pdf>.

⁸ Ibid, p. 228.

⁹ Office of the Commissioner for Victims of Crime (2023), Discussion Paper 1: Overview, Improving experiences for victim-survivors: Review of criminal justice system responses to sexual offending, Department of Justice, Government of Western Australia, p. 10 < [Discussion Paper 1 - Improving experiences for victim-survivors: Review of criminal justice system responses to sexual offending \(www.wa.gov.au\)](#)>.

¹⁰ For the period 2018-19. Australian Bureau of Statistics (2020) Recorded Crime – Victims <<https://www.abs.gov.au/statistics/people/crime-and-justice/recorded-crime-victims/2020#australia>>.

¹¹ 'Feminist Perspectives on Rape', *Stanford Encyclopedia* (Blog Post, 13 May 2009) < [Feminist Perspectives on Rape \(Stanford Encyclopedia of Philosophy\)](#)>.

reinforces the group-based subordination of women to men, where women are in fear of the threat of violence, and acutely aware of social expectations about “proper” female behaviour and the conditions of male entitlement over their bodies. Women’s Aid UK has said that it is “impossible to disentangle women’s experiences of domestic abuse from their experiences of structural inequalities and the violence, abuse and harassment they are subjected to in other areas of their lives.”¹² Women’s physiologies, our social experiences and perceptions of society demand this recognition. We cannot obfuscate this truth.

Sexual violence also co-occurs with FDV and coercive control. Whilst Australia has come some way in understanding coercive control, there is broad acknowledgement that we are failing to protect women as coercive control is a known predictor of (almost all) intimate partner homicides and our literacy of IPSV remains weak.¹³ This is reflected by a criminal justice system that is not adequately equipped to respond to sexual violence, let alone sexual violence that occurs in the context of FDV.

Sexual violence in intimate partner or domestic relationships has received substantially less attention than ‘stranger’ sexual violence, despite the fact that women are three times more likely to be sexually assaulted by someone known to them.¹⁴ The National Community Attitudes towards Violence against Women survey (NCAS) continually finds that society views IPSV as less severe and more acceptable than sexual violence committed by a stranger or acquaintance, with over 30% of respondents in 2021 subscribing to this belief.¹⁵ NCAS also confirmed that close to 20% of Australians still don’t know that non-consensual sex in marriage is a criminal offence which is why we have advocated for repealing the lawful marriage defence in Western Australia.¹⁶ Misperceptions about the ambiguity of consent in different relationships (intimate, domestic, de facto) contributes to IPSV, and in the case of CALD communities protects perpetrators in forced marriages.

Normative understandings of ‘real rape’ affects how IPSV is viewed and often leads to its minimisation and misunderstanding.¹⁷ We rarely see the same level of outrage for sexual violence committed in intimate relationships as we do for sexual violence perpetrated by strangers or ‘monsters’.¹⁸ In reality, IPSV is not only the most frequent form of sexual violence but perhaps the most effective “weapon of psychological destruction” because the victim-survivor is silenced not only by their perpetrator but by society.¹⁹ The monster myth perpetuates the intrinsic ‘otherness’ of violent men which leads to a

¹² Women’s Aid, Marianne Hester, Sarah-Jane Walker and Emma Williamson (2021), Gendered experiences of justice and domestic abuse. Evidence for policy and practice. Bristol: Women’s Aid, p. 11 < <https://www.womensaid.org.uk/wp-content/uploads/2021/07/FINAL-Gendered-experiences-WA-UoB-July-2021.pdf>>.

¹³ Women’s Legal Service Western Australia, Submission to the Government of Western Australia in response to the Legislative Responses to Coercive Control in Western Australia, 8 August 2022, p. 2.

¹⁴ Patricia Eastale and Jessica White et. al., (2016) Feminist Jurisprudence, the Australian Legal System and Intimate Partner Sexual Violence: Fiction Over Fact, *Laws*, Vol. 5(1), 11-28. in Alison Evans (2020), Spotlight on Sexual Violence in Western Australia, Centre for Women’s Safety and Wellbeing, p. 14 < [Spotlight on Sexual Violence in Western Australia \(csws.org.au\)](#)> and Peta Cox (2015), Sexual assault and domestic violence in the context of co-occurrence and re-victimisation (State of knowledge paper), Sydney, NSW: ANROWS, p. 2 < [embarqoed-Landscapes-Sexual-assault-and-domestic-violence-in-the-context-of-co-occurrence-and-re-victimisation-1.pdf \(d2rn9gno7zhxgg.cloudfront.net\)](#)>.

¹⁵ Kim Webster, Kristin Diemer and Nikki Honey et. al., (2018), Australians’ attitudes to violence against women and gender equality. Findings from the 2017 National Community Attitudes towards Violence against Women Survey (Research report), Sydney, NSW: ANROWS, p. 9 < [anr001-NCAS-report-WEB-1019.pdf \(anrowsdev.wpenginepowered.com\)](#)> and Christine Coumarelos, Nicole Weeks, Shireen Bernstein et. al., (2023), Attitudes matter: The 2021 National Community Attitudes towards Violence against Women Survey (NCAS), Findings for Australia, Sydney, NSW: ANROWS, p. 175 < [NCAS 21 Main Report ANROWS.5.pdf \(cdn-website.com\)](#)>.

¹⁶ Ibid and Women’s Legal Service Western Australia, Submission to Law Reform Commission of Western Australia Discussion Paper Volume 2: Offences and Maximum Penalties, 24 April 2023, p. 6.

¹⁷ Women’s Legal Service Western Australia, Submission to Law Reform Commission of Western Australia Discussion Paper Volume 1: Objectives, Consent and Mistake of Fact, 6 April 2023, p. 6 < [WLSWA-Sexual-Offence-Reforms-Apr-23.pdf](#)>.

¹⁸ Tom Maegher, “The danger of the monster myth”, *ABC News* (Online, 18 April 2014) < [The danger of the monster myth - ABC News](#)>.

¹⁹ Laura Tarzia and Kelsey Hegarty (2023), “He’d Tell Me I was Frigid and Ugly and Force me to Have Sex with Him Anyway”: Women’s Experiences of Co-Occurring Sexual Violence and Psychological Abuse in Heterosexual Relationships, *Journal of Interpersonal Violence*, Vol. 38(1-2), 1299, pp. 1300-1312.

“comforting lack of self-awareness” about the sheer incidence of IPSV.²⁰ By not giving enough credence to all forms of sexual violence – and in particular IPSV – we are leaning into this lack of self-awareness, acceptance and comfortability.

To this end, including the word ‘sexual’ in the abbreviation of ‘family and domestic violence’ will put sexual violence on the continuum of violence experienced by women in an intimate setting. Western Australia already recognises sexual assault or other sexually abusive behaviour against the family member as an act of family violence.²¹ The inclusion of the word ‘sexual’ (like the inclusion of intimate partner terminology in the definition of ‘consent’) alongside and within FDV and coercive control is necessary if we are to adequately address the context in which sexual violence most frequently occurs. This is also recognition that women who experience IPSV are likely to face a myriad of challenges when confronted by the criminal justice system. They may be dealing with the trauma of physical, emotional and sexual assault, the stress and confusion of multiple and interrelated legal proceedings, the financial and emotional cost of separation, the threat of child removal and guilt over reporting a loved one.

The benefits of including the word ‘sexual’ in FDV are obvious and include, awareness raising, embedding a comprehensive approach to prevention and intervention that acknowledges the various forms of abuse, destigmatising sexual violence in intimate partner relationships and, in particular, long-term marriages, and empowering victim-survivors to report IPSV. We know that underreporting of sexual violence is greater among women who experience IPSV, as compared to women who experience sexual violence perpetrated by a stranger or women who experience non-sexual tactics of FDV.²² Coercive control already leads to deep shame and low self-esteem.²³ These feelings are compounded by being treated like a ‘sexual object’ or ‘possession’ especially when a perpetrator uses tactics such as emotional blackmail, guilt and threats to obtain sex. Victim-survivors are more likely to be convinced of the insults and remain in the relationship.

Including the word ‘sexual’ in the abbreviation can also embed how FDSV is investigated. Studies show that experiences of police response will influence whether women report incidences (including repeat incidences) of sexual violence.²⁴ For example, low conviction rates for rape in the United Kingdom have been directly correlated to rape stereotypes and poor investigation of sexual violence offences by police.²⁵ Currently, disclosures of sexual violence are secondary to concerns for immediate safety, such as seeking violence restraining orders. But even after the fact, women may not disclose sexual abuse of themselves or of a child by the father because they are concerned about an apathetic police response, an intrusive investigatory process, intervention by child protection or fearful of family and community response. This is particularly true for First Nations women who experience child removal at a rate 16.7 times more than non-Indigenous women in Western Australia.²⁶

WLSWA also reinforce that we should stop normalising the phrase ‘violence against women’ and instead acknowledge it as ‘men’s violence against women’. Our reluctance to recognise men’s violence against

²⁰ Ibid.

²¹ *Restraining Orders Act 1997* (WA), s 5A(2).

²² Australia’s National Research Organisation for Women’s Safety (2019), *Intimate partner sexual violence: Research synthesis* (2nd Ed. ANROWS Insights, 08/2019). Sydney, NSW: ANROWS, p. 4 <[IPSV-Research-Synthesis-2ed.pdf\(anrowsdev.wpenginepowered.com\)](#)>.

²³ Laura Tarzia and Kelsey Hegarty (2023), “He’d Tell Me I was Frigid and Ugly and Force me to Have Sex with Him Anyway”: Women’s Experiences of Co-Occurring Sexual Violence and Psychological Abuse in Heterosexual Relationships, *Journal of Interpersonal Violence*, Vol. 38(1-2), 1299, pp. 1300-1312.

²⁴ Australia’s National Research Organisation for Women’s Safety (2019), *Intimate partner sexual violence: Research synthesis* (2nd Ed. ANROWS Insights, 08/2019). Sydney, NSW: ANROWS, p. 4 <[IPSV-Research-Synthesis-2ed.pdf\(anrowsdev.wpenginepowered.com\)](#)>.

²⁵ Caelian Barr and Alexandra Topping, ‘Fewer than one in 60 rape cases lead to charge in England and Wales’, *The Guardian* (Online, 24 May 2021) <[Fewer than one in 60 rape cases lead to charge in England and Wales | Rape and sexual assault | The Guardian](#)>.

²⁶ ‘Western Australia’, *Family Matters* (Web Page, 2020) <[Western Australia - Family Matters](#)>.

women happens because individual men are supported to perpetrate violence by the social context of gendered inequalities in a patriarchal society.²⁷ The issue is one of systemic power inequalities and a society that supports men's entitlement to a range of gender privileges. For example, men who seek to coercively control women do so because the range of benefits are high and the risks, of being caught or stopped, are low.²⁸ For these men, women exist for pleasure and are expected to engage in sexual activity that is both controlled and defined by them.²⁹ Coercive control creates a climate of entrenched fear which makes it difficult to facilitate or negotiate safe sexual activity, so women in intimate relationships agree to sex rather than take the risk of triggering an escalation of violence or abuse.³⁰ Hashtags such as #Notallmen are equally deceptive and culpable. They fail to see men's collective moral failure to end patriarchal control as they are predicated on the presumption of men's inherent benevolence to women. Ignoring these inequalities is both a symptom and outcome of seeing men's violence as perpetrated by strangers or 'monsters'.

'Men's violence against women' can also avoid the victim-blaming that pervades in sexual violence discourse. Women's experiences are generally framed in terms of their response to sexual violence rather than perpetrator behaviour. And victim-survivors are taught to believe that they 'wanted' or 'invited' sexual violence because the perpetrator tells them so, or that they let the abuse happen when this is reinforced by an unresponsive criminal justice system.³¹ When we acknowledge women as inherent targets of men's violence, we can stop focusing on the 'victim-survivor' as the source of the problem. Trauma is reinforced by the language of blame centered on the victim-survivor. We have reinforced on multiple occasions that shame is often also used as a tool to engage in coercive control and IPSV, and can render the victim-survivor in a position of diminished self-worth.³² Naming the violence as 'men's violence against women' is a step towards a commitment to spelling out this violence and its deep links to gender inequality.

The Victorian Law Reform Commission acknowledged in 2021 that the way sexual offences are termed and defined sets the standards for behaviour and boundaries for what sexual interactions are acceptable in society.³³ Earlier in 2016, the Victorian Royal Commission into Family Violence highlighted the symbolic value of a clear and comprehensive definition inclusive of family, domestic and sexual violence saying that it would "express the community's shared condemnation of that conduct."³⁴ Practically, it also "determines the circumstances in which police can seek an intervention order on behalf of a victim-[survivor] and when a magistrate can make an order to protect a victim-[survivor]."³⁵

²⁷ Stephen Fisher (2011), From Violence to Coercive Control: Renaming Men's Abuse of Women, White Ribbon Policy Research Series, Publication No. 3., p. 4 < [449-White-Ribbon-Policy-Report-Fisher.pdf \(domesticviolence.com.au\)](https://www.domesticviolence.com.au/449-White-Ribbon-Policy-Report-Fisher.pdf)>.

²⁸ Ibid, p. 6.

²⁹ Women's Aid, Marianne Hester, Sarah-Jane Walker and Emma Williamson (2021), Gendered experiences of justice and domestic abuse. Evidence for policy and practice. Bristol: Women's Aid, p. 8 < <https://www.womensaid.org.uk/wp-content/uploads/2021/07/FINAL-Gendered-experiences-WA-UoB-July-2021.pdf>>.

³⁰ Women's Legal Services Australia, Submission to the Federal Inquiry into Current and Proposed Sexual Consent Laws in Australia, 16 March 2023, p. 6 < [WLSA-Submission-Sexual-Consent-Laws-in-Australia-March-2023.pdf](https://www.womensaid.org.uk/wp-content/uploads/2021/07/FINAL-Gendered-experiences-WA-UoB-July-2021.pdf)> and Women's Legal Service Western Australia, Submission to Law Reform Commission of Western Australia Discussion Paper Volume 1: Objectives, Consent and Mistake of Fact, 6 April 2023, p. 6 < [WLSWA-Sexual-Offence-Reforms-Apr-23.pdf](https://www.womensaid.org.uk/wp-content/uploads/2021/07/FINAL-Gendered-experiences-WA-UoB-July-2021.pdf)>.

³¹ Women's Aid, Marianne Hester, Sarah-Jane Walker and Emma Williamson (2021), Gendered experiences of justice and domestic abuse. Evidence for policy and practice. Bristol: Women's Aid, pp. 10-11 < <https://www.womensaid.org.uk/wp-content/uploads/2021/07/FINAL-Gendered-experiences-WA-UoB-July-2021.pdf>>.

³² Liz Wall (2012), The many facets of shame in intimate partner sexual violence (Research Summary), Australian Centre for the Study of Sexual Assault, p. 6 < [The many facets of shame in intimate partner sexual violence \(aifs.gov.au\)](https://www.aifs.gov.au/sexual-violence/research/summary-the-many-facets-of-shame-in-intimate-partner-sexual-violence)>.

³³ Victorian Law Reform Commission (2021), Improving the Justice System Response to Sexual Offences: Report, Chapter 14. Legal Definitions of Sexual Violence, p. 291 < [VLRC Improving Justice System Response to Sex Offences Report web.pdf \(lawreform.vic.gov.au\)](https://www.lawreform.vic.gov.au/vlrc-improving-justice-system-response-to-sex-offences-report)>.

³⁴ State of Victoria (2016), Royal Commission into Family Violence: Report and recommendations, Vol I, Parl. Paper No. 132, p. 16 < [Royal Commission into Family Violence: Report and Recommendations Volume 1 \(rcfv.com.au\)](https://www.rcfv.com.au/royal-commission-into-family-violence-report-and-recommendations-volume-1)>.

³⁵ Ibid.

The power of language to acknowledge and validate the experiences of all victim-survivors is known. In our submission to Discussion Paper Volume 2 we recommended reverting to the term 'rape' (as opposed to 'sexual penetration without consent') to encourage greater reporting of sexual violence and alignment with other states and territories, whose penalties for rape are also higher.³⁶ We spoke about the gravitas of the word 'rape' which sends an unequivocal message that a profoundly violating, dehumanising and heinous crime has been committed.³⁷ WLSWA strongly believe that saying the word and naming the crime carries profound weight for victim-survivors. Including 'sexual' in the abbreviation and naming the violence for what it is can create the kinds of social commentary to spotlight IPSV and respond to this violence and gender inequality with urgency.

Concluding Remarks

WLSWA again thank the OCVC for the opportunity to prepare this submission. We are heartened by the commitment of the OCVC and Western Australian Government to examine the different parts of the criminal justice system and changes that can be implemented to better improve the experience for victim-survivors of sexual violence offences.

We have focused our response on language and addressing the way we refer to men's sexual violence against women. Words and language can allow victim-survivors to express more agency in communicating their experiences, seek justice and encourage recovery. Using the correct terms can also positively influence the way institutions and society refer to sexual violence. Language matters. And language which minimises, sanitises and obscures the way we talk about gendered violence is in urgent need of reform.

This submission has been endorsed by Pilbara Community Legal Service, South West Community Legal Centre and Sussex St Community Law Service.

Please do not hesitate to contact us if you require additional information.

Kind regards



Dr Jennie Gray

Chief Executive Officer

3 November, 2023

³⁶ Women's Legal Service Western Australia, Submission to Law Reform Commission of Western Australia Discussion Paper Volume 2: Offences and Maximum Penalties, 23 April 2023, p. 3.

³⁷ Women's Legal Service Western Australia, Submission to Law Reform Commission of Western Australia Discussion Paper Volume 2: Offences and Maximum Penalties, 23 April 2023, p. 3 citing Law Reform Commission of Victoria, Discussion Paper on Rape and Allied Offences: Substantive Aspects (LRCV No 2 (1986), p. 51.