



**GOVERNMENT RESPONSE TO THE DRUGS AND CRIME PREVENTION  
COMMITTEE REPORT -  
COMBATING SEXUAL ASSAULT AGAINST ADULT MEN AND WOMEN**

**Background**

In December 1996, the Parliamentary Drugs and Crime Prevention Committee tabled a report entitled "*Combating Sexual Assault Against Adult Men and Women*".

As required by the *Parliamentary Committees Act* 1968, a Government response to the report is to be tabled in the Parliament. The response to the recommendations made by the Committee is detailed below:

**Recommendation 1**

The Government supports this recommendation.

The Model Criminal Code Officers Committee (MCCOC) was established by the Standing Committee of Attorneys-General (SCAG) for the development of a national model criminal code for Australian jurisdictions. As part of that work, MCCOC has released the discussion paper "Sexual Offences Against the Person" which sets out proposed provisions which incorporate definitions relating to rape and sexual assault.

The Victorian Government is conducting a review of sexual offences law generally following the release of the Rape Law Reform Evaluation Project Evaluation Report on the *Crimes (Rape) Act* 1991. This review will assess the existing laws in terms of any improvements that may be made, and this recommendation will be considered in that light.

**Recommendation 2**

The Government supports standardised data collection and common counting rules relevant to sexual assault data, subject to resource implications.

It is vital to ensure that:

- common counting rules are applied by all agencies supplying and interpreting data.
- common definitions must be attached to all factors of interest.
- adequate care must be taken to protect the privacy of individuals who may be recorded on such databases.
- a uniquely anonymous identifier must be attached to all cases at the earliest opportunity to avoid double counting and inaccurate compilation of data.
- care must be taken to ensure that invalid conclusions are not drawn in the interpretation of the data and data trends.

### **Recommendation 3**

The Government does not believe that an additional inquiry is warranted.

The report quotes figures from Mr Calabro, Manager Victorian Offender Support Agency (VOSA) provided at a public hearing in 1994. Mr Calabro states that 13% of the general prison population at this time were sex offenders, while 52% of intellectually disabled prisoners were sex offenders.

However, the number of intellectually disabled offenders in the prison system is very small. At the time of Mr Calabro's statement there were 31 intellectually disabled prisoners which represented 1.3% of the total prison population. This is a similar proportion to the number of intellectually disabled people within the general community. Eleven of the intellectually disabled prisoners, or less than .5% of the total prison population, were serving sentences for sex offences. The proportion of intellectually disabled prisoners has not changed markedly since the public hearing. Given the small numbers there does not appear to be an over representation of intellectually disabled sex offenders within prison.

The very small number of people with an intellectual disability who are sex offenders present a range of complex issues in relation to community safety and individual rights. The Department of Human Services is addressing these by funding an innovative and comprehensive range of specialist services and programs within the prison and within the community.

In relation to intellectually disabled persons who are victims of sexual assault, data available from a survey of CASAs in Victoria, conducted by Family Planning Victoria, indicated that intellectually disabled persons represented less than 2% of victims who had sought assistance from the CASA network.

### **Recommendations 4 - 13, 18, 22 - 24, 29, 37, 39**

These recommendations concern services to victims of sexual assault. The newly established Victims Referral and Assistance Service will take into account the recommendations of the Committee in carrying out its functions, some of which address the issues raised by the recommendations.

As of 1 July 1997, the Victims Referral and Assistance Service will offer services to primary and secondary victims of crime. Its mission is to "assist victims of crime to overcome the negative effects of their experiences resulting from crime".

The functions of the Service will be to:

- refer victims to appropriate support agencies.
- administer the Victims Counselling Scheme which will enable victims to access short term counselling. Primary victims of crime will be entitled to five counselling sessions to reduce their trauma. Secondary victims of crime will be able to apply to the Victims Of Crime Assistance Tribunal (also operative from July 1) for five counselling sessions.

- manage funding (provided by the Department of Justice) for assistance to victims through non-government agencies which will include monitoring and evaluation of the effectiveness and efficiency of victim services funded by the Department of Justice. This will involve consideration of the effectiveness of existing programs and recommendations for changes in resource allocation.

Victoria Police will supply counselling claim forms to victims of crime, thereby enabling them to learn about the services available to them through contact with the Victims Referral and Assistance Service. Information about the Service will also be made available to the public through a public information campaign.

An advisory committee will provide advice to the Service about victims' needs and available services.

As such, the above recommendations generally will fall to be considered by the Service as part of its overall functions. Some of the recommendations will be implemented by virtue of the very existence of the service and its functions. The recommendations are generally supported in principle, subject to the following general comments:

**Recommendation 4:** The current funding sources for CASAs include the State Women's Health Program, the National Women's Health Program (a Commonwealth/State funded program), the Community Support Fund (Office of Youth Affairs Street Kids funding and Sexual Assault Services for Children and Families funding), the Mandatory Reporting Fund and the Innovative Health Services for Homeless Youth Program (a Commonwealth/State funded program).

The current funding arrangements are complex and historically based. Additional funding to CASAs has been allocated in the 1997/98 budget to replace funds currently provided by the Community Support Fund.

Funding to CASAs is reviewed annually as part of the budget process. The development of a Purchasing Framework for the Women's Health Program will address issues of the distribution of funding to CASAs.

**Recommendation 5:** CASAs have been funded during the 1996/97 financial year for the purchase and installation of the SWITCH client and service information system. The system will provide a standardised data collection system including the listing of inwards and outwards referral of clients. Agencies have the ability to identify specialist service providers. Implementation, training of staff and support will be established during 1997/98.

**Recommendation 6:** The establishment of minimum qualifications and experience for counsellors involved with sexual assault victims is supported. Training should cover the legal process so that counsellors are able to provide accurate and up to date information to victims as part of the counselling process.

A recent Government initiative is the provision of funding by the Minister for Women's Affairs to Victoria Legal Aid to establish and manage a training program for CASA counsellors and more generalist providers on legal issues and processes relating to sexual assault. This will ensure that counsellors are able to provide accurate advice to victims and survivors about their options and to support them through the court processes.

It is proposed that the Victims Referral and Assistance Service, which is part of the Department of Justice, will develop, in conjunction with an educational institution, a course which will address minimum standards for counsellors. This will enable counsellors to develop the necessary skills and qualifications.

CASAs are funded to deliver a set of services for victims of sexual abuse. The Department of Human Services is currently undertaking a consultancy project that will develop, evaluate and implement a service delivery framework for counselling services funded through the Department. This framework will apply to the provision of counselling services provided by CASAs. Funding and service agreements will reflect the requirement for minimum qualifications and career strategies.

**Recommendation 7:** Formal de-briefing of staff is the responsibility of the funded agency. The Standards of Practice recognise the complex and demanding work undertaken by CASA counsellors/advocates and provide for de-briefing and day to day support for staff.

**Recommendation 8:** CASA counsellors are well placed to provide support to victims in dealing with and understanding the legal process. The recent initiative through Victoria Legal Aid will help this to occur. However, it is necessary to ensure that where victims require legal advice, it is provided by legally trained people.

**Recommendation 9 & 22:** Access and equity objectives have been identified as a priority for planning at the service level for all CASAs.

The Department of Human Services has also funded a reprint of the Victorian Centres Against Sexual Assault Multilingual Strategy Booklet, which is produced in eleven community languages. The resource provides information about sexual assault services and service pathways.

The Victims Referral and Assistance Service will also ensure that victims with a non-english speaking background have access to appropriate services to cater for their needs.

The Government is committed to improving access to the Justice system for all persons, including non-English speaking persons. Further multicultural information will be made available in the future to give effect to this policy.

**Recommendation 10:** Part of the role of the Victims Referral and Assistance Service is to assess funding applications from community based support groups to enable them to provide quality services to all victims of crime, including sexual assault victims. This will ensure that funding will be provided in a coordinated manner.

The Department of Human Services will continue to fund a range of community based support groups that provide primary and secondary services to victims of sexual assault.

**Recommendation 11:** The Department of Human Services, through funding to CASAs, supports the development and distribution of appropriate materials aimed at providing public information about services provided, including services to male victims.

Also, the Victims Referral and Assistance Service, which is part of the Department of Justice, is conducting a public information campaign which will provide information about available services; including those to male victims.

**Recommendation 12:** CASAs currently provide services to male victims on request. The original and major funding source of the CASAs is the Women's Health Program, however, other sources of funding are not gender specific.

In addition, part of the role of Victims Referral and Assistance Service is to identify gaps in services provided to all victims of crime. This includes male sexual assault victims. This process is under way in both regional and metropolitan areas.

The Victorian Institute of Forensic Medicine has employed a person who is reviewing the services available to male sexual assault victims. A state wide strategy and a training protocol will be developed for future service provision, as part of that review.

**Recommendation 13:** A centralised free-call twenty-four hour referral service is provided by CASA House and is available to both men and women. The Government supports in principle the need for protocols to link existing agencies providing services to adult males.

The Victims Referral and Assistance Service also provides a telephone referral service to victims of crime. The Steering Committee of the Victims Referral and Assistance Service will ensure that protocols are developed in relation to existing agencies providing services to victims of crime, including male sexual assault victims.

**Recommendation 18:** The Government supports this recommendation in relation to all victims of sexual assault. The establishment of minimum qualifications and experience for counsellors, including staff facilitators, involved with sexual assault victims is supported. It is proposed that the Victims Referral and Assistance Service, which is part of the Department of Justice, develop in conjunction with an educational institution, a course which will address minimum standards for counsellors. This will enable counsellors to develop the necessary skills and qualifications. Minimum qualifications for facilitators will be considered in this context.

**Recommendation 23:** Victoria Police members are currently debriefed by the Victoria Police Psychology Unit in some instances. Experienced private psychologists used by the Department of Human Services for their protective staff, when necessary, debrief some Community Policing Squad members. It is considered that the debriefing of police members is essential.

In relation to the crisis support unit referred to by the Committee, Victoria Police support the provision of support services to victims and are of the view that this type of activity is most effectively provided through counselling and support models already available in the community.

**Recommendation 24:** The Victoria Police Community Policing Squad Training Course utilises external providers to deliver components of sexual assault lectures. CASA is actively involved in this training. The Victoria Police Detective Training School uses sexual assault victims to deliver information regarding victim issues. Victim management in all serious crimes is addressed in the Victoria Police SubOfficers' Course.

**Recommendation 37.** The Witness Assistance Service, of the Office of Public Prosecutions, recently received additional funding for the employment of a further full-time social worker. The production of the witness advice video is supported in principle subject to resource considerations.

#### **Recommendation 14**

This recommendation is consistent with the Victoria Police policy for victim support and the revised Victoria Police Code of Conduct for Sexual Assault. This document forms part of the Standing Orders applicable to the operations of the Victoria Police, although it is not contained within the Victoria Police Manual.

#### **Recommendations 15 - 17, 31 - 32**

The recently released Rape Law Reform Evaluation Project report "The Crimes (Rape) Act 1991" examined the impact of the legislative reforms of the *Crimes (Rape) Act 1991* in terms of the processing of rape cases and the victim's experience of the court process.

The Report made 37 recommendations some of which involve legislative changes. Many however relate to the practice and procedures of prosecutors, defence barristers and the Judiciary. Many of the above recommendations were addressed in the Report and are currently being considered. The Report's recommendations are aimed at improving the legislation and the victim's experience of the entire court process. In addition, the laws relating to sexual assault generally are under review. The above recommendations will be considered in the context of the overall review of sexual offences legislation.

#### **Recommendation 19**

The Government supports this recommendation. The Office of the Correctional Services Commissioner's *Correctional Policy and Management Standards* provide that comprehensive pre-service and in-service training programs for staff should cover all elements of prison management, and that staff training programs must be approved from time to time by the Commissioner.

Prison providers are required to respond appropriately to incidents, identify prisoners in crisis and be able to refer prisoners for counselling and support. It is mandatory that incidents of violence amongst prisoners, including sexual violence, be reported and recorded by staff.

### **Recommendation 20**

The Government does not believe that an extensive independent investigation into the nature and prevalence of sexual assault within the correctional environment is necessary, given the revised structural arrangements for corrections in Victoria.

Significant reforms include the separation of ‘purchaser’, ‘regulator’ (Office of the Correctional Services Commissioner) and ‘service providers’ (including CORE). Under the *Corrections Act 1986* (as amended) the Commissioner is responsible for monitoring performance in the provision of all correctional services to achieve the safe custody and welfare of prisoners and offenders.

The *Correctional Policy and Management Standards* include a requirement that incidents in prisons be recorded and reported, and certain incidents must be reported to the Commissioner within strict timelines. As part of its monitoring function, the Office of the Correctional Services Commissioner is able to audit whether incidents are being recorded as required.

In addition to structural change and strict reporting requirements, single cell accommodation in all new prisons further reflects the Government’s commitment to achieving a safe environment for all prisoners.

### **Recommendation 21**

The Government supports this recommendation. The Victoria Police Community Policing Squad response to sex offences has recently been reviewed by the Community Policing Squad Review Team. This team has examined the benefits of co-located sexual assault response teams. An evaluation of how this may be achieved will soon be conducted.

### **Recommendation 25 & 26**

The Government believes these recommendations require further consideration. The provisions in the legislation will be reviewed, with a view to amendment to provide for the making of an application for the taking of a blood sample at the time of conviction. Extending the 6 month period for analysis of blood samples prior to their destruction will also be considered.

### **Recommendation 27**

A review by a Steering Committee represented by various Departments was conducted in respect of Forensic Medical Services in August and September of 1995. The purpose of that review was the consideration of the question of whether Victoria Police should continue to have the responsibility for these services in light of the fact that the provision of those services was not part of the core business of Victoria Police. That review resulted in those services being provided by the Victorian Institute of Forensic Medicine as of 1 October 1995, pursuant to a service Agreement between the Institute and Victoria Police.

The Service Level Agreement between Victoria Police and the Victorian Institute of Forensic Medicine required a review of Forensic Medical Services to be undertaken at the end of the first twelve months of that contract. The purpose of the review was to develop strategies to overcome identified problems. The review has been completed, and the recommendations that arose from it are under consideration.

### **Recommendation 28**

The Victorian Institute of Forensic Medicine has indicated that there appears to be a low incidence of sexually transmitted diseases arising from the sexual contact involved in the commission of sexual assault offences.

Currently, sexual assault victims are not tested for sexually transmitted diseases in the first instance, unless they are considered to be in a "high risk" situation, or they actually desire the tests to be performed at the time of the forensic medical examination.

Otherwise, sexual assault victims are asked to return for testing within one to two weeks and are given a choice as to whether that testing is done by the forensic physician or their own doctor. This practice has been adopted due to the distress and disorientation that victims experience immediately after the commission of the offence. The victim's state of health is secured initially, and the testing for sexually transmitted diseases is followed up shortly thereafter.

It is a requirement by law that a person is counselled prior to tests for HIV being conducted and this is met by the Victorian Institute of Forensic Medicine.

### **Recommendation 29**

The Victorian Institute of Forensic Medicine has advised that it is routine procedure that an interpreter is present during the examination of a victim who does not speak English.

### **Recommendation 30**

The REAC Report made recommendations relating to committal proceedings in sexual assault cases, which are currently being considered. This recommendation will be taken into account in the review of sexual assault law.



### **Recommendation 33 & 34**

The new *Victims of Crime (Assistance) Act* prohibits medical, psychological and counselling reports which were brought into existence for as part of an application under this Act being used in subsequent court proceedings. Consideration is also being given to restricting the use of counsellor's notes in all sexual assault cases.

Section 37A of the *Evidence Act 1958* prohibits questioning about a victim's previous sexual history unless "substantial relevance to facts in issue" can be established.

The Government has recently responded to the Scrutiny of Acts and Regulations Committee Report - "Review of the *Evidence Act 1958* and Review of the Role And Appointment of Public Notaries". As indicated therein, a review of the laws of evidence will be undertaken. Further, this recommendation will also be considered as part of the review relating to sexual offence laws generally.

### **Recommendation 35**

The *Evidence (Audio Visual and Audio Linking) Bill* was passed by the Parliament of Victoria in the current session. The Bill provides the courts with a general discretion to allow witnesses in a criminal proceeding, to appear before the court by use of an audio visual link. It could be used to enable the receipt of evidence from a witness who is afraid to be in the court room with the accused.

### **Recommendation 36**

This recommendation requires further consideration. Whilst it is desirable that all sexual assault prosecutions are handled within one section of the Office of Public Prosecutions (OPP), there are practical and resourcing implications that might mitigate against this course.

Currently, all serious sexual offence briefs are examined by the Program Manager of the Sexual Offences Section (SOS) of the OPP, prior to allocation to officers. Matters of particular difficulty or sensitivity are retained within the SOS. The Program Manger of SOS is also able to follow the progress of matters allocated outside the section.

### **Recommendation 38**

The Office of Public Prosecutions has prepared draft guidelines for dealing with witnesses and victims of crime. The guidelines are under consideration by the Committee for Public Prosecutions with specific regard to the issues raised in this recommendation. The Committee for Public Prosecutions was established pursuant to Section 42 of the *Public Prosecutions Act 1994*. It consists of the Director of Public Prosecutions, the Chief Crown Prosecutor, the Solicitor for Public Prosecutions, and an appointee of the Governor-in-Council.

#### **Recommendation 40**

The Government supports the ongoing training of the magistracy, judiciary and the legal profession generally in respect of gender, and indeed all issues related to sexual assault.

#### **Recommendation 41**

This is supported in principle. The establishment of the Victims Referral and Assistance Service and the review of sexual assault laws aim to better accommodate the needs of all people within the legal process. The special needs of non-English speaking witnesses will be considered.

#### **Recommendation 42**

The REAC Report conducted extensive research into the application of the rules of evidence, involving wideranging consultation with members of the legal profession and key stakeholders in the criminal justice system. Victims were also consulted about their experiences of the court process.

The Government has also recently responded to the Scrutiny of Acts and Regulations Committee Report - "Review of the *Evidence Act* 1958 & Review of the Role And Appointment of Public Notaries". As indicated therein, a review of the laws of Evidence will be undertaken.

#### **Recommendation 43**

The Government has already established the Office of Legal Ombudsman, which has been in operation since 1 January 1997.

#### **Recommendation 44**

This recommendation is supported in principle but requires further consideration.

#### **Recommendations 45**

The *Sentencing And Other Acts (Amendment) Act* 1997 Bill proposes that where an Intensive Correction Order is breached by commission of another offence, the court must imprison the offender unless it would be unjust to do so in view of any exceptional circumstances which have arisen since the imposition of the Intensive Correction Order.

#### **Recommendation 46**

The Government supports the Committee's recommendation in principle that the treatment of adolescent sex offenders be expanded. The Department of Human Services will liaise with the Department of Justice about roles and responsibilities, treatment mandate issues, and to commence planning regarding resource issues.

#### **Recommendation 47**

The Government supports this recommendation in principle, subject to resource implications. Responsibility for prisoner placement lies with the Sentence Management Unit, Office of the Correctional Services Commissioner. If assessment of sex offenders is to be undertaken at court, it would therefore be more appropriate for such assessments to be undertaken by the Sentence Management Unit.

#### **Recommendation 48**

The Government supports the continuum of care model, and acknowledges the work of CORE - the Public Correctional Enterprise in further developing services for male sex offenders at Ararat and Langi Kal Kal prisons. The Government is committed to ensuring that all prisoners and offenders have equity of access to appropriate and continuous services, regardless of whether accommodated or supervised by public or private providers, given that not all sex offenders are placed within prisons operated by CORE.

#### **Recommendation 49**

The recommendation will be given due consideration by the Department of Human Services, in conjunction with other relevant Government Departments.

#### **Recommendation 50**

The Government supports this recommendation. The Department of Education, through the Board of Studies, has ensured that human relationships have received an increasing emphasis within the curriculum and is an important component of the Health and Physical Education Key Learning Area.

The Board of Studies in conjunction with the Department of Education, is actively supporting teaching and learning in this area through the ongoing development of curriculum and course advice materials. Its further development will continue to be a priority for the Board of Studies in the context of the overall development and review mechanisms associated with the Curriculum and Standards Framework.