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“Once in a decade opportunity” for victim survivors of sexual assault.

Law Reform Commission report to reshape “trauma factory” justice system

A Victorian Law Reform Commission report, with the potential to reshape how courts, police and support services respond to victim survivors of sexual violence, has been described as a once-in-a-decade opportunity to reshape the experience of victim survivors and ensure that rapists and perpetrators of sexual violence are held to account.

The Improving the Response of the Justice System to Sexual Offences report, soon to be tabled in the Victorian Parliament, is seen as an opportunity to drag the justice system into the #metoo era.

Kathleen Maltzahn, CEO, Sexual Assault Services Victoria (SAS Victoria), the sector’s peak body, is looking for comprehensive improvements across the process - from initial reporting and forensic examinations to investigations, trial and support services.

“We need to treat victim survivors as people – not witnesses. Right now, the justice system can be a trauma factory for victims. This report offers a once-in-a-decade opportunity.”

SASVic’s 17 member organisations meet the needs of 17,000 victim survivors of rape and sexual assault each year – adults, young people and children, women, men and gender diverse people. Their experiences shaped SAS Victoria’s submission to the review which prioritises many overdue key reforms:

1. Reporting and police response

Forensic examinations: more immediate, less traumatizing forensic examinations in more locations with a choice of genders of police and doctor. Currently victims can wait, humiliatingly for hours after their sexual assault without showering or changing clothes. Regional Victorians can face longer waits and extensive travel. Forensic examinations should be offered to all victim survivors.

Online reporting of sexual assault: face-to-face reporting of sexual assault is intimidating for many victim survivors. SAS Victoria recommends an online reporting option. More reports will lead to more arrests. Online reporting has been trialled successfully in New South Wales.

Referral: Police too often fail to refer victim survivors to sexual assault services. This must change.

2. Court process

The intimidating and complex legal process often revictimizes victim survivors. Children in particular, are treated as unreliable witnesses. Appallingly, fewer than five per cent of rape and abuse cases involving minors reach court. Adults victim survivors are also often treated as if they are on trial. Among other recommendations, SAS Victoria advocates major reforms including:

- creating a specialist sexual assault court;
- allocating victim survivors with Independent Sexual Assault Advocates;
- following NSW to change the test around evidence on tendency and coincidence;

- allowing joint hearings when there are multiple victim survivors of the same alleged perpetrator;
- changing the law to enshrine communicative consent.

3. More broadly

Resources: SAS Victoria's members are experts in trauma and sexual assault but cannot meet demand, meaning victim survivors are placed on waiting lists. Greater investment is urgently needed.

Training: the experience of victim survivors ranges from caring to utterly inadequate. SAS Victoria recommends training by specialist sexual assault services for police, lawyers, magistrates, judges and child protection.

Ms Maltzahn says that the Andrews government's response to the report is key:

"If we want to reduce the trauma and hold perpetrators accountable, we need the government response to be as brave as the victim survivors."

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