



LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON JUSTICE AND COMMUNITY SAFETY
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Submission Cover Sheet

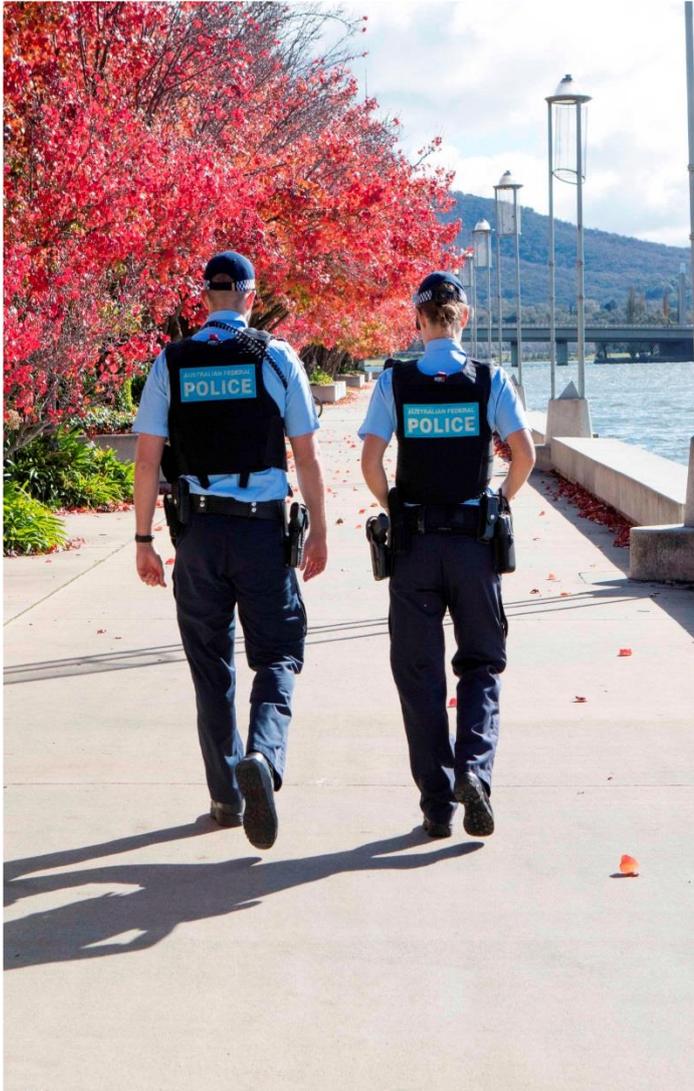
Inquiry into the Sexual Assault Reform
Legislation Amendment Bill 2022

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Sexual Assault Reform
Legislative Amendment Bill

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Submission by ACT Policing

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Introduction

ACT Policing welcomes the opportunity to make a submission to Standing Committee on Justice and Community Safety in response to the Inquiry into the Sexual Assault Reform Legislation Amendment Bill 2022. ACT Policing acknowledges the Sexual Assault Prevention and Response Steering Committee's report into sexual violence, the "Listen: Take Action to Prevent, Believe and Heal" Report (the Listen report). ACT Policing also acknowledges the work that all agencies in the ACT can do to improve the experience for victim-survivors of sexual assault.

Sexual assault is a serious crime that can have devastating, cumulative and long-lasting effects on lives of victim-survivors, their families and communities. While sexual violence is overwhelmingly experienced by women and girls, it can affect people of any gender or sexual orientation. Research has shown that although sexual violence is common, it is one of the most under-reported crimes. Research suggests approximately 87 per cent of people who experience sexual violence do not report it to the police and only about half seek support from someone (usually from friends and family)¹.

ACT Policing's primary focus is providing a victim-centric police response to sexual violence in our community. Specialist investigators in the Sexual Assault and Child Abuse Teams (SACAT) are responsible for conducting investigations into the most serious and complex matters. Every response by police also focusses on providing an informed response to their complaint and supporting victim-survivors through the investigation process, including ensuring they are offered access to specifically tailored support services from the wider service sector.

ACT Policing encourages anyone who has experienced sexual assault or violence to speak with police. ACT Policing is committed to ensuring victim-survivors are supported when they are making fully informed choices about how they wish to see the matter proceed and are informed about what is required of them when participating in the investigative process; such as participating in evidence-in-chief interviews, assisting police with locating witnesses, providing other sources of evidence and other relevant information.

ACT Policing welcomes the review and subsequent recommendations and will continue to work towards beneficial outcomes for victim-survivors, ensuring trauma-informed best practices for those who have experienced sexual assault.

¹ Australian Institute of Health and Welfare (Cth). *Family, Domestic and Sexual Violence in Australia: Continuing the National Story 2019*

Sexual Assault Prevention and Response Report – The Listen Report

ACT Policing has taken a number of steps to address recommendations from the Listen report, acknowledging that some reforms to existing structure, oversight and training could be addressed in the short term.

The SACAT investigative function was internally reviewed in 2021 prior to the release of the Listen report. ACT Criminal Investigations established a Detective Inspector position with specific oversight of the SACAT teams. An additional Sergeant role was created to provide increased specialist support to the SACAT investigators and broader Criminal Investigations teams to coordinate training, reviewing briefs of evidence, and enhance stakeholder engagement and coordination to identify and drive agency wide improvements.

ACT Policing has reformed the case finalisation model to include additional oversight of the Criminal Investigations Management Committee. This has improved the recording of decisions made during the life of an investigation and refined the thresholds applied when referring matters to criminal prosecution.

ACT Policing is further reviewing training across all levels to upskill the workforce in victim-centric approaches that will improve the experiences for victim-survivors. Training will target police officers working in General Duties in conjunction with specialist members in SACAT and within Criminal Investigations.

While ACT Policing is committed to giving a voice to victim-survivors and improving justice responses, not every matter will proceed to charge. There are a number of factors that will continue to have an impact on whether a charge is laid, and that remain valid determinants of whether a matter proceeds to prosecution or not. Such factors include the age of offender, the types of offending, whether an offender can be identified and the sufficiency of evidence more broadly that is available during investigation, and of course, the desire of a victim-survivor to proceed with the matter to court.

Sexual Assault Reform Legislation Amendment Bill 2022

ACT Policing supports the amendments in the Sexual Assault Reform Legislation Amendment Bill 2022 (the Bill) and believes it is a positive step to give victim-survivors more confidence to bring their allegations forward to police.

ACT Policing notes that the Bill is a result of recommendation 23 of the Report, with five of the sub-recommendations being implemented.

Prior family violence incidents

The availability for prior incidents of family violence to be brought into evidence may assist in indicating a pattern of behaviour and support a victim's testimony. The amendment notes that any evidence needs to provide context for a fact in issue in the proceeding. ACT Policing believes this is an important section as prior offences may be highly prejudicial and inadmissible.

Understanding the family violence history may give a trier of fact a better understanding on how or why a victim-survivor reacted in a particular way to sexual offending. With this reform, police can better plan their Evidence in Chief Interviews (EICIs) with victim-

survivors. Police can ascertain more context on the relationship of the parties involved, knowing that it is relevant to the sexual offence.

Presumption of Bail

ACT Policing supports the inclusion of these offences into Schedule 1 of the *Bail Act 1992*. Having a neutral position relating to the granting of bail will reflect the serious nature of sexual assaults, together with providing victims a greater sense of safety that the facts of their matter will be taken into account rather than a presumed position the offender will be granted bail.

ACT Policing notes that in many circumstances bail conditions are not sufficient to mitigate identified risks and bail does not necessarily stop or deter future offending, which places a victim-survivor at further risk and in turn can re-traumatise the victim-survivor. The neutral position with respect to the granting of bail in these matters is a positive step forward for sexual assault prosecutions.

Self-induced intoxication

ACT Policing believes that it is important self-induced intoxication is considered irrelevant to any assessment made by the fact finder as to the defendant's recklessness regarding consent. It serves as an important reminder that self-induced intoxication does not permit lowered standards of acceptable conduct and people are responsible for their actions under self-induced intoxication. Unfortunately, intoxication is a regular factor in reported sexual assaults and this reform removes any reliance a defendant may have on their self-induced intoxication as a mitigating circumstance.

Special Interim Personal and Workplace Protection Orders

This amendment provides consistency with the Family Violence Act 2016 as there is no current provision under the Personal Violence Act 2016 for a special interim order to be made. The amendment is advantageous to both the respondent and applicant of the order in situations where there are related charges before the court. The special interim order will allow a police investigation into related charges to take its course without self-incrimination of the respondent or unnecessary traumatisation for the applicant which may occur during a hearing for a final Family Violence or Personal Protection Order.

ACT Policing also supports the reform to have the legislation expanded so individuals and trade unions can apply for Workplace Protection orders. Such amendments will afford better protection for applicants within the workplace.

ACT Policing notes the amendments of clarifying the definition of "sexual act" in the Crimes Act 1900 to address unintended consequences, and the omission of section 80D relating to directions to the Jury for mistaken belief.

Victim Support

ACT Policing have dedicated Victim Liaison Officers (VLO) who provide supplementary services to victims of crime (VOC) that include acting as a conduit between the investigating officer and the victim-survivor, providing information about support

services and making referrals where appropriate. The VLO follows the governing principles for the treatment of victims of crime and the Victims of Crime Act 1994 (ACT). The VLO may also assist with the preparation of Victim Impact Statements and applications to the Victim Support Financial Assistance Scheme.

Conclusion

ACT Policing recognises the significant impact sexual assault can have on victim-survivors and the trauma they have endured. The Listen report is an important step forward to improving system responses to sexual offences and ACT Policing acknowledges the effort that has gone into the Listen Report and the continuing work it guides.

ACT Policing believes a multi-disciplinary approach to preventing sexual offending in our community is key to these reforms, whilst also allowing victim-survivors to be believed and heal from their trauma. ACT Policing looks forward to continuing the work with partners and other relevant stakeholders to improve community safety, engagement and criminal justice responses to these crimes.