



# Sexual Assault Services Victoria

## Victorian Parliament Legal and Social Issues Committee Inquiry into Victoria's Criminal Justice System

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# About Sexual Assault Services Victoria

Formerly CASA Forum, Sexual Assault Services Victoria (SAS Victoria) is the newly incorporated and expanded peak body for sexual assault services and harmful sexual behaviour services.

SAS Victoria shares a vision for a world free from sexual assault and violence. We know that sexual assault is both a consequence and reinforcer of the power disparity that exists largely between men, women and children. It also happens within families and in multiple other settings and types of relationships, including within the LGBTIQ+ community.

Sexual assault occurs along a continuum of violent behaviour, from uninvited sexual behaviour that makes the recipient feel uncomfortable, harassed, or afraid; unwanted touching or remarks; sexual harassment; coerced sexual activity; to rape with physical violence and threat to life. SAS Victoria and our member services work with survivors across this range of sexual abuse.

Our members work with all victims survivors of sexual assault and sexual violence including women, children, young people, men, and those who identify as gender diverse. We work with victim survivors of current, recent and historical crime, committed against adults and children, and perpetrated within families, institutions and other groups, settings and contexts. Many are women who have experienced sexual assault in an intimate partner relationship or were sexually abused as children; have experienced date rape; or sexual assault by a stranger or recent acquaintance; or have experienced sexual assault within an institutional setting. Children and young people make up a large proportion of our members' clients; they have most often been sexually abused by a family member or someone they know and trust.

We believe in the power to prevent sexual assault and violence with coordinated social, cultural and political action. This action exposes the gendered nature of sexual assault and challenges the context in which sexual assault is able to thrive.

We also believe in the possibility of recovery from sexual assault and family violence when systems are in place to provide timely and appropriate support. We advocate for services that address trauma and empower service users through a victims' rights model.

SAS Victoria aims to build a consistent, responsive, quality, coordinated service system, that promotes the rights and recovery of victim survivors of sexual assault and addresses the social and systemic factors that contribute to harmful sexual behaviours in children and young people impacted by violence and abuse. We provide crisis and therapeutic interventions, conduct community education and training, and client and systems advocacy.

Our work is based on our shared understanding of the causes, consequences and impact of sexual assault. Our advocacy is founded on service user experiences. We bring over 30 years of evidence-based practice knowledge, and practice-based evidence wisdom to the task of reforming system responses to sexual assault. We aim to help shape and guide systems to ensure service users are able to get the support they need when they need it.

Our members operate within a variety of service contexts and models, to a shared set of standards. Some are auspiced by health services; others are independent; several operate as merged sexual assault and family violence services. Eight currently deliver services as key partners in seven regional Multi-Disciplinary Centre (MDC)<sup>1</sup>. They are co-located with key statutory and other agencies

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<sup>1</sup> As of 30.6.21, MDCs operated at Seaford PenSAC (SECASA); Dandenong (SECASA); Bendigo (CASACV); Geelong (Sexual Assault and Family Violence Centre); Mildura (Mallee SAU); Morwell (Gippsland CASA); Wyndham (West CASA and Gatehouse Centre). Further sites are being rolled out in 2021.

including Victoria Police Sexual Offences and Child Abuse Investigation Teams (SOCITs), DFFH Child Protection teams, and Community Health Nurses. Some have Forensic Medical Officers attend from the Victorian Institute of Forensic Medicine (VIFM). All operate outreach services within their own regions, with Counsellor Advocates visiting an additional 94 locations across the state.

Two SASVic member services provide outreach to incarcerated women in their regions, at Dame Phyllis Frost Centre, and at Tarrengower prison with funding from the Department of Justice and Community Safety.

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For more info about MDCs: <https://www.police.vic.gov.au/sexual-offences-and-child-abuse-investigation-teams>

## Introduction and overview

We welcome this opportunity to provide a brief submission to the Victoria Parliament Legal and Social Issues Committee Inquiry into Victoria's Criminal Justice System. We welcome the Committee's interest in reducing offending and incarceration. As the peak body for specialist sexual assault services, we offer a unique perspective on the links between sexual violence, trauma and incarceration. Reducing the criminalisation and incarceration of survivors of sexual violence is a matter of justice.

A disproportionately high number of survivors of sexual violence are incarcerated or otherwise involved with the criminal justice system. Sexual violence is a driver of criminalisation. Many criminalised survivors have not had sexual violence against them acknowledged or appropriately responded to. Many consequently experience high levels of trauma, which may be expressed in ways that can be criminalised. While there is a community expectation that the criminal justice system provides victims of sexual violence access to justice and restitution, patterns in Victoria suggests that the criminal justice system is more likely to treat survivors as offenders than as victims. Access to specialist sexual assault services is a core element in addressing incarceration and recidivism.

We recommend here steps to:

- achieve better recognition in the criminal justice system of the impact of trauma, including on people with disabilities and Indigenous people, particularly women;
- provide therapeutic responses to survivors of sexual violence in prisons;
- work with the justice system to provide therapeutic responses to divert survivors from prisons;
- provide therapeutic response to keep survivors out of the criminal justice system as offenders;
- prevent young people in the care of government being exposed to sexual violence; and
- intervene to stop children and young people becoming perpetrators of sexual violence.

These interventions would significantly impact upon rates of imprisonment in Victoria. We commend our recommendations to the Committee.

# Sexual assault survivors in the criminal justice system

## Survivors of sexual violence in prisons

Sexual violence is a pervasive, preventable and high-impact human rights violation. Compared to the general population, prisoners are disproportionately likely to be victims of sexual violence, including child sexual abuse.

According to the 2016 Australian Bureau of Statistics (ABS) Personal Safety Survey<sup>2</sup> (PSS):

- one in five women (18% or 1.7 million) and one in twenty men (4.7% or 428,800) experienced sexual violence since the age of 15.
- one in six women (6% or 1.5 million) or one in ten men (11% or 991,600) aged 18 or over experienced abuse before the age of 15.

These rates are higher among people in prison. Australia's National Research Organisation for Women's Safety Limited (ANROWS) states that between 70 and 90% of women in prison are survivors of abuse, including sexual violence<sup>3</sup>. In a survey of 100 women in SE Queensland prisons, 95% had experienced abuse prior to imprisonment - 98% physical abuse, 89% sexual abuse, 70% emotional abuse and 16% ritual abuse. The majority of women experienced this abuse in childhood and 37% before the age of 5<sup>4</sup>. While there is limited data on incarcerated male survivors, 10.4% of survivors of institutional child abuse who attended private sessions with Commissioners for the Royal Commission into Institutional Responses to Child Sexual Abuse (RCCSA) were incarcerated at the time of their session.

## Links between sexual violence, trauma and incarceration

For many incarcerated people, there is a clear link between sexual violence perpetrated against them, untreated trauma and incarceration. This link is even stronger for survivors who were sexually assaulted in juvenile prisons. Research by ANROWS on women in prison found that 'violence increases the risk and effects of imprisonment, and imprisonment increases the risk and effects of violence'<sup>5</sup>.

One sexual assault service that works with incarcerated women, West CASA, has reported that some women exiting prison often return to the home of the offending partner due to a lack of other housing options. They then reoffend to escape the abuse of the violent partner and end up back in prison. This dynamic is also noted in Australian research on the close links between imprisonment and sexual, domestic and family violence<sup>6</sup>. The Child Abuse Royal Commission noted high levels of trauma amongst survivors of child sexual abuse, including those in prison. Few survivors had received appropriate acknowledgement of the crimes against them or adequate therapeutic support. Trauma is linked to incarceration in several ways, including through substance dependency and the criminalisation of anger and distress. A range of Australian and international research has found correlation between child sexual abuse and substance dependency. This is reflected in the

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<sup>2</sup> Australian Bureau of Statistics, 2016 Personal Safety Strategy.

<sup>3</sup> Australia's National Research Organisation for Women's Safety. (2020). Women's imprisonment and domestic, family, and sexual violence: Research synthesis (ANROWS Insights, 03/2020). Sydney, NSW: ANROWS.

<sup>4</sup> Kilroy, D. (2000). When Will You See The Real Us? Women In Prison. Sisters Inside Inc. Queensland.

<sup>5</sup> Op cit, p. 2.

<sup>6</sup> Ibid.

Royal Commission's findings that many survivors accessed drug and alcohol to manage their trauma, which in turn led to substance dependency and interactions with the criminal justice system. Significant numbers of incarcerated survivors disclosed sexual violence perpetrated against them as children in juvenile prisons, and described the ways their reactions to the violence, including anger, attempts to run away and self-medication through drugs and alcohol, were problematised and criminalised rather than acknowledged and attended to.

For many survivors, sexual violence is part of a broader pattern of human rights violations, that further entrenches and intensifies trauma. Sisters Inside<sup>7</sup> is an independent community organisation based in Queensland that advocates for the collective human rights of women and girls in prison and their families and provides services to address their individual needs. They note that:

*Criminalisation is usually the outcome of repeated and intergenerational experiences of violence, poverty, homelessness, child removal and unemployment, resulting in complex health issues and substance use.*

These links may be heightened for survivors with disabilities. The Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability in its The Criminal Justice System Issues Paper (January 2020)<sup>8</sup> noted that:

*People with disability, including young people, are overrepresented across the criminal justice systems in Australia and are at a heightened risk of violence, abuse, neglect and exploitation in criminal justice settings.*

*People with cognitive and/or psychosocial disability are significantly overrepresented amongst the group who are charged with or accused of criminal offences. They are also disproportionately victims of abusive or violent criminal conduct.*

This is confirmed by research undertaken by Human Rights Watch (HRW) between 2016-2018<sup>9</sup>. HRW looked at the experiences of people with disabilities in Australian prisons, and interviewed people with disabilities, prison-related and government professionals, mental health experts, academics, lawyers and civil society representatives in Western Australia, Queensland, New South Wales, and Victoria. They found that:

*People with disabilities, particularly psychosocial or cognitive disabilities, are dramatically overrepresented in the criminal justice system in Australia – 18 percent of the country's population, but almost 50 percent of people entering prison.*

*Aboriginal and Torres Strait Islander people comprise 28 percent of Australia's full-time adult prison population, but just 2 percent of the national population. Within this group, Aboriginal and Torres Strait Islander people with disabilities are even more likely to end up behind bars [and] ... prisoners with disabilities, including Aboriginal and Torres Strait Islander prisoners, are at serious risk of bullying, harassment, violence, and abuse from fellow prisoners and staff.*

*[Those] with psychosocial disabilities – mental health conditions – or cognitive disabilities in particular can spend days, weeks, months, and sometimes even years locked up alone in detention or safety units*

*...Due to stigma and fear of reprisals, sexual violence is hidden and hard to document, but ever-present in both male and female prisons.*

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<sup>7</sup> Sisters Inside <https://sistersinside.com.au/>

<sup>8</sup> Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability. 2018. *The Criminal Justice System Issues Paper*

<sup>9</sup> Human Rights Watch, 2018. [\*I Needed Help, Instead I Was Punished: Abuse and Neglect of Prisoners with Disabilities in Australia.\*](#)

Alarming, they found that:

*Some prisoners with disabilities with high support needs have “prison-carers” – other prisoners whom prison authorities pay to look after them. In one prison, staff told Human Rights Watch that six out of eight carers were convicted sex offenders and one of them regularly raped the prisoner with a disability in his charge.*

*[They] are at serious risk of sexual and physical violence and are disproportionately held in solitary confinement for 22 hours a day.*

In relation to the criminal justice system, it is clear that having a disability makes it difficult to access justice as a victim of violence and abuse, but it also increases the risk of violence and abuse for those charged and /or convicted of a criminal offence.

Recent changes to international definitions of trauma highlight other factors that may make some survivors vulnerable to criminalisation. The 2018 International Statistical Classification of Diseases and Related Health Problems (11<sup>th</sup> Revision) has adopted trauma-related classifications, Post Traumatic Stress Disorder (PTSD) and Complex PTSD<sup>10</sup>. This reflects clinical observations that some survivors of chronic, repeated and prolonged traumas, including child sexual abuse and family violence, have ‘more complex reactions’ than is captured by PTSD. PTSD has three core elements: reexperiencing in the present of past traumatic events, avoidance of traumatic reminders and a sense of current threat. Complex PTSD additionally three elements described as ‘disturbances in self-organisation that are pervasive and occur across various contexts’: emotional regulation difficulties, negative self-concept and relationship difficulties. Each of these six elements may lead to behaviour that is criminalised.

While there is a community expectation that the criminal justice system provides victims of sexual violence access to justice and restitution, these patterns suggests that the criminal justice system is more likely to treat survivors as offenders than as victims.

Survivors raised several concerns with the Child Abuse Royal Commission about prison responses to child sexual abuse, including that they ‘focused on preventing suicide and managing medications, rather than providing the kind of long-term care some survivors felt they needed to cope with the impacts of child sexual abuse and other trauma’. Others said that no counselling services were available, and that ‘the primary response to their disclosure of child sexual abuse or other problems was to be prescribed medication’. In contrast, one survivor highlighted the value of a Centre Against Sexual Assault service, saying that it ‘had kept him alive’<sup>11</sup>.

## Recommendation

- 1) That the Legal and Social Issues Committee highlight in its final report the clear links between sexual assault, other human rights violations and criminalisation, particularly as they impact on groups such as people with disability and Indigenous people, particularly women.
- 2) That the Legal and Social Issues Committee recommend to the state government that all elements of the criminal justice system better recognise and respond to the impact of trauma on criminalisation.

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<sup>10</sup> Cloitre, M. (2020). ICD-11 complex post-traumatic stress disorder: Simplifying diagnosis in trauma populations. *The British Journal of Psychiatry*, 216(3), 129-131. doi:10.1192/bjp.2020.43

<sup>11</sup> Royal Commission into Institutional Responses to Child Sexual Abuse (2017), Final Report.



# Specialist sexual assault services for people in prison

## Need for prison-based therapeutic services

The high proportion of survivors of sexual violence in the prison system requires a specialist sexual assault service response.

Two specialist sexual assault services, the Centre Against Sexual Assault Central Victoria (CASA Central Victoria) and West Region Centre against Sexual Assault (WestCASA), provide specialist trauma services in Victoria's two women's prisons, the Dame Phyllis Frost Centre in Deer Park, Metropolitan Melbourne and Tarrengower Prison in Nuggetty, Central Victoria.

No specialist sexual assault services are funded to provide specialist services in prisons for men or young people.

## A model for prison-based therapeutic services

CASA Central Victoria and West CASA's prison-based services began as outreach sexual assault counselling services to women prisoners in 2006. In 2016, following recommendations from the Royal Commission into Family Violence, and consequent funding increases from the Department of Justice, CASA Central Victoria and WestCASA expanded their program to support women who had experienced any form of trauma including sexual and family violence. Services include therapeutic counselling and advocacy for individuals, group work, and training for corrections staff on the impact of trauma.

Key foundations of these programs are<sup>12</sup>:

- A neuro-biological understanding of the impact of trauma on the brain which means victims of complex trauma are rarely able to live their lives in their thinking brain and are most often in their reactive brain.
- Understanding the re-victimisation and lifelong consequences that occurs for people who have experienced childhood sexual assault<sup>13</sup>.
- A complex trauma lens that aligns with the well-respected Practice Guidelines for Treatment of Complex Trauma and Trauma Informed Care and Service Delivery<sup>14</sup>.
- A three-phase model of trauma and therapy (safety and stabilisation, trauma processing and integration) based on Judith Herman's seminal work *Trauma and Recovery* (1992) that is integrated into the work undertaken at Tarrengower.
- A victim/rights model which parallels clients being supported to feel empowered and make decisions about their service experience. For this reason, the service is voluntary and has no session limits.

The program's trauma focus includes:

- psycho-education which aims to normalise the response to trauma;
- strategies to assist in managing the impact of trauma ;

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<sup>12</sup> These principles are based on CASA Central Victoria's prison program.

<sup>13</sup> See Ogloff, J.R., Cutajar, M.C., Mann, E., Mullen, P., Wei, F.T.Y., Hassan, H.A.B. and Yih, T.H., 2012. Child sexual abuse and subsequent offending and victimisation: A 45 year follow-up study. *Trends and issues in crime and criminal justice*, (440), pp.1-6.

<sup>14</sup> Kezelman, C. and Stavropoulos, P., 2019. Practice guidelines for clinical treatment of complex trauma. Sydney: *Adults Surviving Child Abuse*. Milsons Point: Blue Knot Foundation.

- empowerment to manage needs and behaviours;
- a trauma therapy model that is based on best practice.

One of the requirements of this approach is being able to offer consistent engagement with Counsellor/Advocates. As childhood sexual assault trauma is relational, in that it is a betrayal or breach of relationships of trust, therapy needs also needs be relational to re-work attachments to develop a secure internal base. CASA Central Victoria has one Counsellor Advocate 3 days a week at Tarrangower; WestCASA has four Counsellor/Advocates and a Team Leader based at the Dame Phyllis Frost Centre four days a week.

### Service gap

Funding is currently on a year-by-year, non-recurrent basis.

Once women survivors leave prison, there is no dedicated program ensuring they can continue to access therapeutic services, or the conditions that allow them to recover, including stable housing.

While CASA-CV has received requests to provide specialist trauma services in men's prisons, the Department of Justice and Community Services does not provide funding to Specialist Sexual Assault Services for such programs.

### Recommendation

- 3) That the Legal and Social Issues Committee consider the findings of the Child Abuse Royal Commission in relation to prisoners;
- 4) That the Legal and Social Issues Committee recommend that state government funding to specialist sexual assault services for the provision of specialist trauma services in prisons be:
  - a) made recurrent
  - b) increased in women's prisons to allow greater access for women prisoners to therapeutic services
  - c) increased to include juvenile and men's prisons
- 5) That the Legal and Social Issues Committee recommend that the state government fund specialist sexual assault services to provide specialist trauma services to survivors exiting prison.

# Specialist sexual assault services to keep survivors out of prison

## Need for therapeutic diversionary or treatment programs

Many survivors of historic sexual violence take decades to disclose. In the interim, as described above, many are criminalised, leading to long-term engagement with the criminal justice system and repeated imprisonment. As described above, trauma responses may lead survivors to deploy strategies and behaviours that lead them to be criminalised. Additionally, the impact of trauma may make it difficult for survivors to follow instructions from authorities, such as courts and Corrections. This places survivors at greater risk of returning to jail, as their behaviour may be understood as wilful non-compliance rather than a trauma response.

Diversionary programs typically become harder to access as people are convicted of more offences. A range of programs and services should be provided to ensure survivors involved in the criminal justice system have access to therapeutic services to recover from trauma.

Judicial officers can play a pivotal role in recognising and responding to trauma-related offending. This is particularly important where survivors' ability to comply with court directions may be impeded due to the impact of trauma. However, judicial officers have not traditionally been provided with training on this area. Consequently, the court system may be another site where sexual violence and its impacts are not acknowledged, and survivors are punished rather than supported to recover.

## Models for therapeutic diversion and case management at court

Programs such 'Women Transforming Justice (WTJ) pilot project, provided by the Fitzroy Legal Service (incorporating Darebin Legal Service), aimed to support women to be released from, and stay out of, custody<sup>15</sup>. By providing legal advice, practical supports, assistance to find housing and advocacy for referrals to other services, the project improved legal outcomes for women. The project was shaped by the input of women with lived experience of criminalisation at every point of the project. Existing diversionary programs, strengthened by the inclusion of specialist sexual assault services as a foundational element, are also useful models for diversionary programs for survivors of sexual violence.

## Impact

According to the evaluation report, 76% of WTJ clients were granted bail at their first application.

## Service gaps

There are no equivalent programs explicitly for survivors of sexual violence.

The WTJ is a model that could be usefully replicated for survivors of sexual violence. Such a model would be further strengthened by the inclusion of therapeutic support provided by specialist sexual assault services.

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<sup>15</sup> See Campbell, E., Macmillan, L. & Caruana, C. (2020) Women Transforming Justice: Final Evaluation Report, Centre for Innovative Justice, RMIT University, Melbourne.

## Recommendation

- 6) That the Legal and Social Issues Committee recommend that the state government fund pilot programs aimed at diverting survivors of sexual assault from the criminal justice system, including specialist sexual assault service as a core component of any program.

# Specialist sexual assault services to prevent survivors entering the criminal justice system

## Need for therapeutic treatment programs

For many criminalised survivors, recovery programs need to be ongoing, accessible and in-depth. Both mental health and drug and alcohol services have residential programs for people needing in-depth support; prison is by default a residential program. Significant funds are spent imprisoning survivors.

## Models for intensive therapeutic treatment programs, including intensive programs

Specialist sexual assault services have well developed models for working with highly traumatised and hard-to-reach survivors. Ballarat CASA, for example, was one of the earliest services providing therapeutic and other services to survivors of institutional child abuse, many of whom had been criminalised.

Several drug and alcohol services have well developed residential therapeutic models that are appropriate to criminalised survivors.

The mental health reforms provide possible models for addressing the impacts of sexual violence.

## Service gaps

There are many barriers to criminalised survivors accessing specialist sexual assault services outside of prison. Under-funding of the specialist sexual assault services means that many services have waiting lists that are a barrier for criminalised survivors. Increased funding for specialist sexual assault services, including for intensive outreach to criminalised survivors, would allow survivors to access appropriate and tailored therapeutic support.

There is no residential program explicitly focused on recovery from sexual assault. Existing models for residential alcohol services could be adapted to focus more explicitly on sexual assault survivors, whether with drug and alcohol dependences or not.

There remains to be poor recognition in the new mental health reforms of the impact of sexual violence on mental health, and poor inclusion of specialist sexual assault services in new models for mental health care. It is beyond the scope of SASVic at this point to comment further, but we commend to the Committee's attention the work of the Women's Mental Health Alliance on the links between sexual violence (and other forms of gendered violence), trauma, and mental illness.

## Recommendation

- 7) That the Legal and Social Issues Committee recommend that the state government increase recurrent funding to specialist sexual assault services to reduce waiting lists that serve as a barrier to criminalised survivors.
- 8) That the Legal and Social Issues Committee recommend that the state government increase recurrent funding to specialist sexual assault services to provide intensive outreach and tailored therapeutic services to criminalised survivors.
- 9) That the Legal and Social Issues Committee recommend that the state government explore residential recovery programs for survivors of sexual violence, including criminalised survivors, and pilot programs aimed at diverting survivors of sexual violence from the criminal justice system, including specialist sexual assault services as a core component of any program.

- 10) That the Legal and Social Issues Committee review recommendations by the Women’s Mental Health Alliance on reforms to the mental health system to better address sexual violence and other forms of gendered violence as a causal factor in mental illness, and a key consideration in service design.
- 11) That the Legal and Social Issues Committee recommend that current state mental health reforms better incorporate specialist sexual assault service responses into their models.

# Specialist sexual assault services to prevent sexual violence against young people in government care

## Need for prevention of sexual violence against incarcerated people

The Child Abuse Royal Commission found that survivors of institutional child abuse experienced significant sexual violence in residential care settings and juvenile prisons. While SASVic does not have capacity to provide an in-depth policy response to this at this point, we note that preventing violence against young people in governments care should be an urgent priority. Preventing violence from occurring in the first place would stop the criminalisation of many people.

## Recommendation

- 12) That the Legal and Social Issues Committee strongly support any existing reforms aimed at stopping sexual violence against young people in government care and recommend additional steps, if needed, to prevent such violence.

# Specialist sexual assault services to stop children and young people becoming perpetrators

## Need for harmful sexual behaviour programs

In the 1980s, research suggested that between 20 and 30 per cent of adult sexual offenders had begun to exhibit problem or harmful behaviours as children<sup>16</sup>. Further, research found that children assaulted by other children experienced harm at levels comparable to those assaulted by adults<sup>17</sup>. Children exhibiting problem and harmful sexual behaviours may themselves have experienced violence: one study found 35-50% had experienced sexual abuse. Victorian research found that 94% of young people in a study of harmful sexual behaviour clients had experienced family violence. For children under 10, the younger a child showing problem sexualised behaviours is, the more likely it is that they have experienced harm, including sexual harm<sup>18</sup>. The vast majority of problem and harmful sexual behaviour is by boys, most commonly against younger siblings.

Experts distinguish between perpetration of sexual violence by adults and problem sexual behaviour by children under 10 and harmful sexual behaviour 10–17-year-olds. Under Victorian law, children under 10 are not criminally responsible for their behaviour<sup>19</sup>.

## Model for harmful sexual behaviour programs

Specialist sexual assault services provided specialist responses to problem and harmful sexual behaviour that aims to secure the safety of all children involved, with a particular focus on children who have been exposed to problem or harmful sexual behaviours and to reduce the inappropriate behaviours by the child exhibiting PSB or HSB.

Children and young people have many referral pathways into this program including, family, schools, Child Protection and Police. In some cases a Therapeutic Treatment Orders (TTO), a therapeutic alternative to criminal charges, with orders made by the Children’s Court–Family Division will be applied. Therapeutic Treatment Orders were introduced into the Children, Youth and Families Act for children and young people 10-14 in 2007, and extended to young people up to 17 years in 2019. The TTO enabled a developmentally appropriate approach to children and young people displaying problem and harmful sexual behaviour. Children and young people put on TTOs are provided with specialist treatment by specialist sexual assault services.

Within the criminal justice system there may be tensions and contradictions between the therapeutic and criminal justice paradigms that can render a young person ineligible for service or delay access to services. In some cases, young people could not take up any therapeutic response because it would potentially signal to the court that they had a criminal intention when engaging in harmful sexual behaviours and could be charged accordingly. This went against the aims of therapeutic intervention and the young person’s acknowledgement of their behaviour<sup>20</sup>.

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<sup>16</sup> Evertsz, J., Miller, R.M., Bromfield, L., Higgins, D., Pratt, R. and Noakes, R., 2012. Children with problem sexual behaviours and their families: Best interests case practice model: Specialist practice resource. Department of Human Services.

<sup>17</sup> Ibid.

<sup>18</sup> Ibid.

<sup>19</sup> Ibid.

<sup>20</sup> Australia’s National Research Organisation for Women’s Safety. (2020). Good practice in responding to young people with harmful sexual behaviours: Key findings and future directions (Research to policy and practice, 18/2020). Sydney: ANROWS



Education and information to Child Protection, Police and staff within the judicial system regarding the benefit and efficacy of early intervention for problem or harmful sexual behaviours will mitigate the delay in treatment and contribute to better system coordination in responding to these cases.

### Impact

Harmful and problem sexual harm programs provide wholistic and significant early intervention for children and young people and research indicates that many of this cohort do not go on to exhibit harmful sexual as adults<sup>21</sup>. behaviours.

### Service gap

The Harmful Sexual Behaviour treatment program is most often a long term (up to 24 months) therapeutic engagement and as such is funded at a higher level. The services in Victoria that are funded to deliver this program all have waiting lists and also surpass their funded requirements.

### Recommendations

12) That the Legal and Social Issues Committee endorse education for Child Protection, Police and staff within the judicial system regarding the Harmful Sexual Behaviour program and its efficacy.

13) That the Legal and Social Issues Committee endorse additional funding is increased to enable this program to meet the increasing demand across the state.

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<sup>21</sup> See <https://outcomes.org.au/wp-content/uploads/2020/04/Keane-and-Quinton.pdf>