

## Sexual Assault Review – Terms of Reference

### Review of cases to understand attrition rates – Sexual Assault Review

#### Background & context

Sexual violence is a pervasive and unacceptable problem in the ACT. In December 2021 the Sexual Assault Prevention and Response Steering Committee released the *Listen. Take action to prevent, believe and heal* report, which provided an evidence based, extensive and thorough analysis of the current problems in systemic responses to sexual violence in the ACT and the systems failure to address the needs of victim survivors and the community more generally – both from a procedural and cultural perspective.

In particular, the Report found that the supports and responses available to victim survivors are inadequate – both the response by the community sector (specialist response services) and by government agencies. It further identified inadequacies within the Justice system.

The Report made 24 recommendations to Government, encompassing a wide range of reforms necessary to prevent sexual violence and to urgently address the current failures within the non-government specialist response service sector, within government agencies and within the Justice system.

One of the issues the Report identified within the overall systems response to sexual violence was the high attrition rates of sexual offence complaints following an initial report to ACT Policing. To further understand this issue and the barriers preventing cases from progressing in the criminal justice system, the Report recommended:

The ACT Government establish and fund an independent cross-agency taskforce to undertake a review of all sexual assault cases reported to ACT Policing that were not progressed to charge, including those deemed unfounded, uncleared or withdrawn.

The initial phase of the review to focus on reports made from 1 July 2020 to present. Subject to the outcomes of this initial phase, the review is to be extended to all reports made since 1 January 2015 that have not progressed to charge.

Further any victim survivor whose matter has not progressed to charge outside of this stated review period may also request a review of their matter. (Recommendation 15)

In its formal response to the Report, released in June 2022, the ACT Government agreed to this Recommendation and committed to funding the implementation of this Recommendation through the establishment of a multidisciplinary team to review sexual assault cases reported to ACT Policing between 1 July 2020 and 31 December 2021 which were not progressed to charge, including those deemed unfounded, uncleared, or withdrawn.

#### Establishment of the Review & its purpose

An **Oversight Committee** is established to oversee an independent review of sexual assault cases reported to ACT Policing that were not progressed to charge, including those deemed unfounded, uncleared or withdrawn.

The initial phase of the review is to focus on all reports made from 1 July 2020 to present. Subject to the outcomes of this initial phase, the review may be extended, in further phases, to reports made since 1 January 2015 that have not progressed to charge.

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At the conclusion of each phase of the review, the Oversight Committee is to provide a report to the Attorney-General, the Minister of Police and the Minister for the Prevention of Domestic and Family Violence summarising the findings of the Review, including any identified systemic issues, and, if required, proposing the extension of the review for other periods and/or for identified classifications of cases.

The Oversight Committee will be supported by a **Review Team** which will provide practical assistance in the undertaking of the review of reports and support the considerations of the Oversight Committee, as directed by the Co-Chairs. It is noted that it is ultimately a matter for the Director of Public Prosecutions to determine if further investigation is required and whether there would be a reasonable prospect of conviction of any resulting charges.

### Review Terms of Reference

The purpose of the Review is:

1. better understand the reasons for the low number of sexual offence reports proceeding to the point of charge including but not limited to:
  - a. identifying whether current police processes are being adhered to and whether any changes should be made to police processes in relation to the conduct of investigations;
  - b. identifying whether decisions are legally sound in all cases and whether those decisions are clearly recorded, reviewed and communicated to the Director of Public Prosecutions and the complainant;
  - c. Identifying any systemic cultural or practical changes or additional services that may be required to better support child and adult complainants and uphold their rights under the Victims Charter;
  - d. any other relevant matter.
  
2. for each case reviewed:
  - a. identify what, if any, further investigation should be undertaken;
  - b. identify whether there is a reasonable prospect of conviction after the investigation; then
  - c. consider whether criminal charges should be laid.

### Membership of the Oversight Committee & its Co-Chairs

Members of the Oversight Committee to include:

- Independent Co-Chairs: Dr Christine Nixon and Ms Karen Fryar
- Director of Public Prosecutions Mr Shane Drumgold
- Chief Police Officer, ACT Policing Deputy Commissioner Neil Gaughan
- Coordinator-General, Family Safety Ms Kirsty Windeyer
- Victims of Crime Commissioner Ms Heidi Yates

### Review Methodology

The methodology for the Review will be finalised by the Oversight Committee having regard for the provision, use and security of the information to be reviewed and the priority areas of focus appropriate to the review of individual reports.

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Proposed specific areas of focus for the Review will be considered by the Oversight Committee and applied to each individual case by the relevant Review Team to the extent appropriate.

The role of members of the Oversight Committee will be clarified in the context of finalising the methodology for the Review. There may be certain aspects of the Review work – for instance, assessing the decision making about whether a matter is charged and prosecuted – which would not appropriately involve all members of the Oversight Committee.

The approach to contacting and consulting victims in any cases to be further investigated / prosecuted will be developed collaboratively between the Chief Police Officer, the Director of Public Prosecutions, and the Victims of Crime Commissioner, to reflect a trauma-informed approach and ensure ongoing support is available to those who choose to have their matter re-opened.