



# Review of Consent Laws in South Australia

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February 2024

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## Our Commitment to Inclusion

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The Salvation Army Australia acknowledges the Traditional Owners of the land on which we meet and work and pay our respect to Elders, past, present and future.

We value and include people of all cultures, languages, abilities, sexual orientations, gender identities, gender expressions and intersex status. We are committed to providing programs that are fully inclusive. We are committed to the safety and wellbeing of people of all ages, particularly children.

Our values are:

- Integrity
- Compassion
- Respect
- Diversity
- Collaboration

Learn more about our commitment to inclusion: <[salvationarmy.org.au/about-us](https://salvationarmy.org.au/about-us)>

The Salvation Army is an international movement and our mission is to preach the gospel of Jesus Christ and to meet human needs in his name without discrimination.

More information about The Salvation Army is at **Appendix A**.





## Executive Summary

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The Salvation Army welcomes the opportunity to provide this submission to the South Australian Government Attorney-General Department in relation to the Review of Consent Laws in South Australia (the Review).

The Salvation Army operates family violence services in almost all states and territories across Australia. This support includes refuges, children's and parenting services, counselling, men's programs, accommodation, and advice and referral. It is from the experiences of our clients, as well as those of our frontline staff, that we have approached this submission.

The Salvation Army welcomes the intention of the Review to strengthen consent laws to ensure they continue to be robust and align with changing societal attitudes. We are hopeful that the reforms will ultimately lead to improved structures and practices that promote the rights and wellbeing of victim-survivors of sexual violence. We caution however that legislative reform alone will not achieve sustainable long-term outcomes for victim-survivors of sexual violence.

This submission contains just some of The Salvation Army's initial recommendations that we believe will strengthen the Reviews proposed legislative reforms, and adequately protect victim-survivors of sexual violence.

At the heart of our recommendations is the need to keep victim-survivors of sexual violence at the centre of the discussion.

This submission covers:

- Strengthening victim-survivor rights to privacy. We advocate for the need for health information to be included as protected communications, and for the requirement that victim-survivors are made aware of and have the opportunity to respond to applications for disclosure of their protected communications.
- Essential systematic reforms to strengthen legislative action. We highlight the need for investment in training of justice staff and the frontline service sector, investment in primary prevention, early intervention and education, and the need to recognise and invest in children as victim-survivors in their own right.

The Salvation Army has made **5** recommendations for the South Australian Government to consider. A summary of these recommendations follows on the next page.



# Summary of Recommendations

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## Recommendation 1

- 1.5 The Salvation Army recommends that the South Australian Government strengthen victim-survivor privacy by:
- *Expanding protected communications to include health information, and*
  - *Ensuring that it is a requirement that victim-survivors are made aware of any applications made for the disclosure of their protected communications. Victim-survivors should also be provided the opportunity to obtain legal advice and advised of their right to appear before and provide a confidential statement regarding these applications.*

## Recommendation 2

2.6 The Salvation Army recommends that the South Australian Government implement specialist training for police, prosecutors, and judicial staff on non-physical forms of violence and ensure it is repeated regularly.

## Recommendation 3

2.7 The Salvation Army recommends that the South Australian Government implement specialist training for workers in the family and domestic violence, health care, housing, education, finance, and child protection sectors. This training should be repeated regularly.

## Recommendation 4

- 2.16 The Salvation Army recommends that the South Australian Government:
- *Focus on prevention, early intervention, and community education to empower victim-survivors, particularly those within vulnerable cohorts, to seek help.*
  - *Develops a comprehensive education and awareness campaign to ensure key institutions and the community more broadly obtain an understanding of violence and its impacts on women.*
  - *Develops education campaigns in relation to active bystander interventions as a community preventative measure.*

## Recommendation 5

2.24 The Salvation Army recommends that the South Australian Government increase investment in child and adolescent family violence services and ensure that funding for family and sexual violence service provision always includes a component for direct service provision and therapeutic support for children. This includes culturally appropriate services for children.



# 1 Promoting Victim-Survivor Rights to Privacy

1.1 The Salvation Army strongly believes that a victim-survivors right to privacy should be protected and promoted wherever possible to encourage best outcomes for those impacted by sexual violence.

1.2 Sexual violence is known to cause significant trauma and has serious immediate and long-term impacts on the health and wellbeing of victim-survivors.<sup>1</sup> For example, violence against women can result in injuries and homicide, poor mental health, and has been proven to cause drug and alcohol misuse.<sup>2</sup> Further the most common perpetrators of sexual violence are intimate partners, and people known to the victim-survivor.<sup>3</sup> Without ensured protection of personal information, victim-survivors may not feel safe, and ultimately decline, to engage with essential support services – including therapeutic and health services.

“Victim-survivors need to be able to access health and support services without fear of where the information they share will go.”  
- The Salvation Army Family Violence Specialist

1.3 We acknowledge and support the legislative protection of disclosures made in the therapeutic context from legal proceedings.<sup>4</sup> Given the nature of sexual violence however, counselling and support staff will not always be the first, nor the only, professionals or services to engage with victim-survivors. For this reason, we strongly support the expansion of protected communications to include the health information of victim-survivors of sexual violence.

1.4 The Salvation Army also strongly welcomes the Victorian Government’s amendments to the *Evidence (Miscellaneous Provisions) Act 1958* as outlined in the discussion paper.<sup>5</sup> If an application is made to the court to access personal information or records of a victim-survivor, in all circumstances, the victim-survivor must be notified, given the opportunity to obtain legal advice, and advised of their right to appear and provide a confidential statement regarding the application.

<sup>1</sup> Our Watch (Undated). *What is Violence Against Women?*. <https://action.ourwatch.org.au/what-is-prevention/what-is-violence-against-women/>.

<sup>2</sup> Ayre, J., Lum on, M., Webster, K., Gourley, M., & Moon, L (2016) *Examination of the burden of disease of intimate partner violence against women in 2011: Final Report* (ANROWS Horizons, 06/2016). Sydney, ANROWS. <https://anrowsdev.wpenginepowered.com/wp-content/uploads/2019/02/BoD-Horizons.pdf>.

<sup>3</sup> Australia’s National Research Organisation for Women’s Safety. (2019). *Intimate partner sexual violence: Research synthesis* (2nd Ed.; ANROWS Insights, 08/2019). Sydney, NSW: ANROWS

<sup>4</sup> Government of South Australia Attorney-General’s Department. (2023). *Review of Sexual Consent Laws in South Australia: Discussion Paper*. <https://yoursay.sa.gov.au/consent-laws>.

<sup>5</sup> See Second Reading Speech for the justice Legislation Amendment (Sexual Offences and Other Matters) Bill 2022 – strengthening protections for confidential communications of sexual offence victim-survivors. As in Government of South Australia Attorney-General’s Department. (2023). *Review of Sexual Consent Laws in South Australia: Discussion Paper*. <https://yoursay.sa.gov.au/consent-laws>.





## **Recommendation 1**

1.5 The Salvation Army recommends that the South Australian Government strengthen victim-survivor privacy by:

- Expanding protected communications to include health information, and
- Ensuring that it is a requirement that victim-survivors are made aware of any applications made for the disclosure of their protected communications. Victim-survivors should also be provided the opportunity to obtain legal advice and advised of their right to appear before and provide a confidential statement regarding these applications.



## 2 Essential Systemic Reforms to Strengthen Legislative Action

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### Investment in Training for the Frontline

#### *Training for Justice Staff on Coercive Control and Non-Physical forms of Violence*

- 2.1 The Salvation Army highlights the need for greater education and understanding of non-physical forms of violence to ensure their consideration in cases of sexual violence offences and sentencing outcomes.
- 2.2 Greater education is required across the justice system to ensure non-physical forms of violence, including coercive control, are better understood, and considered, and instances of sexual violence correctly interpreted in court processes. Understanding the true nature of family, domestic, and sexual violence will provide health, social, and legal systems with a more accurate means to understand the impact of offences collectively and respond appropriately.
- 2.3 The police form a crucial part of the frontline service system. An initial positive interaction with police is recognised as having a significant impact not only on the safety of victim-survivors, but also on whether they decide to report further victimisation.<sup>6</sup> When police respond to a family, domestic or sexual violence call out it is crucial that they have the knowledge to identify and appropriately respond to both physical and non-physical forms of violence.

#### *Training for All Frontline Services*

- 2.4 Due to the nature of family, domestic, and sexual violence, police will not always be the first responders for victim-survivors. For this reason, it is critical that all frontline staff that are employed or volunteering within an organisation have access to specialised training to correctly identify person/s in need of protection and respond with meaningful support options for both adult and child victim-survivors and perpetrators. Our frontline staff report that many of the services that victim-survivors interact with do not have sufficient training, education, and awareness to understand family, domestic, and sexual violence.
- 2.5 We call on the South Australian Government to deliver consistent and mandatory specialised training to identify and respond to cases of sexual violence for workers in the family and domestic violence, health care, housing, education, finance, and child protection sectors.

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<sup>6</sup> Australian Law Reform Commission. (2010). Family Violence – A National Legal Response (ALRC Report 114). [https://www.alrc.gov.au/wp-content/uploads/2019/08/ALRC114\\_WholeReport.pdf](https://www.alrc.gov.au/wp-content/uploads/2019/08/ALRC114_WholeReport.pdf).



## Recommendation 2

- 2.6 The Salvation Army recommends that the South Australian Government implement specialist training for police, prosecutors, and judicial staff on non-physical forms of violence and ensure it is repeated regularly.

## Recommendation 3

- 2.7 The Salvation Army recommends that the South Australian Government implement specialist training for workers in the family and domestic violence, health care, housing, education, finance, and child protection sectors. This training should be repeated regularly.

## Investment in Primary Prevention, Early Intervention and Community Education

### *Increasing Community Awareness*

- 2.8 As outlined in the discussion paper, how sexual violence is perceived by the community can lead to low reporting and high attrition rates of sexual offence cases.<sup>7</sup>
- 2.9 The 2021 National Community Attitudes Towards Violence Against Women Survey (NCAS) outlines various problematic attitudes regarding sexual violence that objectify women and disregard consent.<sup>8</sup> For example, whilst one in five women have experienced sexual violence, 24-34 per cent of Australians view allegations as a way of “getting back at men” or due to later regretting consensual sex.<sup>9</sup> Importantly, the NCAS highlights that ‘violence-supportive attitudes’ such as excusing perpetrators, minimising violence against women and mistrusting women’s reports of violence can influence social norms and expectations.<sup>10</sup>
- 2.10 Prevention, early intervention, and community education remain the most effective ways to address the underlying problem of family, domestic, and sexual violence. As a community, we also need to continue to empower all victim-survivors to identify all forms of abuse and to address discrimination, disadvantage, and entrenched gender bias and exploitation in the home, in relationships, and in the workplace.

<sup>7</sup> Government of South Australia Attorney-General's Department. (2023). *Review of Sexual Consent Laws in South Australia: Discussion Paper*. <https://yoursay.sa.gov.au/consent-laws>.

<sup>8</sup> ANROWS. *Attitudes Matter Summary NCAS: The 2021 National Community Attitudes Towards Violence Against Women Survey (NCAS)*. <https://irp.cdn-website.com/f0688f0c/files/uploaded/NCAS-2021-Summary-for-Australia.pdf>.

<sup>9</sup> Ibid.

<sup>10</sup> Australia's National Research Organisation for Women's Safety. (2018). *Are We There Yet? Australians' attitudes towards violence against women & gender equity* (Summary findings from the 2017 National Community Attitudes towards Violence against Women Survey). [https://20ian81kynqg38bl3l3eh8bf-wpengine.netdna-ssl.com/wp-content/uploads/2019/12/300419\\_NCAS\\_Summary\\_Report.pdf](https://20ian81kynqg38bl3l3eh8bf-wpengine.netdna-ssl.com/wp-content/uploads/2019/12/300419_NCAS_Summary_Report.pdf).



- 2.11 We wholeheartedly support the Our Watch ‘Change the Story’ policy approach to prevention and education.<sup>11</sup> We also advocate better awareness raising to ensure that every individual in Australia considers themselves active bystanders, and greater support for community-based violence prevention.
- 2.12 All forms of family, domestic, and sexual violence are preventable. We must continue to educate the community to recognise and call out disrespectful, coercive, and controlling behaviours as unacceptable.
- 2.13 Education on healthy relationships, particularly in relation to respectful relationships within primary schools and healthy peer-to-peer and early intimate relationships in high schools is critical.
- 2.14 We call on the South Australian Government to educate children and youth on the dangers and use of technology-facilitated abuse and, in particular, the use of social media and its ability to ‘blur’ young people’s ability to navigate online peer relationships and the appropriate use of technology. This is particularly important considering the exponential use of intimate photo and video sharing and GPS monitoring of women and children since 2015.<sup>12</sup>
- 2.15 We welcome the South Australian Government’s launch of the “See the Signs” awareness campaign, and its aims to ensure young people can recognise when a relationship may be turning abusive and where to seek help.<sup>13</sup> We urge the importance of such campaigns being widely available and accessible to all key institutions and community members.

#### **Recommendation 4**

2.16 The Salvation Army recommends that the South Australian Government:

- Focus on prevention, early intervention, and community education to empower victim-survivors, particularly those within vulnerable cohorts, to seek help.
- Develops a comprehensive education and awareness campaign to ensure key institutions and the community more broadly obtain an understanding of violence and its impacts on women.
- Develops education campaigns in relation to active bystander interventions as a community preventative measure.

<sup>11</sup> Our Watch. (2015). *Change the Story: A shared prevention for the primary prevention of violence against women and their children in Australia*. <https://media-cdn.ourwatch.org.au/wp-content/uploads/sites/2/2021/11/23131846/Change-the-story-Our-Watch-AA.pdf>.

<sup>12</sup> Woodlock, D., Bentley, K., Schulze, D., Mahoney, N., Chung, D., and Pracilio, A. (2020). *Second National Survey of Technology Abuse and Domestic Violence in Australia*. WESNET. <https://wesnet.org.au/wp-content/uploads/sites/3/2020/11/Wesnet-2020-2nd-National-Survey-Report-72pp-A4-FINAL.pdf>.

<sup>13</sup> Government of South Australia. (2023). *See the Signs of Coercive Control*. <https://seethesigns.sa.gov.au/>.



## Recognising Children as Victim-Survivors in their Own Right

- 2.17 As outlined in the discussion paper, 35 per cent of sexual assault victims in South Australia in 2022 were under the age of 18 at the time of the violence.<sup>14</sup>
- 2.18 In our experience, current access to case management for children and adolescents who are victim-survivors of all forms of family violence is limited. Children and young people need to be able to access timely case management and responses that recognise their vulnerability and need for intervention, to prevent the long-term negative impacts of trauma.
- 2.19 Children require interventions that promote their participation and are tailored according to their age and development.<sup>15</sup>
- 2.20 A lack of appropriate and timely intervention can result in long-term impacts.<sup>16</sup> Evidence shows that family violence can cause lifelong harms for children and those around them. This includes psychological and behavioural impacts, health and socioeconomic impacts, and increased risk of intergenerational violence and re-victimisation.<sup>17</sup>
- 2.21 Children can also be ‘silent victims’ of family violence.<sup>18</sup> In our experience children are not recognised or treated as victim-survivors in their own right and are often treated as dependents of a parent who is a victim-survivor.
- 2.22 For Aboriginal and Torres Strait Islander children there is a double conundrum. Firstly, the family and domestic violence sector is not equipped to respond to the needs of children as victim-survivors in their own right. When there are child specific resources, they are often not culturally appropriate for Aboriginal and Torres Strait Islander children. Secondly, there are few culturally appropriate family, domestic and sexual violence services available to Aboriginal and Torres Strait Islander people, and those that do exist focus on adults and not on the specific needs of children.<sup>19</sup>
- 2.23 The Salvation Army acknowledges the importance of listening to the voices of Aboriginal and Torres Strait Islander children. This must be supported with an increase in funding to services for children.

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<sup>14</sup> Australian Bureau of Statistics, *Recorded Crime – Victims* (reference period 2022, released 29 June 2023). As in Government of South Australia Attorney-General’s Department. (2023). *Review of Sexual Consent Laws in South Australia: Discussion Paper*. <https://yoursay.sa.gov.au/consent-laws>.

<sup>15</sup> Safe & Equal. (Undated). *Supporting Children and Young People*. <https://safeandequal.org.au/working-in-family-violence/tailored-inclusive-support/children-and-young-people/>.

<sup>16</sup> Victims of Crime Commissioner. (2023). *Victims’ Charter Guidelines*. <https://victimsofcrimecommissioner.vic.gov.au/media/buzlgioh/vocc-victims-charter-guidelines.pdf>.

<sup>17</sup> Richards, K. (2011). *Children’s exposure to domestic violence in Australia. Trends & issues in crime and criminal justice*. No. 419. Canberra: Australian Institute of Criminology. <https://www.aic.gov.au/publications/tandi/tandi419>.

<sup>18</sup> O’Brien, w., Fitz-Gibbon, K. (2016). ‘*Silent Victims: Royal Commission Recommends Better Protections for Child Victims of Family Violence*’. <https://theconversation.com/silent-victims-royal-commission-recommends-better-protections-for-child-victims-of-family-violence-56801>.

<sup>19</sup> Australian National Research Organisation for Women’s Safety. (2022). *New Ways for our Families: Designing an Aboriginal and Torres Strait Islander cultural practice framework and system responses to address the impacts of domestic and family violence on children and young people*. [https://anrowsdev.wpenvelopepowered.com/wp-content/uploads/2022/04/Morgan-et-al-RR1\\_NewWaysOurFamilies.pdf](https://anrowsdev.wpenvelopepowered.com/wp-content/uploads/2022/04/Morgan-et-al-RR1_NewWaysOurFamilies.pdf).



### **Recommendation 5**

2.24 The Salvation Army recommends that the South Australian Government increase investment in child and adolescent family violence services and ensure that funding for family and sexual violence service provision always includes a component for direct service provision and therapeutic support for children. This includes culturally appropriate services for children.

### 3 Conclusion

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- 3.1 The Salvation Army thanks the South Australian Government for the opportunity to provide a written submission to the Review of Consent Laws in South Australia.
- 3.2 The Salvation Army would welcome the opportunity to discuss the content of this submission should any further information be of assistance. Further information can be sought from [government.relations@salvationarmy.org.au](mailto:government.relations@salvationarmy.org.au).

**The Salvation Army Australia Territory**

**February 2024**



## Appendix A About The Salvation Army

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The Salvation Army is an international Christian movement with a presence in more than 130 countries. Operating in Australia since 1880, The Salvation Army is one of the largest providers of social services and programs for people experiencing hardship, injustice and social exclusion.

The Salvation Army Australia provides more than 1,000 social programs and activities through networks of social support services, community centres and churches across the country.

Programs include:

- Financial counselling, financial literacy and microfinance
- Emergency relief and related services
- Homelessness services
- Youth services
- Family and domestic violence services
- Alcohol, drugs and other addictions
- Chaplaincy
- Emergency and disaster response
- Aged care
- Employment services

As a mission-driven organisation, The Salvation Army seeks to reduce social disadvantage and create a fair and harmonious society through holistic and person-centred approaches that reflect our mission to share the love of Jesus by:

- Caring for people
- Creating faith pathways
- Building healthy communities
- Working for justice

We commit ourselves in prayer and practice to this land of Australia and its people, seeking reconciliation, unity and equity.

Further information about The Salvation Army can be accessed at:

<https://www.salvationarmy.org.au/>

