

DR MARISA PATERSON MLA SPEECH
Response to Ministerial Statement
Sexual Assault Prevention and Response Program
May 2021

Start

I wish to thank Minister Berry for her work to address sexual violence in the community. I note the importance of taking a collaborative approach across what is a very complex, sensitive and emotive issue; to ensure that we are world class leaders here in the ACT in relation to sexual assault – firstly, that we should have the excellent prevention programs in place that reduce incidents of sexual assault; and that we provide the best support for sexual assault victims.

The methods through which we, as a Government and community, will achieve this are many and varied, and will require long-term cultural change. A coordinated and strategic program that includes all stakeholders, including victims themselves, is critical.

I commend Minister Berry, and all stakeholders, on coming together to consider, review and assess our current situation and ‘where to’. Minister Berry’s proposed program for prevention, response and law reform will ensure a targeted and focused effort is brought to education and awareness, victim support and criminal justice.

Broad community education is paramount to ensure that we have an understanding about respectful relationships, and a core principle in our city, that sexual activity without consent is illegal and will not be tolerated.

Victim support is also absolutely critical. Victims must feel comfortable and confident to be able to report incidents of sexual assault, and to know that they will be taken seriously, their complaint will be investigated, and they will be supported.

Law reform is another crucial component to addressing sexual assault.

Across Australia, we have seen many jurisdictions reform sexual assault legislation to be in line with contemporary community standards.

Much of this process hinges on the definition of consent, as well as other matters.

The definition of consent in the ACTs *Crimes Act 1900* and legal system is outdated and out of step with community expectations. It continues to rely on the notion of non-consensual sexual activity being that in which a person actively resists the sexual act.

We need to turn this, 180 degrees, so that non-consensual sexual activity is instead commonly understood, and interpreted in our legal system and law courts, to be that where a person has not positively communicated their agreement or willingness to participate in the act.

This is a much more nuanced approach and is often referred to as a model of communicative, affirmative or confirmative consent. That is, a person clearly indicates their agreement *to* participate in the act; rather than relying on the starting point that the victim has to prove that they *did not* agree to the act.

Our legal definition of consent should be based on the principle of a person giving free and voluntary consent. That is – where a person may agree to participate in a sexual act but only because of force, fear, intimidation, threat or other forms of coercion or mental or emotional abuse.

However, I would like to challenge us to think further about this – statistics suggest that the vast majority of sexual assaults happen at the hands of a perpetrator that is known to the victim, at a national level the Personal Safety Survey of Australia found this is the case for 87% of sexual assaults. These are not random acts of violence, they are calculated and happen within the broader context of peoples lives – which changes how we may respond.

The most commonly known perpetrator type was that of a previous partner (26% or 163,100), followed closely by a boyfriend or date.

An estimated 40% of women who experienced sexual assault by a male were assaulted in their own home in the most recent incident (252,400). A further 17% were sexually assaulted in the perpetrator's home (109,400) and a further 13% were assaulted in another person's home (84,600).

86% of women sexually assaulted by a male did not contact police. Of those who reported to police, only a quarter saw convictions – about 3.5%.

Half of all women who experienced sexual assault by a male sought advice or support about the most recent incident (50% or 316,900). Of these women, 71% sought advice or support from a friend or family member (224,500).

Over half of the women who experienced sexual assault by a male felt anxiety or fear for their personal safety in the 12 months after the most recent incident (57% or 365,700).

To summarise these statistics – women are predominately sexually assaulted by someone they know, in their own home; They do not contact police, they will talk to a trusted friend or family members, and they then feel long term impacts of anxiety and fear for their personal safety.

Now let's flip this – the perpetrator: what does he look like? He looks like someone you know. He knows his victim. He knows where she lives. He likely knows her friends and family. He likely has a pretty good hunch that she won't call the police. As a society we don't critique how he manipulated her, how many drinks he bought her, how he put immense pressure on her to go home, – especially to *her* house, where perhaps she thought she would have more control over what happens and feel safer. We don't critique the perpetrator's actions.

The perpetrators of this violence in our community need to be put squarely in the frame. As long as there is such little accountability and responsibility taken for sexual violence, nothing will change. This is a cultural, as much as it is a justice response.

I look forward to working with Minister Berry on the Sexual Assault Prevention and Response Program to ensure that we, as a community and society, together bring an end to sexual assault and communicate a strong message that perpetrators will be held to account.

Ends