

# Specified Victim and Witness information

Below is information on experiences you may have had or been witness to. This information has been gathered due to the recent movement across social media and news outlets highlighting the voice and pain of many womxn.

The below has been gathered and written by fellow victims Deena Lynch (Jaguar Jonze), Tia Thorne and Molly Apirana through online sources and via law enforcement queries. Some descriptions have been put into relatable terms for easier reading. As it has been compiled in this format, some information or descriptions may not be lawfully up to date or accurate.

This document is provided to aid you in understanding what your rights are, legal terms and how best to describe and understand incidents that may have occurred to you, as well as how they apply to our Australian legal system. We hope the information provided helps make this process a little less daunting and overwhelming for you.

The purpose of this form is simply to support you in understanding more before filling the attached [questionnaire](#) related to a certain perpetrator, if it relates to you, and to ask for or seek help.

As we've found compiling this information, criminal law and terms can be confusing, especially in Australia. We hope that by reading this, you can feel less confused and more resolved. Currently, the #metoo movement in Australia has seen little to no action. This is because of various failures in law and media to support victims, share names of alleged perpetrators publicly and a lack of support systems and investigations. We truly hope that with your voice, this can change for you and for Australia.

Please also be aware the below descriptions may trigger unwanted feelings. We recommend having a friend, spouse or family member with you while you read this.

## **Terms of law:**

### **Type of Act:**

**Summary** - Though still termed as a crime or offence, this term usually is attached to crimes of less jail time but can be heard in magistrate court. Summary offences must be reported with 1 year of the incident to be applicable for criminal law to intervene. That does not mean that you cannot have your experience heard in a court of law, especially if your incident was one of many. Summary does not apply if you were underage at the time of incident. If this is the case, the allegation could still be placed as a criminal offence years later.

**Indictable** - This is usually termed for more serious offences and crimes, it connects to longer jail time and can be heard in court of Supreme Court, in front of judge and jury and can in most cases be an offence reported for many years later.

### **Act vs Law:**

**Criminal act** - Is prosecuted by the police. It basically stands for an act that is illegal, that police are able to investigate and charge the perpetrator for in a court of law.

It means that if you report an incident to the police and the crime reported fits in the category, the police can then investigate and charge the person, and the person will be taken to court by the law and can face jail time.

**Unlawful act** - Is any act seen as unlawful, but not “illegal”. Police can investigate and charge under this act, but you can also personally or as a party take the perpetrator to court yourself under the basis that the act was unlawful. Example; If you report an incident that police can't investigate as a criminal act, you can still take this person to court.

The below descriptions may apply to you, a family member or friend.

### **Distribution of intimate images without consent**

Also called Act of Indecency. This describes images shared without a person's consent as a means of blackmailing, coercing (this could include the sharing of someone else's explicit image to “encourage” you to take a nude photo) causing shame and distress to the victim or simply to gloat to friends about another person's appearance. As a third party witness, you can also make a report as being the individual that has had such explicit photos shown. This does not put you in any danger with the law, but it does with the person that has shared the image without the other person's consent.

Consent is defined as permission freely given. It should always be clearly communicated. If you have not expressed consent to sharing any image, it is being shared without your consent.

### **Is this illegal and what does it mean?**

Yes. It is illegal in all states and charges can be up to 3 years jail time depending on state. The report of this allegation is classified as “Summary” and must be reported within one year to be investigated by criminal law. That does not mean that you cannot report this behaviour, once any report is filed it is saved in the national law enforcement log and could be brought to use if the perpetrator is later charged again.

### **Indecent Assault/ Sexual Assault/ Sexual Harrassment/ Harassment**

If someone is sexually harassing you in a way that causes/caused you to feel humiliation, pain, fear or intimidation, then this can be considered sexual assault. Because of this, all of the above underlined will be covered and described in this paragraph for you. It refers to any act of sexual behaviour that is uninvited. If the incident did not cause any emotional or physical pain at the time, but was not consented, it is still sexual assault.

More often, the term Sexual Assault is used by the general public as a description of a physical assault that does not include penetration. However, sexual assault also does include penetration in NSW. It can be any form of unwelcome sexual behaviour that's offensive, unwanted, humiliating or intimidating. It can also cover a very broad range of sexual abuse. It can be written, verbal or physical, and can happen in person or online. It includes many offences and can be further to any of the mentioned without consent or invite - pictures or photos sent, comments, emails or social media contact like Facebook, suggestive behaviour, cracking sexual jokes and comments around or to you, questioning you about your sex life or telling you about theirs, insulting you with sexual comments, asking you for sex or sexual favours, physical acts or touches, such as deliberately brushing up against someone. Ultimately, none of these acts are considered lawful and you are within your rights to report them and act on the allegation.

### **Is this illegal and what does it mean?**

Yes. All forms are not viewed by law as decent and therefore can be reported. Depending on the act, the course of time that act/s were made and the severity in the court of law depends on whether it can be covered by law investigation and whether it is termed Summary or Indictable. Regardless, it can be reported.

### **Indecent exposure**

This refers to a person who offends against decency by the exposure of his or her person in a public place or to public view, or in any place within the view of a person who is in a public place, commits an

offence. This is generally believed to be a summary offence, however it can be charged as indictable if applicable to a minor aged person at the time. You can still at any time report this incident.

### **Is this illegal and what does it mean?**

Yes. A criminal conviction is likely unless the Court is convinced that it should exercise its discretion not to convict the person of the offence. It can be termed as Summary or Indictable depending on the location of the event, the events that occurred around it and the age the victim/s were at the time.

### **Rape and Penetration of body**

*Known in the legal system as the below per state:*

**NSW** - "sexual assault"

**VIC, QLD, SA, TAS** - "rape"

**WA** - "Sexual penetration without consent"

**ACT, NT** - "sexual intercourse without consent"

This includes any form of penetration or enforced oral penetration. Please keep in mind that the description, Rape (or described differently as per states above) applies to any person that has had any form of penetration against their will or consent. This includes not saying anything at all. If you or a friend has not consented to penetration, even if the incident was not violent, it is still classified as rape.

### **Is this illegal and what does it mean?**

Rape is illegal. This allegation can be made within any time frame and is described as "Indictable" in court. This report is always taken seriously and even if the report is made many years later, people can still be charged.

### **Helplines**

It's important to remember that support organisations can help you even if you don't report a crime to the police. Wherever you are in Australia, you can call [1800 RESPECT \(1800 737 732\)](tel:1800737732) for confidential information, counselling and support on sexual assault, domestic or family violence and abuse. You can chat online and find services in your area.

Here's a list of support organisations for victims of sexual assault and sexual abuse:

- ACT — [Canberra Rape Crisis Centre](tel:62472525) 6247 2525
- New South Wales — [NSW Rape Crisis Centre](tel:1800424017) 1800 424 017 or [NSW Health Sexual Assault Services](#) (visit web page to find the number in your local area)
- Northern Territory — [Department of Health, Sexual Assault Referral Centres](#)
- Queensland — [Sexual Assault Helpline](tel:1800010120) 1800 010 120
- South Australia — [Yarrow Place Rape and Sexual Assault Service](tel:(08)82268777) (08) 8226 8777 or 1800 817 421 freecall
- Tasmania — [Sexual Assault Support Service](tel:1800697877) 1800 697 877
- Victoria — [Sexual Assault Crisis Line](tel:1800806292) 1800 806 292
- Western Australia — [Sexual Assault Resource Centre](tel:(08)64581828) (08) 6458 1828 or free call 1800 199 888