VLRC's inquiry into improving the response of the justice system to sexual offending

Response to Issues Paper I – Grab and Drag

The distressing footage of Jackson Williams grabbing and dragging a Melbourne nurse into a laneway on her way home from work has sparked this Issues Paper and shed light on what many perceive to be a loophole in Victorian law.

I am therefore supporting option 1 to create a new 'grab and drag' law in Victoria.

The outcome of the Jackson Williams case was disappointing to say the least. The fact that he was acquitted of assault with intent to commit a sexual offence, found guilty of the lesser assault charge and then given a 'slap on the wrist' with a two year correction order reflects on the issues associated with the earlier charge. There should not be a gap in law between assault and assault with intent to commit a sexual offence and that is what the 'grab and drag' offence seeks to address.

Currently, if there's not enough evidence to charge a person with assault with the intent to commit a sexual offence, the offence is automatically downgraded to common assault. The creation of a 'grab and drag' law is proposed to fit in the middle of intent to commit a sexual assault and unlawful assault. Not only would this new law act as a deterrent for potential offenders, it is also an expectation of the public to bridge the gap of unlawful assault and intent to commit sexual assault.

It has become very clear that the offence of assault with the intent to commit a sexual offence is extremely difficult to result in a conviction. As the Issues Paper for the grab and drag offence stipulates, of the 217 charges for this offence from October 2015, only 10 convictions were recorded for a similar time period. This has a conviction rate of less than 5%. This directly correlates with the issue that high attrition and low conviction rates may deter victims (overwhelmingly women) from coming forward and reporting abuse.

Many Victorians were concerned that women in their lives were not protected by law, after viewing that footage of Jackson Williams and seeing the sentencing outcome. This led to a petition by Emmaline Jones – a shift worker from Melbourne - to push for an appeal by the Office of Public Prosecutions of Mr Williams' sentence. This was not a token attempt to shine light on the battle women face in our community, rather the beginning of a grassroots campaign to have the law changed for good.

Ms Jones garnered huge levels of support from the Victorian public, amassing more than 100,000 signatures to her petition. I was privileged enough to have presented a box with over 90,000 signatures to then Attorney-General Hon. Jill Hennessy. This is strong evidence to show what community expectations are when it comes to sexual crimes and the safety of women, especially when they are going about their own business, walking to and from work, as a nurse no less in the Williams case.

When a perpetrator grabs and drags a victim, they effectively take choice away from them. This is especially concerning when the victim is a smaller, more vulnerable female, with little power to escape the situation. This was the case in the Jackson Williams incident and without an onlooker shouting out, the situation may have been much worse. What the victim was feeling during that time is un-imaginable. The effect that it has had on her has resulted in her moving states. It will have an ever-lasting affect on her and through no choice of her own.

Elements of a 'grab and drag' offence should include perpetrators who take people against their will. The restraint and unwilling movement of another person from one place to another without their consent. Another element could be someone who attempts to grab and drag a person, but was unable to, due to being seen by public, or fought off by the potential victim.

A grab and drag act may not always be a sexual offence. It could be to inflict physical harm, theft or a precursor to more heinous crimes. New laws should be reflective of the different outcomes to the victim of a grab and drag law.

We have seen a number of women jogging around Melbourne who have been grabbed and dragged into bushes in recent times. While sexual acts may not take place, this type of assault is scary and does have lasting impacts on its victims.

The maximum imprisonment term for someone who commits a grab and drag offence should be commensurate with its position within the legislation. Penalties for this new offence should sit somewhere between;

- an Unlawful Assault (Summary Offences act 1966) which currently stands at 15 penalty units or imprisonment for three months and
- Assault with Intent to Commit a Sexual Offence (Crimes Act 2958) which currently stands at the maximum penalty of 15 years imprisonment.

Committing this offence should incur a sentence that is likely to be a solid deterrent for potential offenders. If it is known that grabbing and dragging a person could put someone in prison for longer than three months, it is less likely people will commit this offence. This offence – being 'in between' unlawful assault and assault with the intent to commit a sexual offence should therefore warrant a sentence that is much greater than the lesser charge.

Currently, only 23.3% of those who commit unlawful assault are being sentenced to a term of imprisonment. Nearly the same proportion (22.2%) are receiving a fine. Similarly, 22.8% are receiving a Community Corrections Order (Sentencing Advisory Council, 2016-19).

It is a community expectation that people who commit offences, such as grabbing and dragging, are taken out of the community. This is why a maximum sentence of imprisonment is needed for a grab and drag offence. Not only will it take dangerous people out of the community, it will provide the opportunity for perpetrators to be rehabilitated in the Corrections system. It will also encourage more women to come forward and report as this new offence will provide for greater judicial opportunities to ensure the punishment fits the crime.

Furthermore, it is well documented that grab and drag offending is often a pre-cursor to more serious crimes. Perpetrators often begin with this type of offending prior to escalating to more serious crimes. An example of this is Bradley Edwards, otherwise known as the Claremont serial killer in Western Australia. One of the first offences Edwards committed was a grab and drag of an unsuspecting social worker in a back office where she was working.

Fortunately, the victim was able to kick herself free. Edwards plead guilty to common assault. Clearly the punishment he received for this lower end charge was no deterrent and the crimes he committed next resulted in the deaths of innocent women.

I fear that if a new offence isn't created there will continue to be a grey area in the law. Perpetrators should not get reduced sentences due to a technicality or as a result of current legislation that is notoriously difficult to prove in a court. It is clear now, more than ever, that the community want a new law and if left unchanged, cases like that Jackson Williams case will continue to occur and escalate.

I thank the Victorian Law Reform Commission for the inquiry in 'Improving the Response of the Justice System to Sexual Offences' and in particular aspects of the inquiry into the 'Grab and Drag' proposal.

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