



Communities  
& Justice

# Law Reform

Presentation to Legal Studies Association of NSW

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Law Reform & Legal Services,  
Department of Communities & Justice

# Law Reform

- **What is law reform from my perspective**
- **Some characters**
- **A case study: sentencing reform**
  - **Process**
  - **The evidence for community based sentencing**
  - **The outcomes so far**
- **Update on Consent**

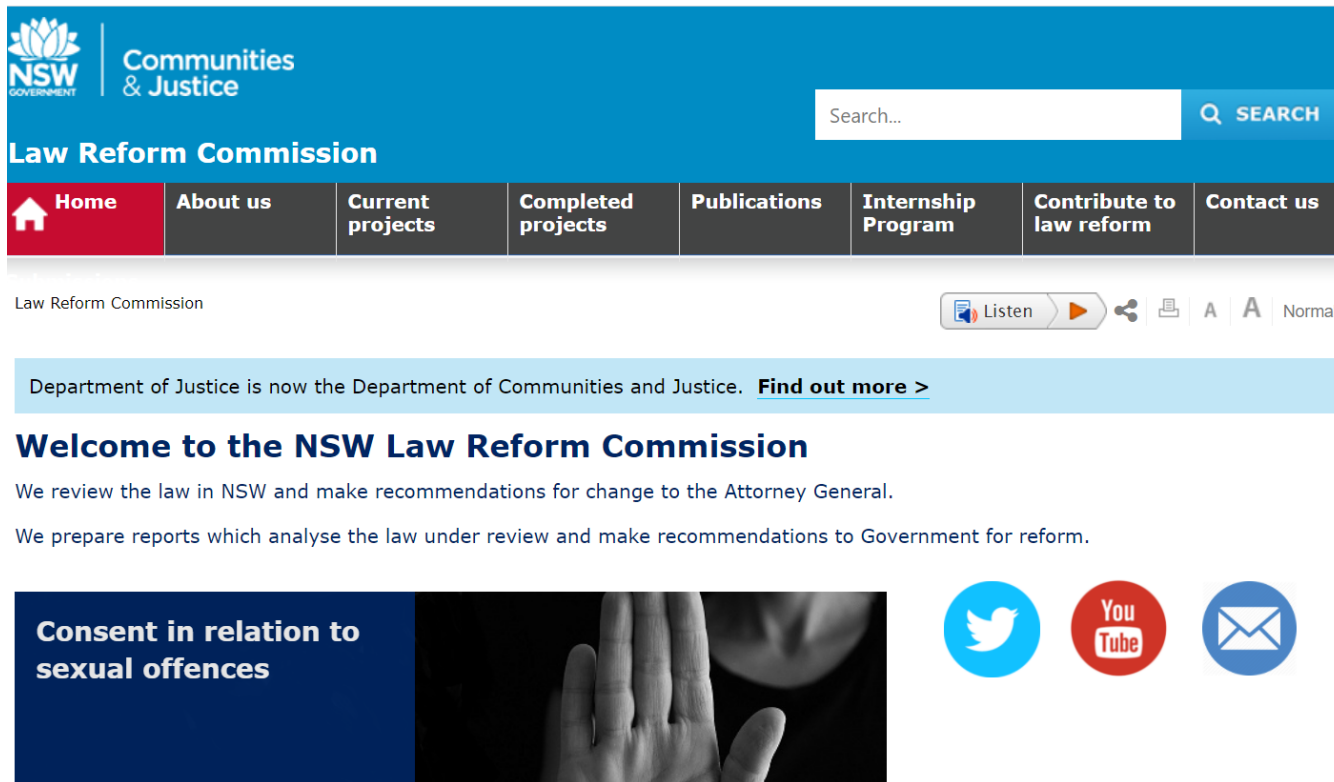


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# Law reform in the criminal justice system

# Law Reform Commission

The New South Wales Law Reform Commission is a commission to investigate, review and advise on the reform of the law in New South Wales



The screenshot shows the official website of the NSW Law Reform Commission. The header features the NSW Government logo and the text 'Communities & Justice'. A search bar is located on the right. Below the header is a navigation menu with links: Home, About us, Current projects, Completed projects, Publications, Internship Program, Contribute to law reform, and Contact us. A banner below the menu states 'Law Reform Commission' and includes a 'Listen' button and social media icons. A light blue banner below that reads 'Department of Justice is now the Department of Communities and Justice. [Find out more >](#)'. The main content area has the heading 'Welcome to the NSW Law Reform Commission' followed by two paragraphs: 'We review the law in NSW and make recommendations for change to the Attorney General.' and 'We prepare reports which analyse the law under review and make recommendations to Government for reform.' At the bottom, there is a featured report titled 'Consent in relation to sexual offences' with a black and white image of a hand, and three social media icons: Twitter, YouTube, and Email.

NSW GOVERNMENT | Communities & Justice

Search...

**Law Reform Commission**

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Law Reform Commission

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Department of Justice is now the Department of Communities and Justice. [Find out more >](#)

## Welcome to the NSW Law Reform Commission

We review the law in NSW and make recommendations for change to the Attorney General.


We prepare reports which analyse the law under review and make recommendations to Government for reform.

**Consent in relation to sexual offences**


[Twitter](#) [YouTube](#) [Email](#)

# Sentencing Council


The New South Wales Sentencing Council is an advisory body established by the New South Wales Government to provide guidelines and to promote consistency in sentencing of offenders in New South Wales




NSW Sentencing Council



**Homicide**  
Learn about our review of sentencing for murder and manslaughter, including domestic and family violence




**Meet the council**  
Find out more about the 16 members of the NSW Sentencing Council



**Assaults on emergency services workers**  
Learn about our review of assaults on police

# BOCSAR

NSW Bureau of Crime Statistics and Research






## NSW Bureau of Crime Statistics and Research

Q SEARCH

HomeCrime StatisticsCriminal Court StatisticsCustody StatisticsPublications & EvaluationsOpen DataMedia ReleasesContact BOCSAR

Bureau of Crime Statistics and Research


 Listen   A A Normal

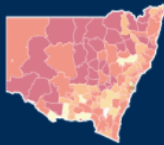
Department of Justice is now the Department of Communities and Justice. [Find out more >](#)

### News


#### Simple law reform significantly reduces District Court workload

Resulting in 81 fewer trials and 1,020 fewer sentence matters





#### Crime Mapping Tool



#### NSW Adult Criminal Sentencing Tool

# Stakeholders

## Justice Sector

DPP

Legal Aid

Police

DCJ-  
Corrections

## Non-Govt Organisations

Victim/Survivor  
Groups

Support Peaks  
for defendants

Service  
Providers

## Lawyers

Law Society

Bar Association

Aboriginal  
Legal Service

Academics

Judiciary



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# A Case Study: Sentencing reform



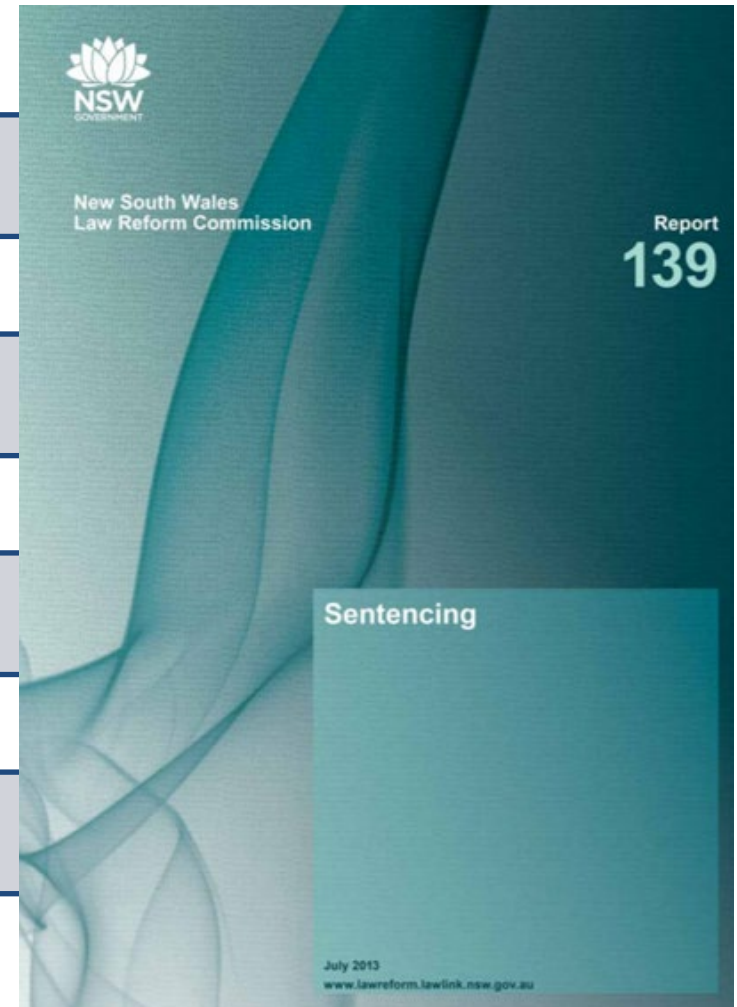
# Law Reform Commission Report

2 years

Process of research and engagement

12 question papers, 2 Reports

Key Recs: a new suite of Community based sentences



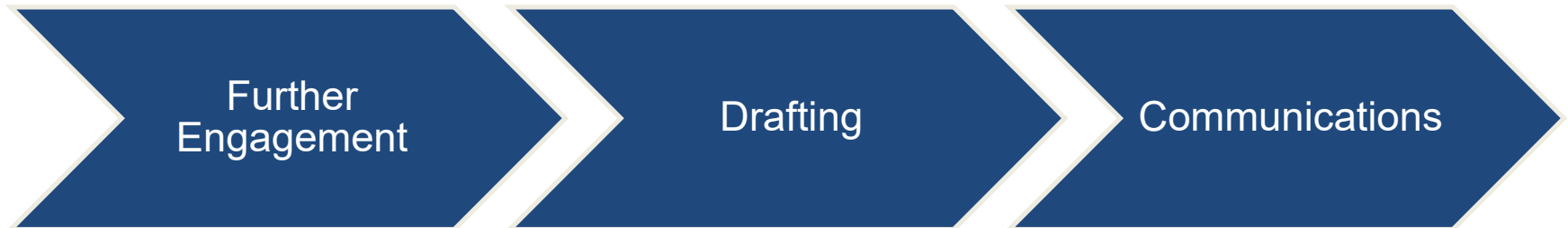
# Departmental / Government Consideration



- DCJ
- Government Stakeholders
- Ministers

# Legislative Development

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# Parliament and Passage



The screenshot displays the official website of the Parliament of New South Wales. At the top, there is a large banner image of the Parliament building with the text "PARLIAMENT OF NEW SOUTH WALES" overlaid. Below the banner is a search bar with the placeholder text "Enter Keyword(s)" and a "GO" button. A "Contact us" link is also visible. The main navigation bar includes links for "LIVE LEGISLATIVE ASSEMBLY", "LIVE COMMITTEES", and "LIVE LEGISLATIVE COUNCIL". Below this is a secondary navigation bar with links for "ABOUT PARLIAMENT", "MEMBERS", "BILLS", "HANSARD & HOUSE PAPERS", "RESEARCH PAPERS", "VISIT", and "EDUCATION". The left sidebar contains a list of links: "About Parliament", "Watch 'The People's House' video", "How Parliament Works", "History of democracy", "The Departments", "Parliamentary Budget Office", and "Building Heritage". The main content area is titled "The Passage of Legislation" and includes a breadcrumb trail "Home > About Parliament". The text explains the process of making a law, starting with the "main steps" and then detailing "Developing a Policy". It states that any Member of Parliament can initiate a Bill, but most are introduced by Ministers of the Government. The process involves decisions by the political party in Government, pressure from community groups, the media, or public opinion, and approval by the Cabinet. Bills introduced by individual Members are known as Private Members Bills and have a lower chance of becoming law.

PARLIAMENT OF  
NEW SOUTH WALES

Enter Keyword(s) GO

[Contact us](#)

LIVE LEGISLATIVE ASSEMBLY LIVE COMMITTEES LIVE LEGISLATIVE COUNCIL

ABOUT PARLIAMENT MEMBERS BILLS HANSARD & HOUSE PAPERS RESEARCH PAPERS VISIT EDUCATION

About Parliament

Home > About Parliament

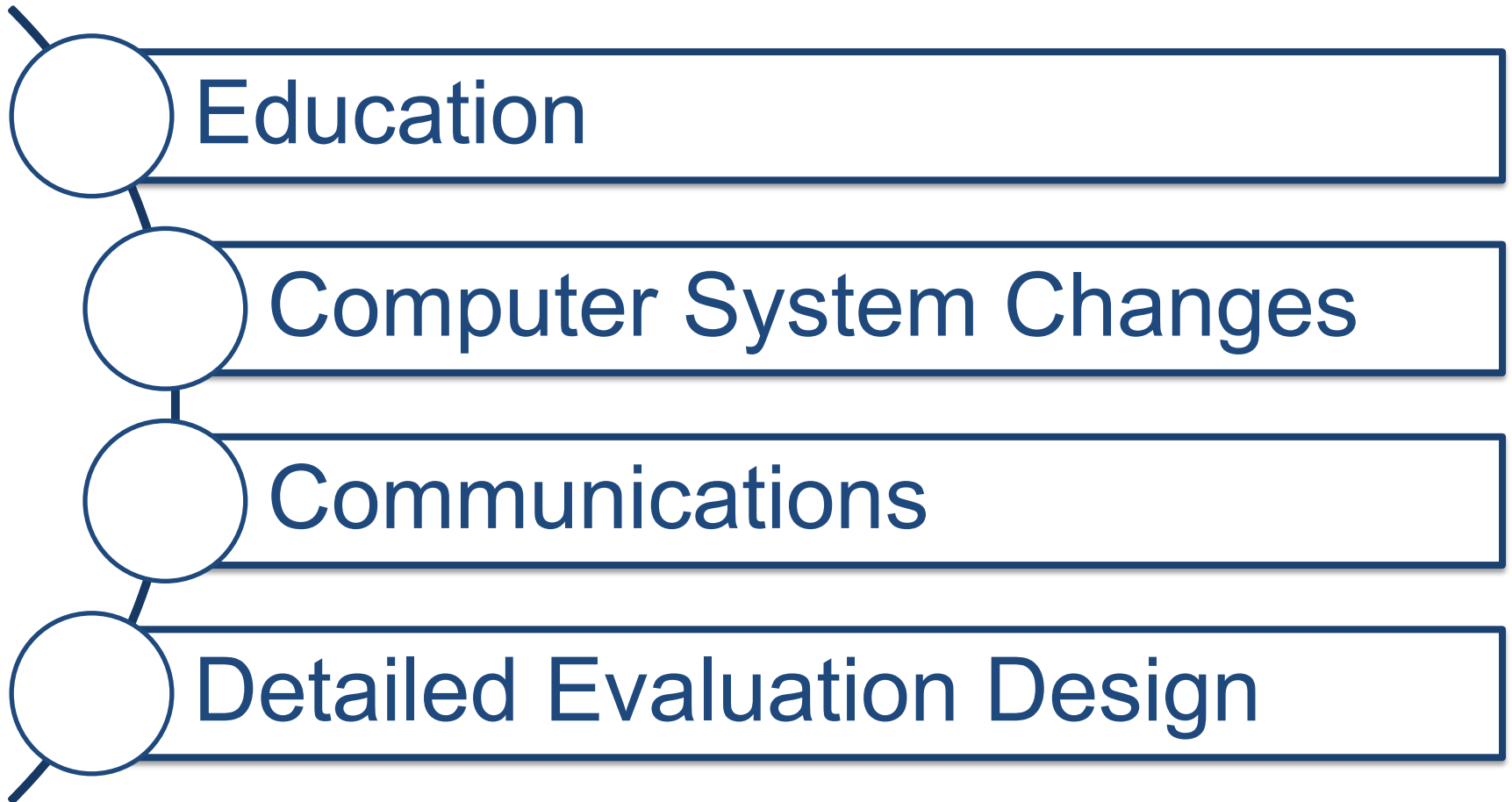
## The Passage of Legislation

The **main steps** in the process of making a law are:

### Developing a Policy


Any Member of Parliament may initiate a Bill, but actually most are introduced by Ministers of the Government. Most Acts begin as decisions of the political party in Government, and policy may come about after pressure from community groups, the media or public opinion pointing out particular needs, advice from Government Departments, or even because of court decisions. When the Government is satisfied that laws are needed, the Minister concerned submits the proposal to the Cabinet for approval. Where a Bill is introduced by individual Members of Parliament, be they Government, Opposition or Independent Members, the Bill is known as a Private Members Bill. In practice such Bills have much less chance of getting majority support and thus becoming law.

# Implementation



# Evaluation

## Current Phase

 NSW Bureau of Crime Statistics and Research

NUMBER 148 | AUGUST 2020

CRIME AND JUSTICE STATISTICS  
BUREAU BRIEF

### The impact of the 2018 NSW sentencing reforms on supervised community orders and short-term prison sentences

Neil Donnelly

**AIM**

To measure if the Crimes (Sentencing Procedure) Amendment (Sentencing Options) Act 2017 in NSW: (1) increased the percentage of adult offenders who received a supervised community order, and; (2) decreased the percentage of adult offenders who received a short-term prison sentence.

**METHOD**

Local, District and Supreme Court data was extracted from the Redfending Database (ROD). The pre-reform period included the 12 months before the sentencing reforms commenced on 24 September 2018 and the post-reform period was measured until 31 January 2020. Separate analyses were conducted for cases finalised in the Local Court and the District and Supreme Courts. Multinomial logistic regression was used to examine post- versus pre-reform changes in the percentage of adult offenders who received a supervised community order and changes in the percentage who received a short-term prison sentence, controlling for other relevant factors.

**RESULTS**

In the Local Court, the percentage of adult offenders who received a supervised community order significantly increased from 14.6% to 22.0% after the sentencing reforms commenced. The percentage who received a short-term prison sentence of 12 months or less significantly declined from 5.2% to 4.4%. Among DV offenders in the Local Court, the percentage who received a supervised community order significantly increased from 27.4% to 43.6%, while the percentage who received a short-term prison sentence significantly declined from 8.3% to 6.7%. Among Aboriginal offenders in the Local Court, the percentage who received a supervised community order significantly increased from 25.4% to 36.7%, while the percentage who received a short-term prison sentence significantly declined from 12.9% to 10.3%. In the District and Supreme Courts, the percentage of adult offenders who received a supervised community order significantly increased from 27.9% to 37.5%. The percentage who received a short-term prison sentence of 36 months or less significantly declined from 27.3% to 22.8%.


**CONCLUSION**


The sentencing reforms have resulted in a substantial increase in the number of supervised orders imposed for adult offenders and a small decrease in short-term prison sentences.

**KEYWORDS**

sentencing supervised community orders prison domestic violence  
multinomial logistic regression

Suggested citation: Donnelly, N. (2020). The impact of the 2018 NSW sentencing reforms on supervised community orders and short-term prison sentences (Bureau Brief No. 148). Sydney: NSW Bureau of Crime Statistics and Research.

 NSW Bureau of Crime Statistics and Research

 Judicial Commission  
of New South Wales

This bulletin has been  
independently peer reviewed.

CRIME AND JUSTICE BULLETIN

NUMBER 230 | AUGUST 2020

## New South Wales sentencing reforms: results from a survey of judicial officers

Elizabeth Moore<sup>a</sup>, Suzanne Poynton<sup>a</sup>, Pierrette Mizzi<sup>b</sup> and Una Doyle<sup>b</sup>  
<sup>a</sup> NSW Bureau of Crime Statistics and Research <sup>b</sup> Judicial Commission of NSW

**AIM**

This study aims to assess whether, from the perspective of the judiciary, the New South Wales (NSW) sentencing reforms, commencing in September 2018, are operating as intended and to identify any impediments to implementation.

**METHOD**

Data were sourced from an online survey of 93 judicial officers across NSW. The survey was designed to gauge their level of understanding and confidence in the sentencing reforms.

**RESULTS**

Overall, the majority of judicial officers agreed that the sentencing reforms are operating as intended. Seventy-one per cent of judicial officers believed the new penalty regime has increased the opportunity for offenders to serve supervised community-based orders, 57 per cent agreed (and 19% disagreed) that the new community-based options provide more flexibility in sentencing decisions and 47 per cent agreed (and 26% disagreed) that the new penalty options have increased the opportunity for offenders to participate in rehabilitation programs. Nearly 90 per cent of judicial officers reported that the Sentencing Assessment Reports are provided on time and almost two-third agreed these reports provide sufficient information to determine the appropriateness of orders. Judicial officers expressed a number of concerns arising from the reforms including the way in which supervision conditions are implemented in NSW, the deterrent value of community-based orders, certain intensive correction order (ICO) offence exclusions, removing the mandatory community service work condition for ICOs, and a lack of services particularly in rural locations to permit the full range of conditions to be imposed.

**CONCLUSION**

The results suggest that while there is support from the judiciary that the reforms are operating as intended, a number of practical issues remain that may affect the extent to which the community-based sentencing options are utilised.

**KEYWORDS**

sentencing reforms survey judicial officers legislative change



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# Community based sentencing – the case

# The Big Picture





# The Evidence Base

## Effectiveness of prison vs community sentences

- BOCSAR evidence shows that community based sentences are more effective than short prison terms in reducing reoffending
- Appropriate supervision can be effective in reducing reoffending
- Community safety is therefore consistent with increasing community based sentences

# The Evidence Base

## Barriers to getting sentences

- Community based sentences were harder to get for vulnerable people
- These barriers are particularly problematic for Aboriginal people who disproportionately get short prison sentences, and are disproportionately represented on other measures of vulnerability.
- The mandatory work component is a problem because people with mental health or drug issue cannot be given work.

# The Detailed Picture

New Community Based Sentences

New Intensive Corrections Order

More flexibility and more targeted supervision

## Strengthened orders

Intensive Correction Order (ICO)

Community Correction Order (CCO)

Conditional Release Order (CRO)

## Replaces

Home detention orders  
Suspended sentences  
Old Intensive Correction Orders

Community service orders  
Good behaviour bonds

Non-conviction bonds

# Evaluation

The story so far

Reduction  
in short  
prison  
sentences

Reduction  
in the  
prison  
population

Increasing  
Supervision  
Rates

Effects for  
aboriginal  
people

Judicial  
Officers  
views

# What's next?

Further evaluation in November

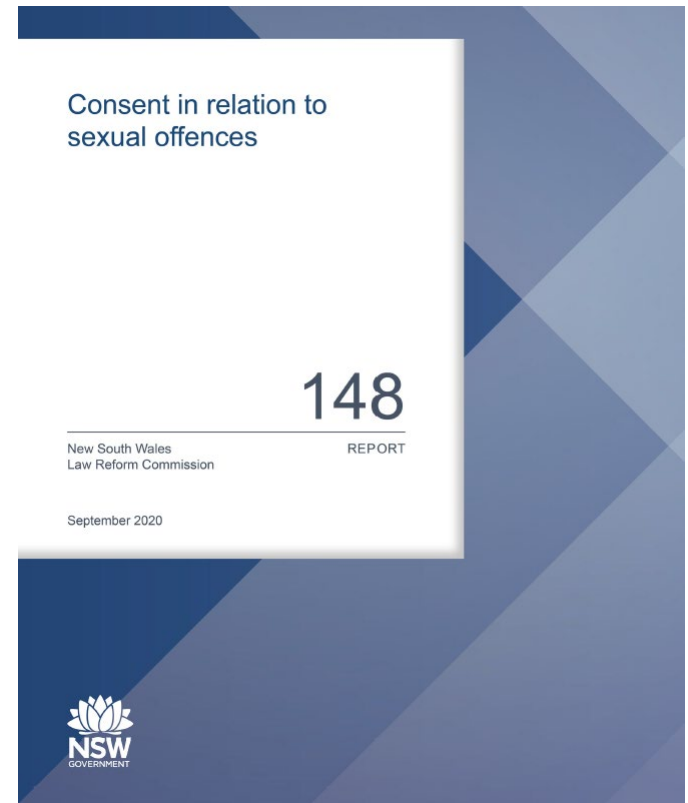
**Have the reforms reduced  
reoffending?**



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# Consent

# LRC Report



# The Big Picture

Rising rates of sexual assault reports

Poor experience for victim survivors

Under reporting, high drop out

Very technical law

Changing community views



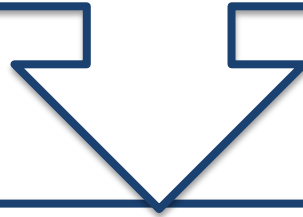
# The Recommendations

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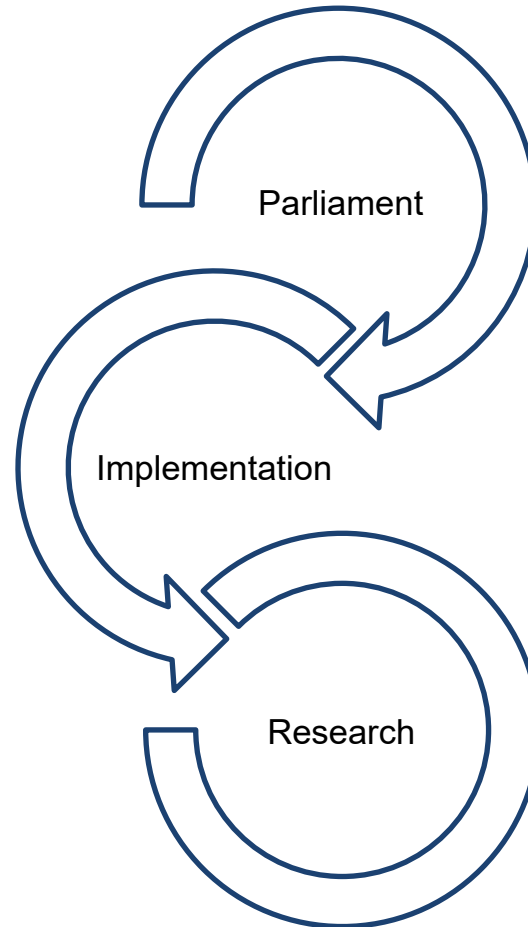
# Government Announcement

Accept the Recommendations



But go further

# What's Next?





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# Questions