

**Victims of Crime - working together to improve
services**

Conference Proceedings

Edited by

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About the

Victim Support Service Incorporated

The Victim Support Service is a non-government non-profit organisation in South Australia, which provides a comprehensive range of services for people who have suffered as a result of a criminal offence. This includes the direct victims, their families and friends and the wider community.

Services include:

- ⇒ Professional counselling, advocacy and support
- ⇒ Information about victims' rights and criminal injuries compensation claims
- ⇒ Group for women whose children have been sexually abused
- ⇒ Women's support group
- ⇒ Armed hold-up support group
- ⇒ Court preparation programmes for adults and children who have to appear in court as witnesses
- ⇒ Court Companion Service, providing support and information for victims and witnesses for the prosecution
- ⇒ Armed hold-up awareness seminars for groups of employees in cash-handling organisations
- ⇒ Training seminars for professionals who have contact with victims of crime
- ⇒ Advocacy for reform to the criminal justice system
- ⇒ Talks to community groups

About the

Adelaide Institute of TAFE

The Department of Justice Studies, Adelaide Institute of TAFE is the largest provider of justice and legal education in South Australia. Courses are offered in the areas of private security and investigation, justice administration and policing, and range from Certificate II to Advanced Diploma level. Students enrolled in these courses come from a range of justice agencies including South Australia Police and Courts Administration Authority, private security and investigation agencies and the general public.

Adelaide Institute also provides training to overseas justice and legal organizations in the areas of policing methods, court administration and parliamentary systems. Countries in which Adelaide Institute has provided justice and legal training include Samoa, Tonga, Fiji, Papua New Guinea, Kiribati and Vietnam. Adelaide Institute actively supports community education in relation to justice administration through its extensive sponsorship of the Institute of Justice Studies and The Justice Network.

About the

South Australian Institute of Justice Studies

The South Australian Institute of Justice Studies has been created by joint venture between the Adelaide Institute of TAFE, the University of South Australia and the former South Australian Justice Administration Foundation.

To establish the Institute, the South Australian Justice Administration Foundation changed its name to the South Australian Institute of Justice Studies in February 1998.

The aims of the Institute include:

- ⇒ to provide education and training programs in justice administration;
- ⇒ to promote and conduct research in justice administration;
- ⇒ to facilitate practitioner access to research in justice administration;
- ⇒ to foster increased community awareness of justice administration issues;
- ⇒ to provide research and consultancy services to justice agencies;
- ⇒ to develop publications relating to justice administration;
- ⇒ to promote South Australian justice administration education, training and research in the international arena.

About the

Australasian Society of Victimology

The Australasian Society of Victimology (ASV) was established in 1988. It is a non-profit, community organisation dedicated to furthering the interests of victims, in particular victims of crime, through research, training and education. The ASV is affiliated with the World Society of Victimology which, in turn, is formally affiliated with the United Nations as a non-government organisation.

The ASV is not a government organisation and receives no regular grant from government, although funding support has been granted by government for several ASV ventures including the initial issue of the Journal of the Australasian Society of Victimology, the development of educational materials for the first victimology course at the Adelaide Institute of TAFE, and the convening of the 8th International Symposium on Victimology.

The ASV pursues its objectives in various ways including:

- ⇒ by arranging lectures by prominent academics and theoreticians in victimology, criminology and related areas;
- ⇒ by convening seminars of practitioners in the fields of victim services and victim counselling;

by producing the journal and occasional publications.

Preface

The Victim Support Service (formerly the Victims of Crime Service) was established in South Australia over twenty years ago as a self-help group. It has evolved into a lead organisation for providing victims of crime with a range of professional counselling and support services. It plays a major part in the promotion and development of victim oriented initiatives primarily within the criminal justice system.

In May 2000 the Victim Support Service convened in Adelaide a conference entitled 'Victims of Crime: Working Together to Improve Services'. The conference had six main themes—

- the changing nature of crime and strategies to help victims;
- the effects of crime on front line service providers;
- the introduction of diversionary programs within the criminal justice system and their impact on victims;
- the identification of gaps in service delivery;
- strategies to minimise victimisation; and
- developments associated with the on-going review of victims' services.

The conference aimed to increase the knowledge and understanding of individuals working directly or indirectly with victims of crime. A mixture of keynote addresses and workshops advanced this aim. A 'market-place' in which information was displayed to promote organisations, services and programs also helped delegates.

The following text includes abstracts, keynote papers, workshop reports and rapporteurs' reports. It is a comprehensive record of the conference due to those who contributed.

Thanks are extended to the conference organisers, in particular John Cobb of the Victim Support Service. The detail in this text is testament to their endeavours to ensure that delegates had a reasonable opportunity to listen to noted people in the victimological field and, importantly, to engage one another through a series of workshops that dealt with the practical realities of working with and for victims of crime.

It would be amiss not to acknowledge the time and effort given by Katrina Ingram and Rona Thomas of the Justice Strategy Unit, Attorney-General's Department who were variously involved with the production of this text, and Josslyn Bateman from CALS, Adelaide Institute of TAFE who designed the cover.

This text would not have been possible without the support of the South Australian Institute of Justice Studies and the Adelaide Institute of TAFE. Thanks are extended to these institutions and the other conference sponsors.

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Introduction

Michael O'Connell

This collection of abstracts, papers and reports is about victimology as well as victims of crime. It presents a comprehensive record of the proceedings of a conference on working together to improve services for victims of crime that was held in Adelaide, South Australia, in May 2000.

Victimology has been defined as the scientific study of victims and victimisation. It has been described as a field of study under the auspices of criminology and as a unique discipline. The subject matter of victimology is somewhat blurred. Elias (1986), for example, argues for a global victimology, whereas Fattah (1991) narrows the scope of victimology to criminal victimisation. Similarly, the concept of victimisation is a "rather complex one" (Fattah 1991).

A common theme, however, underpins debate on the scope of victimology and the meaning of victimisation. This is aptly stated by Kirchhoff (1993, p37),

"Regardless of where one stays, victimologists in general would insist that there is too much suffering in the world, too much suffering from man-made causes. ... the task of understanding and reducing this suffering by man through man is justification enough to keep the field alive."

Friday (1993) suggests that progress in 'the field' is largely dependent on those who work within it striking a balance between the theory and the practice. This is precisely what the conference organisers tried to achieve; indeed, this is implicit in the conference title, working together to improve services.

It is not surprising that an array of views on a considerable number of issues is canvassed in this collection. The depth and breadth of the material shows that there is a real interest in victims of crime themselves and in ensuring that these victims' needs are met.

The Attorney-General for South Australia, Trevor Griffin, opened the conference. In his paper, the first in this collection, the Attorney-General acknowledges the conference themes but argues that "practical, positive and appropriately targeted outcomes for victims" are what count. Professor Frieberg, whose paper appears later in this collection, also refers to the need to ensure effective outcomes for victims.

The Attorney-General reflects on the Government's role in providing and fostering support and services for victims, and presents several examples. He asserts that prevention of victimisation is important. He also takes the opportunity to launch a new information for victims of crime booklet. The booklet, he notes, is a practical outcome of consultation with people who work with victims and victims themselves.

The Chief Justice for South Australia, John Doyle, followed. He points out in his paper that it is only in the last thirty years that victims' rights and victims' interests have gained recognition. The advances, however, have over those years been quite significant. He proffers, "In a rapidly changing society it is a bold and confident person who claims to be able to predict with accuracy the state of affairs in even five years time". At the request of the conference organisers, however, he takes up the challenge.

He suggests that a fundamental question, which remains unresolved, is "Who can legitimately claim to be a victim of crime?" The answer requires broad consideration of the implications. Who is determined a victim can, he says, "make legitimate demands upon society." He concedes that the answer may differ depending on the situation. The definition for the purpose of a victim impact statement (see ss 3, 7, 7A *Criminal Law (Sentencing) Act* 1988) might differ from the definition under, for example, the *Criminal Injuries Compensation Act* 1978.

Victims' rights are also an important issue. The Declaration of Rights for Victims of Crime (which is quoted in full in Associate Professor Sarre's paper) stipulates a number of principles that are clearly in victims' interests. There is a basic issue of the extent of the obligation that governments, public agencies, private organisations and others have to provide for these rights. The Chief Justice suggests that the reader might consider whether it is appropriate to have a benchmark against which the commitment of resources dedicated to honouring victims' rights can be measured. Of course, the definition of a victim is linked to the debate on who can exercise victims' rights and access victims' services.

Provocatively, the Chief Justice proposes the creation of a Ministry for Victims' Services; somewhat along the lines of a Minister of Education, a Minister for Health, and so on. This, he concludes, is a matter for the Parliament.

The role of victims in the administration of justice, he suggests, raises some contentious issues. He accepts that the Parliament has determined that victims may have input into the sentencing process but sees little "scope for according to a victim of crime a role in the process of the court determining guilt" beyond that of a witness. He does not envisage the State abandoning the principle that it is the State that prosecutes, nor the principle that the burden of proof of a crime rests with the State. He does not foresee in the immediate future that victims will play a greater role in the prosecutorial function. However, he holds firm the belief that prosecutors should consult victims, but this does not oblige prosecutors to act in accordance with a victim's wishes.

Despite his reservations, the Chief Justice maintains that there is scope for procedural changes. For example, a victim could be represented by an advocate in the sentencing process, and that advocate could make submissions on sentence, although he observes that this would be unlikely to improve the sentencing process itself.

He concludes that there will be changes. The focus, however, must be on ensuring a sensible approach “to the understanding of who is a victim, and upon ensuring a coherent approach to the provision of services to victims, and a realistic assessment of the extent to which public resources should be committed to serving victims’ interests”. He predicts that there will be greater emphasis on victims’ rights but maintains that this is unlikely to culminate in fundamental change in the status of a victim in the criminal justice process.

Professor Arie Frieberg covers several similar issues and more. He outlines the evolution of victim services from the “initial stages of recognising the status of the victim and establishing services ... to a more mature stage of understanding their continuing role in the criminal justice system and evaluating the services with a view to their improvement”.

He asks the reader to consider what role criminologists can play in advancing victims’ interests. He introduces the term ‘victimogogics’ - the explanation warrants exploration - which was suggested by Dutch victimologist Jan van Dijk (1992).

Professor Frieberg elaborates on the five phases of victim services identified in a United States’ Department of Justice report on victims’ rights and victim services. These phases are: emergency-aid or on-scene crisis intervention; investigation; prosecution; sentencing; and post disposition. Frieberg’s commentary shows the “universe of issues” that could be subject to further study.

Consistent with the main conference theme of working together, he suggests that academics can help victims’ services. They can develop paradigms in the field; and provide an intellectual framework within which victims’ services can operate, evolve and be understood. Understandably, given Professor Frieberg’s academic position, he argues that universities can contribute in a number of ways to improving services for victims. His paper canvasses four ways: identifying the field of victim services; developing and providing an information and knowledge base; providing training and education to people who work in the victim services field; and monitoring and evaluating services to ensure effective outcomes for victims. Professor Frieberg draws on the experience of the University of Melbourne’s Criminology faculty to demonstrate his points. Professor Alexander McFarlane (whose paper is in this collection) also identifies what academics might do to improve the information and knowledge base, although his paper primarily deals with the ways in which people who work with victims can be adversely effected by direct victimisation or learning about victims’ experience.

Rapporteurs’ reports on a panel debate that explored restitution, retribution and restoration follows Professor Frieberg’s paper. The panel was comprised of Gabby Brown, a defence barrister; Jo Carlisle, a victim of crime; Assistant Commissioner of Police, Paul White; the Honourable Justice Edward Mullighan, Supreme Court of South Australia; John Paget, Chief Executive for Correctional Services; and the Director of Public Prosecutions, Paul Rofe.

It is perhaps worth noting that so-called primitive justice systems attached more importance on reparation than on penalties as understood today. There has, as demonstrated in the rapporteurs' reports and other reports in this collection, been a revival in interest in the notion of reparation. Victims have, for instance, indicated that they would get greater satisfaction if offenders compensated them for their losses. Compensation, of course, is not the only need that victims have as shown in the next section.

Another series of reports on workshops on practical initiatives to reduce the effects of victimisation follows. These workshops cover:

- the role of volunteers in preventing victimisation (for example, neighbourhood watch);
- the role of Correctional Services (for example, maintaining the victims' register and presenting the victim awareness program to offenders);
- trauma counselling (which examines a model for assisting people who are traumatised);
- self-help groups (for example, the Homicide Victims Support Group);
- police services (such as the Crime Reduction Section and the Victims of Crime Branch);
- restorative justice (including victim involvement in offenders' case management and family conferencing); and
- legal processes, particularly criminal injuries compensation.

The next papers - one by the Chief Magistrate, Alan Moss and the other by Associate Professor Rick Sarre - report on diversionary programs in the criminal justice system and their effects on victims. Leigh Garret, Chief Executive of Offenders Aid and Rehabilitation Services also spoke on diversionary programs but his paper was not available for publication.

The Chief Magistrate explains the operation of four diversionary courts operating in the Magistrates Court in South Australia. These courts - the Mental Impairment Diversion Court, the Family Violence Court, the Drug Court, and the Special Interest (Nunga) Court - are, he says the products of greater recognition of the deficiencies in the criminal justice system. He claims that justice must be pro-active; that punishment must be combined with help; that victims and the community must be involved in the administration of justice; that courts should be gateways to treatment; and that the court process must be transparent to victims and the community. He then outlines the operation of each diversionary court, which leads him to conclude that the Mental Impairment Diversion Court is really the only true diversionary court. The Family Violence Court has some diversionary elements, but the Drug Court and the 'Nunga' Court tend to operate within the existing criminal justice framework. He states that he would prefer that the four courts be looked upon as "outcome courts". Each court is designed to provide better outcomes for victims and offenders. The interests of both parties, he adds, can better be accommodated in these 'new' courts.

Associate Professor Rick Sarre broaches the history of the South Australian Declaration of Rights for Victims of Crime. He challenges the reader by asking, "Have victims reason to feel that these rights have been compromised,

or potentially compromised, by the newly emerging diversionary practices and justice initiatives...?" Professor Sarre then draws on a literature review and his observations to present a somewhat more academic perspective on the operation of the diversionary courts mentioned by the Chief Magistrate and other diversionary schemes. The reader who reads both papers is treated to a practical example of Professor Frieberg's contention that academics and people who work with victims can together gain a fuller information base.

Professor Sarre closes his paper by highlighting that restorative practices afford some common ground for victims and offenders. With reference to Laster and Erez, Sarre insists that there be sound, rigorous evaluations of diversionary programs or practices, including the courts described by Alan Moss. Likewise, Professor Frieberg places importance on evaluations, while Michael O'Connell (later in this collection) presents an overview, by way of example, on the Review on Victims of Crime, which has recently been completed in South Australia.

In the absence of Leigh Garrett's paper, an abstract and a rapporteur's report completes the collection on diversionary programs and their effects on victims.

The next paper, which is by Professor Alexander McFarlane, examines the traumatic effects of crime on people who work with victims of crime. These people - front line service providers - are, says McFarlane, adversely affected in two ways: direct victimisation and / or indirect victimisation. Much of his paper deals with the latter, that is, the indirect effects resulting from listening to and otherwise working with people, such as victims of crime, who have been traumatised.

Professor McFarlane mentions a number of professionals who in the course of their employment deal with victims and focuses on their various responses. He opens with the contention that "the psychological process of denial is what allows many people to carry out their professional roles, whether they be police officers, doctors, or lawyers". Professionals adapt in a variety of ways to their experiences of working with traumatised people. He identifies withdrawal and avoidance as common reactions, which can be manifest in different ways such as a hardening of personal attitudes.

He warns that in spite of our knowledge on the traumatic effects of crime on front line service providers, misrepresentation of the world and how these people cope with traumatic events leads the public to wrong impressions about the difficulties and complexities experienced by service providers and the resultant harm. McFarlane poses several challenges. One is to consider "how people who are sane and integrated can truly deal with the horror of dealing with horrendous crime scenes or accidents". Another is to determine how "reality can be embraced and identified in organisations and for individuals in front line services without them becoming paralysed by the enormity of human suffering which they have to confront".

Over time people, he contends, often become victims of the world they work in. Some front line workers, for instance, become so drawn into the day to day horror they encounter that they begin to identify with the victims. Some people might resort to "avoidance and denial as a way of dealing with their sense of vulnerability". Other people might distance themselves, even withdraw. Interestingly, Professor McFarlane cites the case of a cross-examining barrister, who denies the suffering of the victim of crime through his or her insinuations and is insensitive to the victim's needs, as another style of adaptation or psychological defence.

Before concluding his paper, McFarlane details some of the mental health consequences of traumatic exposure and the social sequestration of victims. The consequences include distress, adjustment disorders, post traumatic stress disorder, substance abuse, risk taking behaviours and suicide. He argues that the inequity between supply and demand of services, compounded by rationalisation of services and the unintended consequences of budget cuts, also adversely effect front line service providers.

Some of the reports on the workshops that followed Professor McFarlane's presentation build on themes in his paper, while other reports cover other aspects under the mantle of 'healthy workers and healthy organisations - what can we do?' Another series of reports (with abstracts) thereafter canvasses practical initiatives to reduce the effects of victimisation such as bullying, child abuse, elder abuse, domestic violence, sexual assault, and burglary.

Michael O'Connell's paper, which is next, presents the first findings of the Review on Victims of Crime in South Australia. O'Connell begins with a summary on the legal and policy initiatives taken in South Australia since the late 1960s. He then raises a number of issues on victims' rights; in particular whether or not victims' rights should be enshrined in legislation. He points out that many victims' rights are already enacted in law in this State. Moreover that simply enshrining more victims' rights in legislation is unlikely to instil the attitudinal and behavioural change desired by many of those consulted during the Review. The Review recommends against enshrining victims' rights in legislation and instead promotes a managerial approach to encourage 'victim friendly bureaucracies' and victim friendly practitioners in justice and human services.

O'Connell claims the reviewers put together a series of recommendations to build on the public sector reform underway in South Australia. Consistent with the earlier comment of the Attorney-General, O'Connell maintains that the reviewers "wanted practical responses, to practical problems". New and better ways to communicate with victims, and improved services for victims through greater collaboration as well as new services in country areas are among the responses the Review recommends.

The final section of his paper deals with the literature, the law and case law on victim impact statements. O'Connell states the reviewers' conclusions, which

tend to focus on procedural issues. Proceduralists have been criticised for undermining victim reform, especially victim impact statements. However, the reviewers, O'Connell's paper suggests, hold that victim impact statements are potentially relevant to sentencing, and complement court precedent. That there was overwhelming support for the use of victim impact statements, even among the judiciary consulted, will please many victims and their advocates.

On victim advocacy, Robyn Holder, whose paper follows O'Connell's, observes that victim advocacy has played a lead in developments in both generic and specialist victim support in Australia. She implores politicians, legal practitioners and others to re-visit some of the assumptions they make about victims, which result in negative connotations such as the 'vengeful victim'. She also draws out some common themes that continue to service providers. These themes include access and equity; implementation; and professionalisation. She notes that some aspects of victim support have been caught up in the law and order debate. Holder asks the reader to consider what the future holds for victim support. She poses some possibilities. Restorative justice might not be the panacea some commentators suggest. Communal justice as an explicit and strategic intervention shows promise. Likewise, parallel justice - a concept coined by Susan Herman (1999), Director of the United States' National Centre for Victims of Crime - offers another opportunity to better respond to the needs of victims of crime and as well hold individual offenders to account.

Holder ends on a controversial issue. She encourages victim support providers and others to think what victim support might look like if all the money presently spent on criminal injuries compensation was held in trust while we all went back to the drawing board to see what could be done with that money to meet the unmet needs of all victims of crime.

It is against this backdrop that the next workshops took place. The reports highlight the main issues pertaining to: police, prosecutions, courts administrators, the judiciary, corrections, youth detention, and offenders' aid; education and children's services; Aboriginal and cultural groups; health and welfare organisations; and victim counselling services.

This collection of abstracts, papers and reports ends with three papers. Mark Israel distils several themes that carried over during the conference in his rapporteur's report. He notes, for instance, that the task of providing an intellectual framework for victim services is important to academics and workers in victim support. Furthermore, he asserts that the conference was not a good one for retributionists, but rather a forum in which there was a clear interest in restorative justice. Israel leaves the reader with the impression that there is still much to be done; that there are many issues in the victimological field that the conference did not even begin to grapple with.

Michael Dawson and John Cobb offer the reader by way of an after word their thoughts on the conference and the key points to come out of it. They also

acknowledge the contribution of the sponsors and conference organisers and workers, together fulfilled the "working together" conference theme.

The final paper, which was not presented at the conference, is by Grant Devilly. He presents an interesting and well researched paper on incident recovery and mental health issues of victims of crime. Drawing on the scientific literature on post-traumatic stress disorder and its treatment, Devilly forges a case for speciality training in incident recovery for victim service providers. He builds on several comments by Professor Frieberg regarding the role of academics in helping 'victim services' to devise treatment models, develop techniques such as advocacy, foster a network grounded on referral and assistance, and build and maintain a sound knowledge base.

This text leaves the reader with no doubt that over the last few decades tremendous steps have been taken to improve services for victims of crime, but more needs to be done. In the early years, victim advocates used their insights to inform policy and practice, today there is greater reliance on input from researchers. The melding of these two sources of knowledge should allow the debate on contentious issues such monetary compensation versus practical assistance (which has been a paramount concern in several Australian jurisdictions) to be more comprehensive. Across Australia there are prime examples of researchers working with victim advocates to promote and improve victim services. The cross-fertilisation of theory, policy and practice in victimology ought therefore be seen as generally positive, albeit that on occasions it makes for lively debates.

The diversity of issues canvassed in the following collection might be somewhat daunting to the reader, but the issues that emerge do warrant further consideration. There is, for instance, clearly ample scope for co-operation and collaboration between government agencies and non-government organisations. Moreover, the challenges posed show that there is an acute need for people to work together to improve services for victims of crime.

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Opening Address:

**The Hon K Trevor Griffin, MLC, Attorney General,
Minister for Justice, Minister for Consumer Affairs**

Opening Address

The Hon K Trevor Griffin, MLC

Chief Justice John Doyle, Chief Magistrate, Mr Alan Moss, Professor Arie Freiberg, Mr Russell Jamison, President of the Victim Support Service Inc ladies and gentlemen

The theme of this conference is based on building an understanding of the practical needs of victims and services required to give them an adequate level of support. While the theory or philosophy is important, in the end it is the practical outcomes for victims and relatives that count. As Attorney General I always want to see practical, positive and appropriately targeted outcomes for victims.

I am proud that our State Government and non-government sectors have been at the forefront of victims' rights and services for the last 20 years. Over those years the Victim Support Service, the host for this conference, has led the way and has developed into one of this State's leading non-government organisations. I congratulate Victim Support Service for all that its members have achieved and for making this conference possible. The Executive Director Michael Dawson and the conference organiser John Cobb must take a lot of credit for this conference.

The Government is very pleased to play its part in supporting the Victim Support Service each year with funding and in other ways, and to work to ensure its agencies are sensitive to the needs of victims.

Agencies across Government, especially in the Justice Portfolio, are keenly aware of the importance the Government places on providing support to victims and also on developing ways, with the wider community, by which we can prevent victimisation in the first place.

Better facilities for victims in the Courts, more information about the process and support through the criminal justice system process (such as the Director of Public Prosecution's Witness Assistance Officers and Victim Support Service Court Companions), supportive Police Victim Services, Victim Impact Statements in the sentencing process and many others all reflect that emphasis.

It is of critical importance that not only is there support for victims but also that strategies to prevent people from becoming victims are pursued. Through the Crime Prevention Unit of my Attorney-General's Department the Government has put in place a range of crime prevention strategies which, involve local government, SA Police, service providers and community groups. Crime reduction strategies of police are also important.

Domestic violence prevention, rape prevention among young people, breaking and entry to the home, graffiti, shop theft and motor vehicle crimes are among the many offences targeted in crime prevention.

Even the Drug Court trial we recently established, which at first view may not appear to relate to the welfare of victims, on closer examination can be seen to have, potentially, quite significant benefits for victims and potential victims. It aims to break the cycle of drug taking and offending by intervening with treatment and support to get the offenders who come before the Court off drugs and away from the need to commit crimes to support their drug taking. By advancing these programs I have been mindful of both a direct and indirect effect on victims, and the objective of preventing repeat victimisation.

At a meeting with Victims Support Australasia on Tuesday, Victim Impact Statements were a hot topic. South Australia is a national leader in this area, making greater use of Victim Impact Statements than perhaps any other jurisdiction. Last year victims were for the first time able to present their statements orally to the Court. Since the change, approximately 50% of victims themselves choose to read their own statement to the Court. The rest have it read out by the Judge's Associate or, in some cases, by a police officer from the Major Crime Unit who may be close to the case.

The Director of Public Prosecution's office informs me that the system is working extremely well. An early concern was that victims might not accurately read the prepared statement, that they might take the opportunity to direct inadmissible comments at the accused. This has not, however, eventuated; victims have shown great responsibility when reading their Statements. Our Victims of Crime Review identified a number of reasons why victims found this a useful exercise - to see justice done, to ensure the offender sees the impact of his or her crime, it was an important civic duty, were some reasons. Perhaps surprisingly, only a very few wanted to influence the sentence.

According to the DPP the statements have been extremely effective in showing the impact of the offence to the Judge and the accused is made more aware of the consequences of his or her actions.

Last year I established a Ministerial Advisory Committee on Victims of Crime. Its role is to identify issues pertaining to crime, victim's rights, needs and services and provide advice to me as Attorney General. It comprises Victim Support Service and senior executive personnel from the Law Society and Government - from Police, Corrections, the Director of Public Prosecutions, the Department of Education, Training and Employment, the Office of Families and Children, Aboriginal Affairs, the Cabinet Office and Courts. The Committee facilitates cooperation between government agencies and those non- government agencies who work with victims of crime.

Over recent months it has been working to develop a new booklet that will provide information to victims on the many issues that they face.

This booklet, "Information for Victims of Crime", has literally just arrived from the printers and copies will be made available to each of you this morning. It contains a great deal of information of benefit to victims and I was particularly keen to see it published as a first step to addressing issues raised by victims and service providers during the Government's recent review of Victims of Crime. It replaces a previous publication and provides the most up to date and relevant information. It will be more widely available than its predecessor and this will create an increased opportunity to gain access to this valuable resource.

One section of the booklet of particular importance, for example deals with victims and the media. We know the criminal justice system places victims under a range of stressful and emotionally taxing situations particularly when they are distressed and vulnerable. This booklet helps victims to be prepared for the pressures they may face when they are confronted with situations they have not previously experienced, such as media interviews and questions.

The booklet is well presented, in a simple easy to read style. The text of the publication was reviewed by a range of victims to ensure that material was relevant and covered the needs they identified. Some may possibly suggest that it is too comprehensive. However, the content is a direct result of the consultation process with victims as they identified that the previous book simply did not adequately meet all of their needs.

The recognition of the victim over the last twenty or 50 years has had a profound effect on the way our justice system operates is only one part of meeting our responsibility. This conference aims to discuss all aspects of contact between the justice system and victims. As I said earlier, and you will hear in more detail from Michael O'Connell tomorrow, South Australia has recently conducted a Victims of Crime Review. The findings are being considered by the Government and I can assure you that a central feature of our response will be ensuring practical outcomes from the recommendations we put in place, such as the booklet I am launching today.

The program for this conference is challenging and diverse. Members of the Ministerial Advisory Committee are chairing the final workshops and so I look forward to receiving their feedback and hearing the outcomes of the conference. I again congratulate those who have ensured this valuable conference was able to take place. I am pleased to formally open the 'Victims of Crime: Working together to improve services conference'.

Setting the Scene:

“The Criminal Justice System - Meeting victims’ needs”

**The Honourable Chief Justice John Doyle,
Supreme Court, South Australia**

The Criminal Justice System - Meeting victims' needs

The Hon Chief Justice John Doyle

The conference brochure contains a short introduction written by Michael Dawson, the Executive Director of Victim Support Service Inc. He says that over the last twenty years "we have had considerable impact on the advancement of victims' rights, expansion of services for victims and upon government policy". I agree with that statement.

Until about thirty years ago, the rights and interests of victims of crime were given little recognition. Since then, the change has been steady and significant.

The Parliament of South Australia has legislated to confer rights on victims. The *Criminal Injuries Compensation Act*, and provisions in the *Criminal Law (Sentencing) Act* relating to victim impact statements, are two notable examples.

As well, the various arms of the Executive Government involved in the administration and application of the criminal law have made a real effort to recognise the interests and rights of the victims of the crimes with which they deal. I refer here to the police, to prosecutors, and to correctional services in particular. The courts also have become more attentive to the interests of victims, and quite apart from the changes in the law to which I have referred, have become much more attentive to the fact that for nearly every crime there is a victim, and that that victim has a legitimate interest in the process by which the court deals with that crime.

Governments have come to recognise the needs of victims, and to improve the services available to victims through a number of government agencies. Genuine efforts have been made to meet those needs.

The changes to which I refer involve a mix of legislation and administrative action. Mapping it all would be quite a task. The linking thread through it all is the existence of the victim, and the rights and needs which flow from that status.

A lot has been achieved over the last twenty years or so. There is a lot still to be done. There is no doubt that most governments are willing to do more, and equally there is no doubt that pressure will be applied to them to do more.

The topics to be discussed at this conference give some indication of the variety of ways in which the needs of victims are being met, or may yet be met as a result of ideas and proposals under consideration. The topics at this conference also indicate the increasing understanding of the impact of crime on its victims. They also indicate the very significant potential demand for the provision of services for victims.

In our rapidly changing society it is a bold and confident person who claims to be able to predict with accuracy the state of affairs in even five years' time. Nevertheless, I have been asked to say what I think will be the role of victims in the criminal justice system in the future. I propose to do so not so much by way of making predictions, but by way of identifying issues which I think we will have to address and, hopefully, will address in the not too distant future.

Perhaps the most fundamental issue is that of identifying who is a victim of crime. Answering that question is not entirely an exercise in logic. We ask the question, "Who can legitimately claim to be a victim of a crime?" not out of a purely speculative interest, but because we realise that in answering the question we will identify the person who can make legitimate demands upon society.

In our approach to the rights and interests of victims, we have to have a coherent sense of who is a victim. In saying that I do not mean to suggest that the answer will necessarily be the same in every situation. It is legitimate to decide that the definition of victim might be one thing for the purposes of claims for criminal injuries compensation, and another for the purposes of a claim to be entitled to present a victim impact statement to a court. There might be yet another approach when one is considering the availability of a service such as counselling. But we do need to have an underlying coherent concept of who can legitimately claim to be a victim, to provide a guide to us in making important decisions about the allocation of resources and the recognition of rights.

I do not see this as a burning issue, but it is something to be borne in mind and attended to, particularly by the Executive Government.

Another obvious issue for the future is the issue of the appropriate allocation of public resources to the rights and interests of victims. We all accept the obligation of government to provide, for example, a basic free education system, a basic free health system, and a system of courts. Thirty years ago there was a fairly clear and settled understanding of the obligation of government in these areas. Things are not so settled now. Changes are occurring. But in all these important areas, there is a basic issue of the extent of the obligation of the government to provide a particular benefit or service. It seems to me that equally in the case of victims, there is a fundamental issue of the extent of the obligation of society, through the government, to provide rights to and services for victims.

As things stand, I do not think there is any reason to fear an excessive allocation of resources. The problem is at the other end of the extreme. But we do need to face up to the basic issue of the extent of the obligation of society to victims of crime. We need to have an understanding of how far short of meeting that obligation we are. There will always be competition for public resources for various ends, and probably never enough public resources to satisfy all the demands upon them. But it is appropriate to have a

benchmark against which the existing commitment of resources can be measured. I see that as an important issue for the future.

Another important issue is the scope of the rights which should be accorded to victims, and the range of services that should be available to them in one way or another. Issues like this are already addressed through various statements and charters of victims' rights and interests. But this remains an important issue, and is closely linked to the issue with which I have just dealt.

Another issue which we may have to face in the future is that of the appropriate management of the delivery of services to victims. In this State, at present, services are provided by a range of government agencies and non-government bodies, and, of course, by the Victim Support Service. In Australia it is generally accepted that we should have a Minister of Education, a Minister for Agriculture, a Minister for Health and so on. The existence of these ministries reflects a general acceptance that the Executive Government has a major role to play in the area of the ministry, and also reflects the public importance accorded to the relevant area of activity. Should there be a Ministry for Victims' Services or with some similar title? This is not an idle question. Nor is it just a matter of what is the most efficient way of providing services to victims. It is a question of whether the rights and interests of victims are of such significance, and whether the role of the government in this area is of such significance, that there should be a government ministry dealing with the rights and interests of victims. I make no comment about the appropriate answer to the question. I simply identify it as an issue to be considered, because it is a convenient way of provoking discussion about and reflection upon the extent of the commitment that society makes to victims of crime.

The issues to which I have referred are issues to be addressed by Parliament, on behalf of the community, and by the Executive Government.

The role of victims in the administration of justice by the courts is a matter to be considered by the courts, by Parliament and by the Executive Government.

The judiciary needs to give careful consideration to this issue. It should have a properly thought out view. Parliament also must be involved because if new rights are to be conferred, it is likely that legislation will be necessary. The Executive Government needs to be involved in this issue because it will play an important part in formulating policy, in promoting legislation, and in making the necessary resources available if further rights are to be provided to victims in connection with the administration of justice by the courts.

In dealing with this aspect of the matter I put to one side the issue of services that are or should be provided to victims with the system as it now is. I refer to services such as information about the progress of cases, facilities at courts for victims who are required to attend the court and so on. I am talking now of the issue of the part, if any, to be played by the victim in the process by which the courts administer criminal justice.

I see little scope for according to a victim of crime a role in the process of the court determining guilt of an offence. Under our system the State charges the offender, and prosecutes the case. The determination of guilt involves a court controlling the presentation of the prosecution case and of the defence case, and a magistrate, judge, or jury guided by a judge, deciding upon guilt. The process is essentially one of a contest between the State and the accused, with a verdict given by the court.

I fully understand that many immediate victims of crimes, and others affected by the crime, may feel that they are unfairly excluded from this stage of the process, because the law denies them any formal status in it. Their only status is that of a witness, and even then only if their testimony is relevant and admissible.

But the denial of any formal status in the trial itself is a necessary consequence of our approach to the prosecution of crime, and to the proof of guilt.

I do not envisage this changing in my time on the bench. I do not envisage us abandoning the principle that it is the State that prosecutes serious crime, and the principle that the proof of crime involves the State presenting the case against the alleged offender.

Nor do I see room for the victim to play a subsidiary part in the prosecution process as it now is. The fact is that under our system the prosecutor is not there to act for the victim, although the prosecutor must in a number of ways consider the interests of the victim. An important feature of our system of criminal justice is that the prosecutor is expected to prosecute fearlessly, vigorously, but independently. The purpose of a prosecutor is not to secure a conviction if at all possible. The function of the prosecutor is to present the evidence fearlessly and vigorously, but always to remain conscious that the trial must be fair. In this respect, the prosecutor exercises an independent judgment. This is because as a society we value a system in which trials are fair, as distinct from a system in which the prosecutor might attempt to secure a conviction without regard to principles of fairness. To say that is not to say that other approaches are not possible. We could require the prosecutor to secure the approval of the victim to all major steps in the prosecution process. I do not consider that that is possible, as a matter of principle, within our system of criminal justice as we know it. I would oppose such a proposal. But, if society wanted a fundamentally different system, that would be a possibility. Alternatively, we could require the prosecutor to keep the victim fully informed about the course of the prosecution and we could require the prosecutor at least to consult with the victim on all major issues arising at trial. Although to do that would not present the problems that would be presented if the prosecutor had to act as required by the victim, it would bring with it quite significant difficulties. It would substantially increase the burden on the prosecutor, and would, I believe, involve the commitment of significant additional resources to the office of the public prosecutor. It would also make life quite difficult for a prosecutor, because under this concept the prosecutor

would be obliged to consult, but not to act in accordance with the wishes of the victim. That would give rise to obvious tensions and difficulties that would have to be accommodated by a prosecutor. I do not envisage even this change occurring, nor is it one that I would favour. I do believe that the role of the prosecutor is to prosecute crime on behalf of society as a whole, mindful of the interests of the victim, but no more than that.

In short, I do not envisage any fundamental change in the status of the victim in the process of determining guilt of a crime.

I am not so sure about the process of sentencing offenders, once guilt has been determined. As we know, victims are now accorded a significant status in that process. Courts must consider victim impact statements, and in this State they may now be presented in person. Courts are generally more attentive to the interests of victims in the sentencing process.

However, when it comes to the imposition of a sentence, the wishes of a victim are not important under the law as it stands. The judge must impose the appropriate sentence, whether the victim wishes it to be heavier or lighter.

I doubt whether this can change, without fracturing our existing system of sentencing. Requiring a sentencing judge to act on the wishes of a victim would transform our system. Such a change would make the wishes of a victim the dominant consideration in the sentencing process. It would not be consistent with the existing principles upon which our sentencing system operates. Even to require a sentencing judge to take into account the wishes of the victim would cause difficulties. If the wishes of a victim are taken into account, they must play a part in the final decision. It must follow that we would contemplate heavier sentences for an offender when a victim is insistent that the sentence should be, for example, the maximum permitted by law, and lesser sentences for an offender guilty of the same offence but faced with a merciful victim. Our present concept of consistency in sentencing, difficult enough to maintain as it is, would become impossible. So would the emphasis upon rehabilitation. In short, I doubt whether any fundamental change will occur in our system of sentencing.

There may be greater scope for procedural changes. For example, it would be possible to provide for the victim to be entitled to be represented by a victim's advocate in the sentencing process, that advocate having the ability to make submissions and to present material to the sentencing court. I do not consider that this would improve the sentencing process itself. I think it likely that any information that could be presented by a victim's advocate will, under the existing system, be presented by the prosecutor. But it may be that according this greater recognition to a victim would assist victims in coming to terms with the impact of the crime on them, and in their acceptance of the system by which society deals with the crime. This is something that may merit consideration, although once again I wish to make it clear it is not something that I necessarily advocate.

I should say that I also anticipate that in the near future we will see more consideration given to the use of alternatives to the present judicial sentencing model. In particular, I think we may see increasing use of what I will loosely call diversionary processes, under which offenders are diverted from the courts and dealt with by a system which involves the offender and the victim meeting face to face. This usually involves a process in which a sentence is arrived at taking into account the interests and wishes of the victim. Just how far this sort of process can be taken remains to be seen. Processes like this may indeed prove to be a better way of dealing with certain types of crime, and with a good deal of minor crime. This sort of process may be better for society, for the victim and for the offender. The general model of sentencing is sound, but is not necessarily the only model, or the model best suited for all types of crime. But concepts like this raise quite complex issues, that require careful consideration.

In summary, my belief is that over the next five to ten years the focus should be on ensuring a sensible approach to the understanding of who is a victim of crime, and upon ensuring a coherent approach to the provision of services to victims, and a realistic assessment of the extent to which public resources should be committed to serving the interests of victims. I envisage a growing acceptance of the concept of victims' rights in the sense that a victim is entitled, by virtue of that status, to certain facilities and services from the Executive Government. Increasingly it will be understood, as it is I am sure by all at this conference, that the provision of these services is not an act of kindness or charity, but results from the recognition of a right on one side and an obligation on the other. I envisage increasing attention by the courts to the interests of victims. But, for reasons that I have explained, I do not envisage any fundamental change in the status of a victim in the process by which we establish guilt of an offence. I can see the possibility of some significant changes in the process by which we punish certain types of crime, and less serious crime, and a move towards a process in relation to such crimes in which victims play a significant part in determining the outcome.

There is plenty happening in this area, and plenty that will happen. There are some important issues to be faced. I expect change to be gradual, but to be the sort of change that, over a period of time is quite significant. It will be interesting to see where things do stand in five years time.

Keynote Address:

“Working together to improve services for victims of crime”

Arie Frieberg, Professor of Criminology, The University of Melbourne

Abstract

The field of victim services has moved from the initial stages of recognising the status of the victim and establishing services to meet their needs to a more mature stage of understanding their continuing role in the Criminal Justice System and evaluating the services with a view to their improvement. As the field evolves it must consider where it fits into the larger Criminal Justice System and how changes in that system affect its operation.

This paper asks what academic criminology can bring to the fields of services to victims of crime, which is an intensely practical endeavour. It suggests that if there is a contribution that academia can make to the idea of ‘working together’, then it must be to help develop paradigms in the field, to provide an intellectual framework within which victim services can operate, develop, expand, be understood and gain further legitimacy. It argues that universities can contribute to victim services in four major ways: first, by identifying the field of victim services, delineating it as an area of study. Secondly, they can provide an information base for the field in terms of understanding the consequences of crime, the needs of victims and the provision of services. Thirdly, universities and other educational institutions can provide education and training to improve the skills of professionals working in the field: volunteers, referral workers, psychologists, social workers, police, criminal justice professionals and others. Finally, universities can provide an independent monitoring and evaluation service to ensure that victim support services are effective, that is, that they meet the needs of client groups and that their interventions are productive rather than ineffective or even harmful.

Working Together to Improve Services for victims of crime

Arie Freiberg

Introduction

It is not often that a person can say that they have been around long enough to witness the birth of one new discipline in their field, let alone two. Although I cannot say that I was around to see the beginnings of the discipline of criminology (although I am a couple of years older than my own department) the development of victimology as an academic discipline lies within my professional memory, while the field of victim services is still, if I may suggest, in its infancy.

Though there are debates as to whether victimology developed from the discipline of criminology or whether it emerged independently, it is now clear that it is a fully-fledged academic discipline with its own journal, learned societies and academic courses around the world (Rock 1986: 72). The term 'victimology' was coined as recently as 1947 by a Romanian lawyer, Benjamin Mendelsohn and given currency by von Hentig in his book *The Criminal and His Victim* in 1948 (Kirchhoff 1994). The pronoun 'his' in the title certainly gives away its age. In 1973 the first International Symposium of Victimology was held in Jerusalem and one was held here in Adelaide in 1994. In fact Adelaide has played a major role in victimology since its inception and this conference is another indication of the leadership in this field that this state has shown. In 1976 the Journal of Victimology commenced publication and in 1979 the World Society of Victimology was founded. In 1994 my own Department of Criminology in the University of Melbourne commenced teaching victimology as an independent subject.

The founders of victimology took a broad view of its scope: it was to be concerned with all kinds of victims: victims of earthquakes, storms, traffic, technology and war. Some of the early pioneers were victims of the holocaust and studies of survivors of the war were common. However, the idea of victimology as primarily the study of victims of crime slowly became ascendant and now it is probably fair to say that victimology is a subset of criminology. A victimologist, if there is such a creature, can be defined as a person who looks at criminological problems from a victim's perspective (Kirchhoff 1994).

Victimology grew out the women's movement in the 1960s and out of the growing concerns and awareness that the criminal justice system had neglected one vital component of the system: the victim (Maguire 1991; Maguire and Shapland 1997: 212). However, if it were once true that the victim was once the forgotten party in the criminal justice system, this can no longer be said. If anything, the balance may have tilted against offenders.

Victimology's scope is broad: it looks at, among other issues, extent of victimisation, its patterns and nature, the processes of victimisation and reactions to it, types of victims, (primary, secondary and tertiary), the history of victimology, the politics of victims' movement, victim's rights in the criminal justice system, victims impact statements and so on.

The early practical manifestation of governments' concerns with the rights and needs of victims were the state financial compensation schemes which were introduced in New Zealand and Britain in the early 1960s and which rapidly spread elsewhere. Victoria's first *Criminal Injuries Compensation Act* was first introduced in 1972. However, governments were not the only organisations to be concerned about the plight of victims. In one sense, governments, charitable organisations and others have always been concerned with people who have been injured in one way or another. Doctors, hospitals, psychologists, psychiatrists and insurance companies have always dealt with such people in a generic manner. But the identification of victims of crime as a special group is of more recent origin. In the 1960s the issue of female victims of crime, in particular sexual crimes and domestic violence became highly politicised and resulted in the development of rape crisis centres and women's shelters (Rock 1986: 84). In the late sixties and early seventies, voluntary agencies providing support for victims emerged in the United States, England and elsewhere although emphases differed between England and Europe on the one hand, and in the United States on the other (Mawby and Walklate 1994: 111-112; Maguire and Shapland 1997: 212). These offered counselling, advice, assistance in applying for compensation, with insurance and repairs as well as limited forms of crisis intervention. In Britain, the first victims support scheme was established in 1973 as an independent agency. By 1994 there were over 350 schemes dealing with over 600,000 cases. In the United States, there are more than 10,000 programs which provide support to victims of crime (US, Department of Justice 1997). As these organisations grew in number, strength, scope and political influence, the concept of victim assistance as a field separate from, but related to, victimology emerged. It will be my contention in this paper, that the field of victim services is ready to become a new academic sub-discipline.

In a conference entitled *Victims of Crime: Working Together to Improve Services* the question must be asked as to what an academic criminologist can bring to the table. On its face, the field, and this conference, are, and should be intensely practical. Service provision is a central, if not paramount concern. But if there is a contribution that academia can make to the idea of 'working together', then it must be to help develop paradigms in the field, to provide an intellectual framework within which victim services can operate, develop, expand, be understood and gain further legitimacy. In the remainder of this paper I am going to argue that universities can contribute to victim services in four major ways: first, by identifying the field of victim services, delineating it as area of study. Secondly, they can provide an information base for the field in terms of understanding the consequences of crime, the needs of victims and the

provision of services. Thirdly, universities and other educational institutions can provide education and training to improve the skills of professional working in the field: volunteers, referral workers, psychologists, social workers, police, criminal justice professionals and others. Finally, universities can provide an independent monitoring and evaluation service to ensure that victim support services are effective, that is, that they meet the needs of client groups and that their interventions are productive rather than ineffective or even harmful. These, I believe, are not inconsiderable contributions and, by working with the field, can lead to a major advance in its status.

Victim Services: Identifying the field

In 1992, the eminent Dutch criminologist/victimologist Jan van Dijk coined a special name for the area which he described as the study of the support for victims of crime: *victimogics* (Van Dijk 1992: 18). The term has not taken on. Though victimology and victim services cannot claim to be distinguished by an intellectual tradition, special set of analytical methods or common universe of discourse' (Rock 1986: 72) in the same way as the disciplines of philosophy, sociology or history can, like criminology (often called a bastard discipline), they can be seen as being unified by sharing a substantive problem which is approached through a variety of techniques from a range of disciplines (Rock 1986: 72).

Speaking at the Sixth International Symposium of Victimology in 1988, Paul Friday noted a shift in direction in victimological discourse since 1985 towards a greater concern with victim services, not as needs but in terms of forms of treatment (Friday 1992: 2). It was no longer a question of identifying or acknowledging a need or defining a service, but rather how to serve victims better. He argued that what the field needed was a paradigm. A paradigm requires the identification of the subject to be studied, of the questions to be asked, the relevant variables and the provision of a framework to interpret and understand the world which can generate policy questions (Friday 1992: 10).

The first question therefore becomes one of identifying the nature and scope of those services. Possibly the best way of delineating the field is to look at what has been considered so far as amounting to a 'service' for victims. Elias summarised victim services as those which 'emphasise financial support, logistical support and personal treatment' (Elias 1992: 75). In 1997, the United States Department Justice, in a comprehensive report entitled *New Directions from the Field: Victims' Rights and Services for the 21st Century*, stated that in order 'to provide crime victims with dignified and compassionate treatment, sustained financial and emotional support, and enforceable rights, every community should strive to ensure that the following services are available for crime victims', and it then listed the following services in the five major phases of victim services: emergency aid, investigation, prosecution, sentencing and post-disposition. Though tending to the over-inclusive, this list provides an

overview of the universe of issues which studies of victim services have to address. These issues include:

Emergency Aid On-scene crisis intervention; 24-hour crisis hotline; sensitive death notification; information on victims' rights and services; referrals for emergency financial aid; emergency transportation; accompaniment to hospital for rape examination; referrals for emergency shelter; referrals for short- and long-term counselling; local emergency fund to aid victims; assistance with emergency compensation claims; information and assistance on security options; emergency restraining or protection orders; information and assistance on recovery of stolen property; information and assistance on document replacement; child care services; crime scene clean up; interpreter services; counselling and advocacy; crisis intervention services; short-term counselling; long-term counselling; access and referrals to self-help support groups; group counselling; community crisis response; access to counselling during criminal and juvenile justice adjudications; intervention with employers, creditors, and landlords; intervention with public agencies.

Investigation: regular updates on status of investigation; notification of suspect arrest; basic information on the criminal justice system; compensation claim filing and processing assistance; referrals for short- and long-term counselling; interpreter services; protection from intimidation and harassment; notification of pre-trial release of accused; input into bail/bond release decisions.

Prosecution: orientation to the criminal justice system; regular updates on status of case; accompaniment to court; sitness alert/on-call technology 24 hours per day; safe and secure waiting areas; employer intervention services; notification of plea negotiations; victim consultation in plea decisions; assistance in recovery of property held as evidence; information on restitution; restitution routinely requested or an explanation in writing; landlord/creditor intervention; transportation/parking assistance; child care services.

Sentencing: notification of right to submit a victim impact statement; victim impact information in pre-sentence investigation report; victim impact statement-written; victim impact statement-allocation; victim statement of opinion; audio taped or videotaped victim impact statement; notice of sentence.

Post Disposition: information/notification of appeal; collection of restitution; restitution payment as condition of probation or parole; notification of parole hearing; victim impact statement at parole-written; victim impact statement at parole-allocation; audio or videotaped victim impact statement at parole; notification of violation of parole/probation; notification of revocation of parole/probation; notification of application for clemency, pardon, or commutation; notification of escape and capture; notification of custody location; name of probation officer or other supervised community release officer; notice of execution date in death penalty cases; advance notification of release.

To this listing of area of victims services, it is necessary to add some broader issues to provide context and theory. The history of victim services would include the inception and growth of voluntary and government services, the evolution from voluntary to professional services and the relationship between them, the political context, the rise and fall of different kinds of services, the groups of victims serviced and their salience in the political cycle. Thus one could track the various victim issues and their consequences: rape, spouse abuse, elder abuse, domestic violence, child sexual assault and others.

Organisational issues would also be the subject of study. This would encompass studies of service models, methods of service delivery and organisational issues relating to service deliverers such as their staffing patterns, decision-making processes, their role in the community and budgets (Smith and Freinkel 1988: 168). Organisational ethos is also important: whether agencies adopt mental health, medical, social law enforcement or political approaches to assistance (Smith and Freinkel 1988: 177). Each approach will affect the type of staff they employ, their strategies, financing and interactions with government and other services in the community. Studies can also be undertaken into issues of funding victim services: whether they should be financed through revenue, surcharges on fines, literary proceeds of crime, proceeds of crime legislation, wages earned in prison or other sources. Tracing the various legislative provisions dealing with victims and victim services will also provide a fruitful field of research.

The development and role of national co-ordinating bodies such as the National Association of Victim Support Schemes which was established in Britain in 1988 (Maguire 1991: 370) and the National Organization for Victim Assistance (NOVA), the National Coalition Against Sexual Assault and the National Coalition Against Domestic Violence in the United States warrant attention as do the activities of special interest groups such as Parents of Murdered Children, the National Center for Missing and Exploited Children and Mothers Against Drunk Driving.

It is evident that the field of victim services is broad and can provide endless work for academics. This outline is not exhaustive, but it provides a solid foundation for research.

Providing an Information Base

The simple identification of the types of victim assistance is, of course, only a prelude to the more difficult task of collecting information about these areas, both for general informational/descriptive purposes and as a foundation for research. There are a number of areas of research (Maguire 1991: 387). One is the study of the social, psychological, economic and other consequences of being victimised. What are the effects of crime on victims, how intense are they and how long do they last, to name but two. This may involve clinical studies of the consequences of being victimised.

Another is determining the 'needs' for victim services. This may require surveys of victims of crime, surveys of providers of victim assistance as to their views of what victims need and surveys on what actually happens to victims financially or emotionally (Maguire 1991: 392). As Maguire notes, there is a difference between the 'need' for victim services and the effect of a crime on victims. 'Need' can be defined according to an arbitrary standard, an expert's opinion, a subject's own perception or actual take up of services (Maguire 1991: 391). Needs may be culturally based and much will depend on what victims expect. Gauging the 'unmet' need for services is always a challenge. Needs may differ according to the type of offence (serious/trivial; property/violence etc) and the characteristics of the victim (social class, gender, age, prior emotional state, family support, social networks and so on). I note that tomorrow there will be paper on the South Australian Victims of Crime Review, and that it is one of many over the last twenty years in Australia which has surveyed the needs of victims (e.g. United Kingdom 1984; Council of Europe 1985; Victoria 1987; VCCAV 1990, 1994).

Van Dijk has called for a 'research-based victim policy' (van Dijk 1992: 340). He has argued that to date, provisions for victims have lacked a clear theoretical orientation, with the choice of subject and interpretation of findings guided more by ideological preferences than by a set of clear and tested ideas about what work best for particular classes of victims. He writes (van Dijk 1992: 26):

The art of helping crime victims is still largely based upon trial and error. In the absence of a credible victimologic theory, evaluators of professional counselling or social aid often borrow and apply concepts developed in other fields. Examples are concepts like post-traumatic stress syndrome, crisis intervention or coping mechanisms. The experiences of crime victims can undoubtedly be studied fruitfully as a form of 'traumatic stress'. By borrowing concepts from related disciplines, victimologists, however, may lose sight of the unique experience of a criminal victimization.

There is also considerable scope for studies of the factors which may affect the take up of victim services such as the availability of those services, accessibility, availability of information about these services, social and cultural factors, ethnicity, race, language; socio-economic status, support systems and fear of further victimisation (Garrett 1992).

Education and Training

In the absence of a clear and identifiable field of expertise, it is difficult to focus on any single area or institution which can provide comprehensive education and training. As is evident, 'victim services' covers a very wide range of activities.

In the United States, the Office of Victims of Crime has supported training courses for victim service providers at national, regional and state levels in the area of victims' rights and services (US, Department of Justice 1997).

Academic based training was first developed through the National Victim Assistance Academy and first offered in 1995. This involves a consortium of universities including California State University-Fresno, the Medical University of South Carolina, the University of New Haven, and Washburn University.

In some states in the United States, victim advocates are required to meet minimum training standards. These courses may cover legislative guidelines, organisational matters and some counselling. The Department of Justice Report recommended that a national commission be established to develop certification and accreditation standards for victim advocacy and assistance. It noted that for the victim assistance field to become a recognised profession, accreditation and certification standards will eventually be necessary.' Accreditation would recognise a range of skills and experience which are involved in victim assistance and would include pre-service and in-service training and continuing education.

Education of those who come into contact with victims is a broader issue. The need to train and work with police, doctors, nurses, lawyers, psychiatrists, ambulance officers, psychologists, social workers and others has long been recognised (NCVAW 1993).

Tertiary level education in the field of victim services is rare, and here it is necessary for me to put in a plug for a recent development in the Department of Criminology in the University of Melbourne. This digression is warranted, I believe, because it is the first such course, I think, in Australia. Discussions with the Victims Referral and Assistance Agency (VRAS) in Victoria which was established in 1997, revealed that there was a lack of training for both referral workers and for the psychologists who provide the counselling services under the scheme established by the *Victims of Crime Assistance Act 1996* (Vic). VRAS sponsored a number of their employees each year to attend our Victimology subject which is generally offered on an intensive basis in July. This was found to be most useful and a number of our students have also subsequently been employed by VRAS. However, VRAS and the Department believed that further specialised training was needed for psychologists who treated victims of crime. As a consequence, VRAS has agreed to sponsor a position in the University for an initial period of three years to develop a course in victim services.

In preparing for our course in Melbourne, in January 1999 we commissioned a survey of the availability of post graduate counselling courses for professionals dealing with victims of crime which was undertaken by the Health Issues Centre Inc. The survey found that there were few dedicated postgraduate courses which focus specifically on treatment of victims of crime. While there

were many general counselling courses and many organisations which deal with counselling and treatment there were no specific courses in this area. The question was whether there was a significant gap or the needs of victims could be addressed as a component of more generic courses. We decided that the former was the case.

We looked at the situation overseas and found that the California State University, Fresno offered undergraduate and postgraduate courses specifically focussing on counselling (www.csufresno.edu/criminology/victim.html). CSU runs a Summer Institute of four subjects which cover typology and history of family abuse, an introduction to victimology, an overview of community services dealing with victims and an analysis of legislation and specific legal policies regarding victim services. The National Crime Victims Research and Treatment Centre, Medical University of South Carolina (www.musc.edu/cvc/) also offers some courses. The Victim Assistance Program at Washburn University (www.washburn.edu/ce/victim_assist.html) is offered from the Centre on Violence and Victim Studies. This is a multi-disciplinary development program for professionals providing a service to victims of crime. Its aim is to 'promote professional skills, understanding and critical reflection in order to enhance services to victims at the individual, organisational and societal levels'. Its five day intensive course covers concepts of victim assistance, an historical review of victims, ecological perspectives of victimisation, attitudes towards violence and victimisation, impact of stress, trauma response, barriers to services, the justice system and victims, victims of family violence, victims of sexual assault, victims of hate and bias crimes, vicarious traumatisation, victims of criminal death, victim advocacy and public policy.

At Melbourne, the location of the course in a Department of Criminology which has recently developed a strong forensic psychology program, has meant that the course has taken a broader focus, but with a decidedly psychological orientation. At the moment it is comprised of six subjects including *Victimology* (covering the broad range of criminological and sociological issues in victimology), *Assessment and Treatment of Victims* (covering the nature and treatment of Post Traumatic Stress Disorder and normal and pathological responses to crime and other traumatic incidents); Organisational Issues: Victims (covering service delivery methods and quality assurance), *Understanding Criminal Offending Behaviour* (covering individual and sociological theories of crime and offending); *Special Needs Groups* (covering both crime type and demographic type) and subjects involving field placements and research methods and research theses. As the program develops, it will evolve and we do not expect it to look the same in a few years' time.

The study of the psychological consequences of crime is an important and still contentious aspect of victim services studies (Norris, Kaniasty and Thompson 1997: 161). That some crimes will affect some people is not questioned, however much will depend upon the types of crime and the nature of the

victim. Criminal victimisation has been associated with depression, anger, anxiety, fear, self-esteem, loss of trust and other problems. Victims of crime share these consequences with victims of other traumatic events and there is a considerable overlap with the developing field of Post-Traumatic Stress Disorder (Maguire 1991: 388). PTSD was only added as a diagnostic category in the third edition of the American Psychiatric Association's Diagnostic and Statistical Manual in 1980. In 1984 the American Psychological Association Task Force on Victims of Crime and Violence reviewed the state of psychological knowledge on victimisation (US, Department of Justice 1997: Chapter 8).

The treatment of PTSD and crime related trauma is still in its early stages and there is, in my non-professional view, a need for generally trained psychologists who deal with victims of crime to become acquainted with the particular problems faced by persons who suffer psychological problems as a result of criminal victimisation. They need to be acquainted with the different reactions to crime, the differences between short and long term reactions, with the different forms of interventions and their appropriateness and effectiveness, as well as being sensitive to the cultural, social, ethnic and gender issues arising out of being a victim of crime.

The Department of Justice Report identifies a number of emerging mental health issues for victims of crime which can keep an army of psychologists busy for decades. These include issues of repeat victimisation, chronic victimisation, cycles of violence, victimisation by acquaintances, victimisation of children, recovered memory and others. As the Report concludes: all programs must have a research component:

Research is important because it provides new knowledge about the scope of violent crime, the nature of crime's impact on mental health, and the effectiveness of mental health interventions.

In a supplementary paper (see this volume), my colleague Grant Devilly provides more details on some of the psychological aspects of this course.

The victim services initiative is aimed at providing a world class program of teaching, research and service to the community. It is intended not only to enhance the quality of service provision in the state and nationally through the provision of degree programs, but to make available specific subjects to interested parties on an audit basis. Overall, the program aims to provide the public and private sectors in victim services with staff who have the appropriate training, skill and expertise to deal with victims of crime. The placement components of the course will require close interaction between service agencies and the university, with reciprocal benefits to both in terms of training, learning and service provision.

As I said, this extended advertisement is intended not only to draw attention to this initiative, but is an indication of the maturity of the field and the

seriousness with which some parts of academia take the concept of victim services.

Evaluation

All programs require systematic evaluation. Evaluation in criminology can take different forms including effectiveness evaluation (eg reduction of recidivism, reduction in re-arrest rates, reduction in substance abuse, improvements in health and social outcomes, reduction in imprisonment rates of target groups; reduction in supervision requirements), process evaluation (how people perceive of programs, their goals; satisfaction levels) and cost-benefit analyses.

The question of 'what works' is one of the most vexed in criminology if not in all social science. Leading victimologist Ezzat Fattah noted recently that the crucial question of what works to help victims recover from trauma remains without answer. Studies of counselling, he argued, were equivocal, although he noted there were substantial methodological and other issues in measuring effects (Fattah 1997: 268; Davis and Henley 1990). However, this is changing rapidly with more studies of treatment efficacy and evaluation (Deville & Foa, in press).

Some forms of intervention, he suggests, can do more harm than good and can aggravate or perpetuate psychological wounds rather than healing them. He goes so far as to suggest that victim services may have side effect of delaying the natural healing process and prolonging trauma of victimisation, a point backed up by the Cochrane collaboration when evaluating psychological debriefing generally (Fattah 1997; Wessely et al 1997). The relationship between forms of legal response and recovery is also problematic. Fattah asks, for example, whether victims recover better or worse in a retributive system versus a restorative justice system and whether mediation, reconciliation, restitution and compensation have more positive impacts than retributive sentences or even counselling (Fattah 1997)?

The US Department of Justice study recommended that studies should be conducted on the effectiveness of current methods of victim assistance. They stated:

Many experts in the field of victim assistance have expressed concern about the lack of information on what types of services and assistance are most effective in serving crime victims. For example, an evaluation of the effectiveness and impact of different individual or group crisis intervention models should be conducted, including examining components of other trauma interventions such as immediate assistance and peer support programs.

They went on to observe that there is no value in reinventing the wheel, but there is a benefit to replicating successful programs in a new context or with a different target population. In addition, standard evaluation procedures and protocols should be developed for each component of victim services. With such efforts, programs can measure their own success and compare their progress with others in the field.

The force and application of these recommendations is equally applicable in Australia.

Critical Analysis

The final and most difficult element of the academic study of victim services is that which relates to the critical analysis of the field. This is difficult, not because of any conceptual complexities or the methodological arguments, but because it requires the time and ability to reflect and provide independent judgment upon the enterprise as a whole or particular parts of it. It requires an understanding of the relationship of the discipline to others such as victimology; criminology (including crime prevention); justice studies; law, psychology, forensic psychology, management and feminist studies, to name but a few. It also requires an understanding of politics and a willingness to say unpalatable things to those who may not wish to hear them. Ultimately it requires independent sources of funding to ensure that independent and critical judgment is not compromised by fear of financial castration. Finally, it requires venues in which these analyses may be made public: conferences, seminars, journals and educational institutions where students can learn, reflect and criticise the received wisdom so that the cycle of intellectual regeneration can continue.

Where Now?

I have argued that the field of victim services has moved from the initial stages of recognising the victim and establishing services meeting their needs to a more mature stage of understanding their continuing role in the criminal justice system and evaluating the services with a view to their improvement. As the field evolves it must consider where it fits into the larger criminal justice system and how changes in that system affect its operation. For example, how does the growth of restorative justice, mediation and family group conference affect the victim (Maguire and Shapland 1997: 225)? How will changes in the political climate affect organisations and their funding? How will pressures for training and accreditation affect the people currently working to provide assistance to victims?

These and many other questions are being raised at this conference. They are important questions for which I hope I have been able to provide a structure and context. Victims deserve not only the support of dedicated volunteers, professionals and agencies, but also of the wider intellectual community whose efforts may, in the long term, show the way ahead.

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Panel Debate:

“Restitution, Retribution, Restoration - What’s in it for victims?”

Chair:

Mark Israel, Department of Legal Studies, Flinders University

Participants:

- **Gabrielle Brown, Defence Barrister**
- **Jo Carlisle, Crime Victim**
- **Paul White, Assistant Commissioner, South Australia Police**
- **The Honourable Justice Edward Mullighan, Supreme Court of SA**
- **John Paget, Chief Executive Officer, Department for Correctional Services**
- **Paul Rofe, Director of Public Prosecutions**

Panel Debate: Restitution, Retribution, Restoration - What's in it for victims?

Chair - Mark Israel

Participants:

Rapporteur's Report on: Gabby Brown – Defence Barrister

- Emphasis on retribution and incarceration.
- Justice can be better provided by minimising crime and giving more choices to victims.
- Restorative justice aims to rehabilitate, solve problems and provide the possibility for repentance and forgiveness.
- Restorative justice more beneficial to the community and victims eg. child sexual abuse, mental impairment offenders, and drug courts.
- Responsibility of the media to properly report.

Rapporteur's Report on: Jo Carlisle - victim of crime.

- Father murdered by an employee.
- Sense of disempowerment, lack of control and input.
- Insensitivity of the media in reporting the event.
- Living victims excluded from discussions with DPP lawyer.
- Victim Impact Statements hard to write and no reference to them by the judge.
- Family members compensated differently for their criminal injuries.

Rapporteur's Report on: Paul White – SA Police Assistant Commissioner

- Presented statistics.
- The role of Victim Contact Officers.
- The role of child and family investigation unit.
- Described the NDV project being piloted on the South Coast and Port Adelaide.

Rapporteur's Report on: The Hon. Justice Edward Mullighan

- Should we re-assess and challenge our assumptions about the justice system?
- We want to stop the progression from minor to major crime.
- Restoration - we assume punishment is the only method of corrections and that victims do not want to meet the offender.
- Crime has become depersonalised - we assume that punishment deters crime and that bringing the victim and offender together is only good practice if the offender is under 18 years of age.
- Rates of recidivism are high – is it time to think again?
- Should we direct resources differently?
- Should we have healing centres instead of prisons?
- Why don't we assume it is sensible to borrow from the Aboriginal justice system with an emphasis on restoration and forgiveness and non-stigmatising approach?
- Why not have family conferencing to 25 years of age and beyond?
- Should diversionary systems be introduced in a broader range of areas and resources directed to early intervention and prevention?

Rapporteur's Report on: John Paget – Chief Executive Officer for Correctional Services

- Corrections deal with the tail end of the problem with people who have failed to respond to earlier interventions.
- The nature of prisons means that they are full of dysfunctional and damaged people.
- Initiatives and expenditure earlier in the process would arguably represent better value for money.
- Retribution - mandatory sentencing is not on Corrections' agenda.
- People are sent to prison as punishment not for punishment.
- Continual pressure from the media and the devil's auction during elections and violent prison systems.
- Restitution (paying back) – recognises and acknowledges loss in the way we manage people and value in community service programs.
- Restoration - 99% of offenders will return to the community.
- Focus on causes of offending.
- Provide victims with a voice.

Rapporteur's Report on: Paul Rofe – Director of Public Prosecutions

- There is nothing in crime for anyone.
- Justice system must not re-victimise or re-traumatise.
- Victims need information, assistance and opportunities.
- Courts need to hear victims via their victim impact statements.
- All victim impact statements have a profound impact.
- Value of the Witness Assistance Service.
- Improvements in court - facilities and design eg. secure waiting rooms.
- Rights of appeal to maintain standards and correct sentences in the light of public conscience. What is the public conscience?

Interactive Workshops:

**“Practical Initiatives to Reduce the Effects of
Victimisation”**

Interactive Workshops:

Volunteering

Facilitator:

Detective Chief Inspector Bill Prior, Crime Reduction Section, South Australia Police (SAPOL)

Presenters:

- Inspector Alex Zimmerman, Acting State Administrator, Neighbourhood Watch.
- Mr Michael Gibbs, Director, South Australian School of Volunteer Management.

Abstract

Neighbourhood Watch (NHW) was launched in South Australia on May 1st 1985. Since that time it has been the 'flagship' of police-community programs.

The objectives of the NHW program include informing the community about crime related issues and seeking their cooperation in reducing criminal activity. For some years, participation by the community in the NHW program has waned, and in late 1999, South Australia Police (SAPOL) conducted a major review of the program.

One of the recommendations from the review was that a volunteers program be developed in conjunction with NHW. The Crime Reduction Section of SAPOL has been researching similar programs, both nationally and internationally. A report has been prepared and forwarded to the Commissioner for consideration. One of the major issues raised in the report is the effective and efficient management of volunteers. Police officers and NHW volunteers would benefit from basic training in volunteer management. The South Australian School of Volunteer Management provides a range of courses which are of benefit to those organisations which either conduct or are contemplating volunteer programs.

This workshop will look at the issues associated with volunteer management and training as well as the role volunteers can play in creating safer communities.

Rapporteur's Report:

Training for coordinators is the key to keep volunteering running. Have a structure in the workplace so that it flows into other areas.

Volunteering is important for building links with the community and participation.

Volunteers are not free – they have needs including orientation, training, recognition and rewards. They are an investment in the community.

Correctional Services

Presenter:

Graham Thewlis, Department for Correctional Services.

Overview:

Anne Bloor, Department for Correctional Services.

VICTIM SERVICES IN DEPARTMENT FOR CORRECTIONAL SERVICES.

- Victim awareness program for offenders.
- Victims Advocate on the Prisoner Assessment Committee.
- Parole Board Submissions.

VICTIMS REGISTER

- *Correctional Services Act* 1996 provides for release of information to victims and family.
- Information includes name of prison and sentence details.
- Date when a prisoner is transferred to Low Security and how this affects leave.
- Notification of escape.
- Profile of Adult Offenders in SA Prisons.

PRISONER PROFILE

Information held by correctional jurisdictions across Australia indicates that the prisoner population exhibits the following features with concomitant demands on the correctional system:

- 60% did not complete Year 10;
- 10% are illiterate/innumerate;
- 60% are below functional levels in numeracy, reading and writing;
- 44% were long-term unemployed at the time of their offence;

- 64% are from broken homes;
- 32% are sentenced for alcohol and drug related offences;
- 75%-80% have alcohol and other drug problems;
- 31% are Hepatitis B core positive and 37% Hepatitis C antibody positive;
- 28% are between 18 and 25 years of age;
- 5%-13% are intellectually disabled; and
- 18%-20% are Indigenous.

FEMALE PRISONERS

- 31 % have prior hospitalisation for mental health/emotional problems;
- 17%-25% have children under five years of age;
- 80% have alcohol or other drug problems;
- 65%-70% have been sexually or physically abused;
- 62% were under the influence of a drug at the time of their offence;
- 64% are heavy drug users; and 38% have drug related health problems.

ISSUES FOR AGENCIES

- Importance of addressing the needs of victims for information and real input into processes.
- Acknowledge the importance of services for children.
- Encourage restorative justice initiatives.
- Evaluate our programs and learn from "What Works."
- Protect those who are powerless and include those who are not included.

ISSUES

- Equity for children in criminal courts (eg sex offenders).
- Vulnerable Witness Facilities.
- Availability of rape and sexual assault services on a 24 hour basis.
- A liaison person to represent victims rights and to facilitate inter agency coordination.
- Declaration of Victims Rights.
- Victim Impact Statements.
- Criminal Injuries Compensation.

Part 1 - Victims of Crime Register

Abstract

Section 85D of the *Correctional Services Act* states that an eligible person may apply to the Chief Executive Officer for the release to him or her of any of the following information relating to a prisoner:

- The name of the prison where the offender is being held;
- Sentence details;
- Date and circumstances under which the prisoner is likely to be released (for example, on bail, parole, home detention, education, work and family leaves);
- Escape details.

The workshop will explain what the Department's Victim Services Unit (in the Customer Support Unit) is trying to achieve at this time. It will examine what changes have been initiated over the past twelve months to enable the unit to function better for its clients; and what is being planned to ensure that a victim's "need to be heard" is being addressed.

The workshop will demonstrate the Department's "change in direction" in regard to its management of victim services. Victims are no longer regarded as unfortunate casualties of crime and the Criminal Justice System, but as active participants in the Department's Restorative Justice Policy. Being a registered victim with the Department for Correctional Services enables the Victim Services Unit to promote the rights and needs of the victim, particularly in relation to any release programs being considered for the offender.

It is hoped that by generally assisting and supporting the victim, there will be an improvement in the victim's experience of the Criminal Justice System.

Rapporteur's Report:

Escapees from prison – victims are not informed – major issue of confidentiality.

Expectations of a Victim Register – strict limitations as to what information is released – is the victim given high priority?

Need to be more pro-active about informing the public about the Victim Register – how can this be achieved?

Part 2 - Towards Restoration

Victim Awareness Programs with South Australian offenders

Abstract

In recent years, Criminal Justice Systems worldwide have come to recognise the rights of victims in offender management. However, programs to teach perpetrators about the effect of their behaviour on victims are still rare.

The South Australian Department for Correctional Services has developed a Victim Awareness Program and requires participation by sentenced offenders for at least the following reasons:

- the most consistent feature of the offender population is that in their view they have no victims;
- acknowledgment that victims have a right to expect that offenders should understand the effect of their behaviour;
- a belief that if offenders can genuinely come to understand the effect of their crimes, they are much less likely to commit similar behaviour again.

Over the program's six sessions, perpetrators explore their criminal behaviour in the context of the physical, emotional and financial damage to their victims. Strategies used include information, film, role-play and group discussion. At all times the focus is on the victims of their behaviour, not themselves as victims. Offenders are encouraged to develop personal restitution strategies.

These programs are very new but the results are encouraging. Not all offenders complete the program, but typical responses at completion include comments like, 'I had no idea what I had done; I didn't think; I didn't realise the hurt; I will never do that again.'

The presentation will describe the program's development and construction and explore its value and the practical aspects of its use.

Rapporteur's Report:

Offenders often don't see that there is a victim.

Victims feel marginalised in the current justice system.

Not enough / adequate therapeutic programs for child sexual abuse offenders.

Trauma Counselling

Presenters:

- Sandra Gault, Senior Counsellor/ Advocate, Survivors of Trauma And Torture Assistance And Rehabilitation Service (STTARS).
- Jodie Zada, Social Work Coordinator, Yarrow Place, Rape and Sexual Assault Service.
- Felicity Matson, Social Worker, Victim Support Service.

Abstract

There are many theories, ideas, treatments and models that are offered regarding therapeutic work with people who are traumatised as a consequence of crime. Judith Herman is a well-known psychiatrist in the area of trauma and author of “Trauma and recovery” (1992). Judith Herman has developed a model for assisting people who are traumatised which acknowledges the key psychological effects of trauma and outlines three important stages in recovery after a crime.

The facilitators of this workshop have found the model to be very effective when working with clients, who have experienced trauma, in particular as a result of crime. It is respectful of clients, enables clients to maintain a level of control in the therapeutic relationship and is based on sound knowledge about the nature of trauma. It provides a framework that can be used in a range of settings as it recognises the commonality of traumatic experiences.

The facilitators will provide an overview of the model and will then focus on the first stage of recovery, which is safety. Physical and psychological aspects of safety will be examined. Facilitators will present case studies where the work has focused on stage 1, the safety stage of the model.

Workshop participants will then be given an opportunity to apply the model to a case study and examine how they might utilise the concepts to facilitate and assist a client to establish safety after a traumatic incident.

The workshop aims to give participants a basic theoretical knowledge of Judith Herman’s model and encourage participants to explore the model in more detail in their own workplace.

Rapporteur's Report:

There are many theories, ideas and treatment models that are offered regarding therapeutic work with people who are traumatised as a result of crime.

The workshop facilitators who represented different agencies had all found Judith Herman's model (outlined in her book "Trauma and Recovery") extremely useful in working with victims of crime.

The model outlines three stages of recovery after a crime including safety, remembrance and mourning and reconnection. The model enforces the need to achieve safety before moving on to other stages.

The safety stage was explored in more detail using case studies from those agencies represented. The audience then used the model to plan assistance to a victim of crime in a group exercise.

Further exploration and use of the model was encouraged by facilitators.

Self Help Groups

Facilitator:

Audrey Stratton, Social Worker, Victim Support Service.

Presenters:

- Lynette Nitschke, President, Homicide Victim Support Group.
- Andrea Davey-Summers, Enfield Community Health Centre Domestic Violence Support Group.
- Compassionate Friends Volunteer.

Abstract

Professionals dealing with victims of crime are often unaware of support groups available to clients, which can complement one-to-one counselling. Members of self-help groups do not always recognise the value of individual counselling as an adjunct to the benefits of the group.

The Homicide Victim Support Group has been operating since September 1994 to assist anyone affected by the loss of a loved one through homicide. The group would like to encourage more professionals to attend some meetings in order to understand the benefits for clients and to be more confident in making referrals.

Compassionate Friends is a well-established international organisation for the support of bereaved parents. The group supports any parents whose child has died irrespective of the manner of that death as well as offer support to siblings and grandparents affected by the death. This support group is keen for professionals to make referrals but would be cautious in inviting non bereaved persons to attend without the agreement of all attending members.

The Domestic Violence Support group fulfils both an education as well as support role for women who have experienced family violence. The group endeavours to help women gain confidence and skills in being assertive and making independent choices. Unlike the Homicide Support Group and Compassionate Friends this support group has a counsellor at each session to assist women who struggle to cope in the group situation. However the group is not a substitute for individual counselling.

The workshop endeavours to present information on three significant support groups for victims of crime and/or trauma with a focus and challenge on how professionals and Self-help groups can best work together for the benefit of the

victims.

Presenters will cover issues such as:

- how the groups operate to support members;
- how they cater for the range of emotional and practical needs;
- how they manage risks for members in coping with others' stories;
- when it is helpful or unhelpful to participate in the group;
- gaps between group support and individual counselling.

Participants will be asked to discuss a number of questions which will challenge expectations and values around professional services and self help groups working together.

Rapporteur's Report

There is a definite need to have self-help groups and professionals (working in partnership) to assist survivors.

There should be a partnership between self-help groups and professionals.

There is a need to share information between professionals and self-help groups, to publicise the work done and to get more feedback from clients and customers to improve services and to expand.

Police Services

Presenters:

- Detective Sergeant Paul Ralphs, Crime Reduction Section.
- Senior Sergeant Elke Pfau, Victims of Crime Branch.

Abstract

South Australia Police (SAPOL) deals with a number of victims of very serious crimes. While members of SAPOL have received basic training in dealing with these victims, there will remain a need to seek the assistance of more highly trained professionals in many cases.

The SAPOL Crime Reduction Section is responsible for the development and implementation of corporate strategies and initiatives to reduce the incidence and effects of crime. This is achieved by constantly monitoring local and international crime trends, researching new ideas and working in partnership with key agencies and community groups.

Significant partnerships have been developed to address:

- Motor vehicle crime;
- Credit card fraud;
- Arson; and
- Residential break and enter, especially where the elderly are victims.

The SAPOL Victims of Crime Branch provides a specialist victim service, especially relative to Child Protection, Domestic Violence, Sexual Assault and victims of other serious crimes.

This workshop will discuss the impact of crime on victims from a police officers perspective, and will highlight the importance of developing a range of partnerships to provide a more effective and efficient service to the South Australian community.

Rapporteur's Report:

Lack of funding available to provide the smallest item of need for victims of crime or the elderly. This applies whether you are a victim of crime or even before you become a victim (eg: extra phone, lighting).

Gaining extra community involvement for victims of crime through the Neighbourhood Watch or other community schemes. This could assist with obtaining resources for victims in their local area.

Increased resources for victims in country areas. There is a real lack of victims' services and country areas are in desperate need of a victim contact officer.

Lobbying, marketing and sponsorship required to improve services.

Restorative Justice:

Part 1 - Victim Involvement in the Case management of Non-Statutory Adult Offenders

Presenter:

- Betty-Jean Hauschild, Offenders Aid and Rehabilitation Services (OARS).

Abstract

A case management program for non-statutory adult offenders was introduced within OARS SA in 1995 and was developed within the context of Restorative Justice. Since the commencement of the service, opportunities for victim/offender reconciliation have been explored and developed.

The workshop presentation will provide an illustrated overview of victim involvement in the case management process. Strengths, problem areas and future possibilities for victim/offender reconciliation will be discussed.

Part 2 - Family Conferences

Presenter:

- Marnie Doig, Family Conference Team.

Abstract

This part of the workshop will include the following:

- A discussion of the principles of a restorative justice approach in working with criminal matters;
- Some understanding of the range and numbers of cases dealt with as Family Conferences in SA and the way that experience impacts on victims of crime and youths who offend;
- Active discussion amongst workshop participants to explore the positive and negative aspects of Family Conferences.

Rapporteur's Report:

Need to extend restorative justice programs to the adult area.

Harder for offenders to go down the restorative justice avenue and face the victim than anonymously go to court. However, notwithstanding this, restorative justice was seen as very positive.

Legal Processes - Victims Compensation:

Chairperson:

David Kerr, Manager, Professional Services, Victim Support Service.

Raconteur:

Matthew Mitchell, Criminal Injuries Compensation Solicitor in Private Practice.

Respondents:

- Richard Murray, Crown Solicitors Office, Criminal Injuries Compensation Section.
- James Telfer, Crown Solicitors Office, Civil Litigation Section.

Abstract

This workshop will be an exploration of the depth and breadth of compensation issues for crime victims in South Australia.

Criminal Injuries Compensation (CIC) and Workcover Insurance will be discussed and debated in the context of issues identified by participants prior to the workshop. Scenarios developed by the workshop presenters will supplement these.

Although important and basic information about CIC and Workcover will be discussed, there will also be detailed aspects of both presented. This will be driven by presenter responses to particular scenarios that demonstrate crime victim's rights and limitations in claiming compensation. This interactive workshop will cover issues such as:

- The criteria for claiming CIC.
- Getting the claim process started.
- The minimum and maximum claimable.
- Should a worker claim compensation through CIC or Workcover?
- Where Workcover is claimed what happens with CIC?
- Claiming for motor vehicle and property damage.

- Co-operation with police.
- Does the offender need to know?
- Ex-gratia payments – what are they?
- How long will it take?

Rapporteur's Report:

Available to all persons who have suffered an injury (mental or physical) as the result of an offence.

Award can include non-economic (pain & suffering) and economic loss, grief and funeral expenses.

Maximum award \$50,000.

Offender is party to the proceedings and can choose to participate or not.

An award can be reduced if the conduct of the victim contributed to the offence.

Legal fees – set by the CIC Act.

All costs / disbursements will be paid by the Crown upon success of a case.

Keynote Addresses:

“Diversionary programs within the Criminal Justice System and their effect on victims”

Alan Moss, Chief Magistrate, Courts Administration Authority

Abstract

There are four diversionary programs currently operating in South Australian Magistrates Courts.

They are:

- The Mental Health Diversion Court;
- The Family Violence Court;
- The Drug Court; and
- The Special Interest (“Nunga”) Court.

There is yet no common philosophy behind the operation of these four courts. Each was established as a reaction perceived inadequacies of the systems that previously existed. Each of the Courts is very new and their philosophies, policies and practices have only just begun to evolve. It is fair to say that each of the courts has a significant element of “offender management” in its makeup and to that extent these courts are focussed upon offenders. At the moment some of these courts also have a significant victim focus, but others are yet to develop this. This paper seeks to explore the operation of these courts from a “victim perspective” and to canvass some ideas for the improvement in this regard. This conference is a timely reminder for those running these courts (including the author!) of the critical importance of recognising the rights and effects upon victims of innovations in the justice system.

Rick Sarre, Associate Professor, University of South Australia

Abstract

The introduction of specialist courts in South Australia has changed the face of the administration of criminal justice somewhat. Their presence has added to the availability of diversionary options in this State and heightened awareness of their potential to prevent crime by focussing on offenders specifically. At the same time South Australia is a jurisdiction that takes pride in its history and enlightened attitude on the subject of victim concerns. Now that some aspects

of the Criminal Justice System, into which the victims' movement has carefully positioned itself, have changed, what may be the effects on victims! This paper reviews first some historical reflections on victims' rights in South Australia, then describes briefly some of the diversionary programs that have been implemented or are in the process of being implemented. Finally, the paper offers some suggestions for the future. It maintains that diversionary practitioners, especially those who operate in specialist courts and under the broad rubric of 'restorative justice', are in a position to give rise to a new optimism that victims and their needs will not be forgotten in any push towards greater individualisation within criminal justice processes.

Leigh Garrett, Chief Executive Officer, Offenders Aid & Rehabilitation Services of SA Inc

Abstract

Diversionary programs in general, and special focus courts specifically, have the potential to improve circumstances for victims and the community because of the individual focus they bring to the special circumstances surrounding each crime, and the individualised treatment and rehabilitation they offer. The possibility of a more individual and sensitive treatment of victims in these processes might be a possible outcome of a more focused approach to offenders. This paper articulates the increased focus on offender treatment offered by specialist courts as a positive development, and makes reference to the potential reduction in repeat victimisation that might result, particularly if recidivist offenders receive adequate rehabilitation services. It further asks the question about what types of processes of restoration or victim involvement in these court processes could be developed to further assist healing for victims, community and offenders. Several possibilities are discussed.

As a second stream of thinking, the paper also poses the question of the relevance of the offender as victim, and looks in a restorative justice context at the community as victim and the possibilities of reparative processes to heal community damage as well as damage to primary victims. In the context of the current debate about early developmental interventions as aids to crime reduction, the perspective of the family and children of the offender as victims will be discussed.

The paper will conclude that diversion programs, and in particular specialist focus courts with a mandate for treatment and effective rehabilitation, could be structured to include restorative or reparative opportunities that will in all likelihood positively assist victims, and the community at large. Further the paper will speculate that assistance to the children of offenders, as a group at great risk, may well intervene at an early enough stage to minimise risks of future criminality and reduce victimisation further.

Diversions Programs within the Criminal Justice System and their effects on Victims

Alan Moss

Introduction

There are four diversionary programs currently operating in South Australian Magistrates Courts. They are:-

- The Mental Health Diversion Court;
- The Family Violence Court;
- The Drug Court;
- The Special Interest (Nunga) Court.

Each of these four courts has commenced in a different way, and operates in a somewhat different way. There is as yet no common philosophy behind the operation of these four courts and their roles and goals are probably too diverse for them ever to become entirely homogenous in operation, but there are nonetheless significant common features which they share. Each of the courts was established as a reaction to perceived inadequacies of the systems that previously existed. While the Magistrates Court has become increasingly modernised in recent times it has often failed to really make any headway in reducing crime and hence in protecting the public, in a number of areas. Each of these four courts is established in recognition of deficiencies in the justice system in those particular areas. They share the following principles in their operation. These principles are not new and many come from overseas experience with community courts and form a significant part of current juridical thinking. They are:-

- It is necessary to make justice pro-active. Particularly in times of economic stringency it is essential that courts look for opportunities to address crime related problems in a way which will actually make a difference;
- Recognising that it is important to combine punishment with help. Often people break the law because they have lost control of some part of their lives. If these problems can be resolved then these people are unlikely to continue to offend;

- Involve victims and the community as much as possible. It is important that victims are at least given the opportunity of offering their opinion about particular restorative sanctions. Victims often express the view that they feel much more secure for the future in knowing that the court has required or encouraged an offender to embark on a rehabilitative program.
- The court should be used as a gateway to treatment. Offenders who come before the court are often in crisis and may be very amenable to seeking help at that time. The court can use its powers to ensure that that occurs. It is not the court's function to provide treatment, but rather to use its powers and facilities to enable offenders to obtain treatment which they might otherwise have not been able to access.
- Ensure that the court process is open and transparent and that victims and the community at large are aware of what is happening and can have an input into the philosophies which underpin these specialist courts.

It is fair to say that each of these four courts has a significant element of "Offender Management" in its make-up and to that extent these courts are focussed upon offenders. At the time of writing this paper some of these courts also have a significant victim focus, but others are yet to develop this. The opportunity to present this paper to you has operated as a timely reminder to me that it is critical that innovations in the justice system invariably take into account the rights and interests of victims.

At this stage all of these programs are pilot programs and are being evaluated. There is no specific legislative base for any of the four diversionary courts and their future funding is dependent upon their performance and evaluation.

Genesis and Operation of the Diversionary Courts

The (Mental Health) Intervention Court

This court was established as a joint initiative of the Department for Human Services and the Justice Strategy Unit of the Attorney-General's Department. These agencies recognise that the changing way in which people with mental impairment are now being resourced and cared for has had the result that many more of them are coming to the attention of the courts. It recognises that many of these offenders may, by virtue of their mental impairment, find it difficult to access help or treatment programs and that they may require encouragement, support or coercion to attend such programs or to establish new lifestyle regimes. This court is not intended to deal with people who have such severe mental impairment that they are not fit to enter a plea to the charge. These people are dealt with pursuant to the provisions of Section 269 of the *Criminal Law Consolidation Act*. Nor is the program intended to deal with

people who have committed serious offences which are likely to result in imprisonment. The program is intended to deal with people who have committed minor offences and who can be responsibly diverted from the criminal justice process once treatment or facilities have been made available to them. The court operates in the following way:-

- Offenders are referred to the court from a number of sources but most commonly by Police, their legal representatives and magistrates before whom they initially appear.
- Prior to the offender's first appearance in the specialist court the psychologist attached to the program assesses the person to determine whether or not that person is suitable to enter the program. The criteria for entering the program are:-
 - That the individuals are appearing on a matter which can be finalised in the Magistrates Court;
 - That they have committed only a minor or summary offence;
 - That the objective elements of the offence are agreed;
 - That they have impaired intellectual or mental functioning as a result of:
 - a mental illness;
 - an intellectual disability;
 - a personality disorder;
 - acquired brain injury or neurological disorder including dementia.
 - All referrals to the program have to undergo an assessment which ensures that the individuals mental or intellectual functioning meets the above criteria, that the program would be willing to assist the individual concerned and that the individual is motivated and willing to participate in the program. Participants also have to agree to access appropriate treatment agencies as suggested by program staff and their subsequent case manager and agree to follow up by program staff to ensure that they are compliant with any treatment or rehabilitation plans.
- Prior to the first hearing the co-ordinator in charge of the program will make a report to the magistrate which includes a recommendation as to whether or not the person should embark

upon the program. The report will also outline for the magistrate the program which the offender will be required to undertake.

- At the first hearing no plea is taken but the magistrate will require that the person admit the objective elements (as opposed to the mental elements) of the offence. The offender's case will then be adjourned to allow the program to be carried into effect.
- Offenders are required to return to the court, or at least have their cases before the court, during the program in order that their progress can be reviewed.
- Upon completion of the program the offender returns to the court and a final disposition of their matter is made. In minor cases where the person has successfully completed the program and their prognosis is good the police will often withdraw the charges. If police are not in a position to withdraw the charges then the court will impose a penalty designed to encourage rehabilitation.

The Mental Health Intervention Court is working well. It has been operating for nearly one year and an interim report upon it will soon be given to government. That is not to say that the court is without some problems. There are often disagreements about when, and in what circumstances, charges should be withdrawn. There will often be difficult decisions for legal advisers in whether they should recommend to their client that they embark on an intervention court program or whether they should seek to establish a "fitness to plead" defence. "Fitness to plead" defences are very profligate of resources of police, the defence and of the Magistrates Court itself. Even if such a defence is successful the ultimate outcome for an offender may be far from satisfactory. One of the aims of this intervention program is to reduce the number of these defences by offering the much more productive outcome of rehabilitation and treatment. The interest of victims in this area is managed by the police under the victim impact legislation. That legislation applies to these matters in the ordinary way. It is important to stress that this court limits itself to dealing with minor offences and matters in which victims are seriously injured or disadvantaged will not usually come before this court. Obviously more serious matters are less likely to be withdrawn by police than are very minor matters and in any case in which there has been a significant impact on a victim then police will consult extensively with the victim before any final decision about the ultimate disposition of the matter is made. Where property damage is involved the court has its usual powers to order compensation in appropriate cases and compensation paid before final disposition will be taken into account by police in deciding whether or not a particular matter should be withdrawn.

The Family Violence Court

This court began as a pilot program at the Elizabeth Magistrates Court in 1997.

At that time it was called the Violence Intervention Program (VIP). It was a joint initiative between the Courts Administration Authority, the Department for Family and Community Services (as it then was) and the Department for Corrections. It was jointly funded by those agencies and was supported in principle by South Australian Police. After 12 months the program was evaluated and the results became available late in 1998. The program was felt to be successful and worthy of being maintained at Elizabeth and gradually extended into other court areas. It has now been extended into the Adelaide Magistrates Court. It is anticipated that both these programs will remain as permanent programs, albeit under further assessment and evaluation. The essential purpose of these courts is to break the domestic violence cycle by intervening when an offender first comes before the courts charged with violence in the home, or as a result of a restraining order application. Through agencies co-operating with the court under these schemes the court refers offenders (usually men) to programs and projects designed to help them deal with and curtail their impulse to violent behaviour in the home. These programs are very varied (eg from Anger Management to Literacy) and are variously managed by Department for Corrections and the Salvation Army. The Family Violence Court uses its bail and adjournment powers to encourage, but not actually to coerce, people to embark upon these programs. The program works in the following way:-

- Police identify all matters which involve family violence and advise the court of this at the time the charges, or restraint order application, are laid.
- At the first hearing issues of guilt or innocence are not generally explored. Rather the court points out to both parties that what is clear is that the family structure is dysfunctional and there is an urgent need to address this matter in a constructive way if the relationship is not the founder and the male partner ultimately to face criminal charges. At heart most men want to preserve their family relationship if they can. If the offender is willing to go upon the program and if it can be designed to give sufficient protection to the victim and other family members then the hearing of the charges or restraint order application is adjourned to allow the man to embark upon one or more of the programs offered within the system. After the program has been completed the defendant returns to the court where a final disposition is made. Very often it is found that the victim reports a significant change in the family dynamic and feels confident to invite the court to discharge the order or to encourage the police to withdraw the charges. In other circumstances the restraint order or bond may contain conditions designed to reinforce the offender's progress and to protect the victim in the future.

The results of this program seem to have been successful. In the first 12 months at Elizabeth 138 men underwent programs prior to the final disposition of their case. Only 8 of those men breached conditions of their bail or bond and 2 of those breaches were only minor ones.

The whole structure of this intervention court has the protection of victims and other family members as its first priority. During the course of the programs the victim and other family members are offered support and counselling from social workers. The victim's attitude will often be of critical importance when final orders come to be made.

The Drug Court

The Drug Court is an initiative of the Justice Strategy Unit of the Attorney-General's Department and is funded by monies provided by the Commonwealth Government. The Drug Court concept was introduced in the United States of America in the late 1980s in response to a drug problem that was resistant to traditional criminal justice system interventions. There are a number of Drug Court models in operation in the United States, Europe and Australia. South Australia has taken various aspects of these other models and have designed a Drug Court regime that the government believes best suits the needs of the South Australian community and legal system. The Drug Court is designed to create an environment with clearly defined rules that encourage offenders to accept responsibility for their own rehabilitation. The Drug Court is designed to operate in the following ways:-

- It is a pilot program designed to operate over a two year period in the Adelaide Magistrates Court. Referrals to the program can be made by police, any magistrate from the metropolitan area, legal representatives, prosecution or the defendants themselves.
- Offenders are referred to the court as soon as possible. Where offenders have been arrested police will identify potential candidates and ensure that those offenders are before the Drug Court the next working day after arrest.
- The court has social workers with special experience in drug related problems. Those social workers assess the suitability of an offender to enter upon the program.
- If a person is accepted onto the program then the court will adjourn that person's matter to allow the person to undertake treatment or embark upon a program. Conditions of bail will include all treatment and support requirements, the need for random drug testing and strict supervision by Department of Corrections.
- Breaches of bail conditions, the further use of drugs or re-offending will lead to additional sanctions, expulsion from the program or, if necessary imprisonment.

- Typical supports for Drug Court participants will include:-
 - Withdrawal management - including detoxification if necessary;
 - Pharmacological treatment, for example methadone;
 - Relapse prevention, for example counselling, group therapy;
 - Physical and mental health issues;
 - Educational vocational training;
 - Employment.
- At the end of the program, penalties and orders will be imposed primarily designed to encourage future abstinence and which support the offender in a constructive way.

This is of course, an offender focussed program designed to deal with offenders who are prepared to admit their guilt from the outset. It recognises that the drug problem and its allied criminal activity is so pervasive that the community, victims and future victims are best protected in the longer term by tackling offender's drug problems in an effective way. That is not to say that victims are ignored. The prosecution of cases before the Drug Court will be managed by the DPP and his officers will ensure that victim's rights are met. This includes the right to be informed of conditions of bail, the right to inform the court of the impact of the crime and the right to be advised of the final sentence.

The Special Interest (Nunga) Court

This specialist court is the brainchild and initiative of Mr Chris Vass SM. Mr Vass is the Manager of the Port Adelaide Court and its associated circuits which include the Aboriginal Communities on the Pitjantjatjara Lands. Mr Vass is a senior and experienced magistrate who, before he came to the law, spent 19 years as a Patrol Officer in New Guinea and he has a considerable interest and expertise in relating to indigenous people. The court resulted from several years of discussions between Mr Vass and various other interested parties such as Aboriginal Community Groups, state government agencies, the Aboriginal Legal Rights Movement, Police Prosecutions, solicitors and various aboriginal people. The overwhelming view that emerged from those discussions was that Aboriginal people mistrusted the justice system, including the courts. They felt that they were not getting enough input into the judicial process and particularly into the sentencing process. They also felt that the courts were culturally alienating, isolating and unwelcoming to community and family groups. In response to this Mr Vass, with my approval, commenced the operation of the special interest court which quickly became known as the "Nunga Court". As far as I am aware it is unique in Australia and it is particular designed to address the raft of concerns which I have just

mentioned. The court was started without funding of any kind. Since Mr Vass commenced the court the Courts Administration Authority has been very supportive of the project and have applied resources to its evaluation and to the provision of three newly employed Aboriginal Justice Officers.

The mechanics of the court are as follows:-

- The Court sits once per fortnight on a Tuesday to deal with sentencing matters only.
- Mr Vass sits on the bench side of the bar table with an Aboriginal Elder alongside him to advise him on cultural and community matters.
- The defendant sits at the bar table alongside his lawyer and with a close family member if requested.
- After the prosecutor and counsel have had their say the defendant is then able to speak, as is his family, the victim (if present) and other relevant community members.
- Family and community representatives are encouraged to attend and have done so to date.

The feedback from everybody involved in this process is encouraging. It is not possible at this stage to tell if this style of “conferencing” Aboriginal cases will make a difference in terms of recidivism. One encouraging indicator however is that the attendance rate for the specialist court has so far been over 90%. This is far higher than normal. Court experiences are that the attendance rate for Aboriginal people is well below 50%. The Aboriginal Justice Officers assist the Port Adelaide Court in all its dealings with Aboriginal people ranging from bail assistance and supervision, support through the court process, liaison with family and post sentence advice and supervision. The court has also retained the services of an Aboriginal man as a court orderly.

Mr Vass’ job as the Magistrate in Charge of the “Nunga” Court is a hard one and the court process is emotionally draining, as it is far more personal than the standard procedure. Of course you will appreciate from what I have said that the “Nunga” Court is not a true diversionary court. There is no intention to divert offenders out of the criminal justice system and to deal with them in alternative ways as is done in the Mental Health Intervention Court. This specialist court simply recognises that, in a culturally diverse society such as exists in South Australia, there can be better ways of dealing with particular groups than the Anglo Saxon model appropriate for the vast majority of the community. Victims are particularly welcome in this court. Mr Vass informs me that it can be very confronting and, effective for an Aboriginal person to see his or her victim and to hear, in a public setting, of the hurt and distress which has been caused. Because of the apparent early success of the “Nunga Court” there is some pressure upon the Magistrates Court to roll out this

program into other Magistrate Court areas in which Aboriginal people are strongly represented. I am very cautious about this. Firstly I wish to see whether the court actually has an impact in terms of reducing the rate of re-offending and the program is being evaluated from that point of view. The second and perhaps more critical difficulty is that the magistrate's role is a very difficult one and not all of my magisterial colleagues would be able, or even willing, to run courts in this way. This is in no sense intended to be critical of any magistrates, it simply recognises that this style of court process requires very high levels of interpersonal skills on behalf of the presiding magistrate. We do not all possess these.

Conclusion

These four specialist courts have been roughly lumped together under the title of "diversionary courts". In truth only the Mental Health Intervention Court is a truly diversionary process. The Family Violence Court has genuine diversionary elements within it but generally it aims to deal with offenders within the current criminal justice system. It simply tries to promote a better outcome. The "Nunga" Court and the Drug Court are both courts which try to operate within the existing legal framework in a more effective way. I prefer to think of the courts as "outcome" courts. Each of the four courts is designed to use the services already provided by the state and in some cases new and extra services to provide outcomes which protect victims, which reduce the chance of re-offending and which enable offenders to access health and rehabilitative programs which might not otherwise have been available to them. I began this paper by briefly mentioning some of the principles which have been developed in relation to community based courts. I think that each of the courts has some or all of these principles at its base and it will be very interesting to see whether their early promise actually delivers real community benefit in the long term. One of these courts, namely the Family Violence Court, is truly victim focussed. The other courts all involve the interests of victims, but in a less conscious and direct way. These courts are in their infancy and it has been helpful for me to consider how the interests of victims might be more closely promoted in the longer term development of these courts. Any suggestions which you might wish to make, either individually or through your organisation, would be very gratefully received.

Thank you for the opportunity of addressing your conference.

Diversionsary Programs within the Criminal Justice System and their effects on Victims

Rick Sarre

Victim considerations in South Australian criminal justice

Detailed research into the needs of victims and the offender-victim relationship only began, worldwide, as recently as the 1940s. Even then, research was conducted merely as part of an effort to gain a better understanding of the causes of crime. Prior to the 1970s, in our common law tradition, the Crown's decisions about proceeding with a prosecution, negotiating with defence counsel, protecting the community at large and rehabilitating offenders occurred, for the most part, outside of considerations of victims' interests. The Crown could not have been seen to be representing the victim, it was determined, lest there be allegations by defendants that their rights had been compromised unfairly (see generally Grabosky 1987; Whitrod 1986).

Specific victim-centred initiatives in South Australia had their origins in August 1979. In that year, the government established a Committee of Inquiry on Victims of Crime. The Tonkin Liberal government report (South Australia 1981) made a number of recommendations that laid the foundation for legal and administrative reforms over the ensuing years. In 1985 South Australia became one of the first jurisdictions in the world to endorse the United Nations Declaration on the Basic Principles of Justice for Victims of Crime and Abuse of Power by promulgating a specific Declaration of Rights for Victims of Crime. This document was designed to state a range of principles relevant to victims at a number of key stages in the justice process, essentially in relation to access to the courts, fair treatment, restitution, compensation and assistance (Erez *et al* 1996, p206; Cook *et al* 1999, p84; Zdenkowski 2000, p168). The then SA Labour government Attorney-General, Chris Sumner, in his second reading speech for the *Statutes Amendment (Victims of Crime) Bill* in that year, listed the seventeen 'rights' that had been endorsed at the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders held in Milan, Italy, during August 1985 (Sumner 1987; Sumner and Sutton 1990). Governments were encouraged to incorporate the rights into policy and practice as far as possible, and the South Australian government was quick to do so.

The seventeen rights are as follows, in an abridged form. (See also Findlay *et al* 1999, pp344-5; Hansard 1985).

The victims of a crime shall have the right to:

1. be dealt with at all times in a sympathetic, constructive, dignified and reassuring manner;
2. be informed about the progress of investigations;
3. be advised of the charges against the accused;
4. have a comprehensive statement taken at the time of the initial investigation of the harm done and the losses incurred;
5. be advised of justifications for accepting a plea of guilty to a lesser charge;
6. be advised, with sensitivity and tact, of any justifications for the withdrawal of charges;
7. have property held by the Crown as evidence returned as soon as possible;
8. be informed about the trial process and the rights and responsibilities of witnesses;
9. be protected from unnecessary contact with the accused and defence witnesses during the course of the trial;
10. not have their address disclosed unless it is deemed material to the defence;
11. not be required to appear at any preliminary hearings unless it is deemed material to the defence;
12. be entitled, during a bail application, to have their need for physical protection put before a bail authority by the prosecutor – as enacted in the *Bail Act (SA) 1985*, section 10;
13. be advised of the outcome of all bail applications and be informed of any conditions of bail;
14. be entitled to have the full effects of the crime upon them made known to the sentencer – the ‘victim impact statement’ (VIS) – as enacted in the *Criminal Law (Sentencing) Act (SA)1988*, section 7¹;

15. be advised of the outcome of any criminal proceedings and the sentence;
16. be advised of the outcome of any parole deliberations;
17. be notified of an offender's impending release from custody.

Have victims reason to feel that these rights have been compromised, or potentially compromised, by the newly emerging diversionary practices and justice initiatives, such as specialist courts, being introduced in South Australia currently? At this stage, evaluations have not been completed, and thus answers informed by empirical evidence are not yet available. What follows is simply a discussion that explores in theory how these shifts in criminal justice choices may affect victim issues.

The task of assessing whether diversionary options have had a beneficial or deleterious effect upon victims generally is made difficult, however, by the inconclusive and often contradictory benchmarking of victims' interests in the traditional criminal justice setting, a setting that has struggled for decades to reconcile victims' concerns with concerns for offenders' rights (Sarre 1999a). It is also hampered by the fact that many offenders are victims as well. It is simply not appropriate to adopt a theoretical position that cannot accommodate some overlap between those who cause harm and those who are on the receiving end of it. Finally, any theoretical overview is likely to be perceived as locating all 'victims' into some form of homogenous group. This is clearly not intended, and every endeavour is made in the discussion that follows to recognise that victims' interests are as broadly diversified as the circumstances that prevailed to create the victimisation in the first place.

A new-found focus on offenders in diversion and specialist courts

There are pragmatic and philosophical difficulties facing any jurisdiction attempting to develop consistent and plausible diversionary strategies for offenders, while remaining cognisant of victims' interests. When designing specialist courts and other diversionary programs and practices, policy-makers are likely to have, in the forefront of their minds, offenders' interests, not the interests of their victims. Indeed, not one of the traditional justifications for punishment, let alone those inspiring the 'new' diversionary themes, makes victims' interests a matter of principal focus. If the purpose of punishment is to rehabilitate the offender, rehabilitation reviews the offender's future prospects, not those of the victim. If the purpose of punishment is deterrence or denunciation, then the sentence is to be certain and predictable, not subject to the evidence of any specific impact of the offence upon victims. If the purpose of punishment is public retribution, then the punishment must, as far as possible, fit the crime as prescribed by the state, and not be subject to the whim (forgiveness or vengeance) of the victim. Although restitution and incapacitation are sentencing considerations that may have a bearing on some

victims, these are not factors that dominate the sentencing process in the same manner as rehabilitation, deterrence and retribution (Tomaino 1999, p165; Sarre 2000).

Offender-based, diversionary practices are designed to remove defendants from the intimidation of formal court settings, if that is at all possible. The impetus for such 'de-structuring', White and Perrone (1996, p177) suggest, came from a combination of factors, including high remand numbers, high recidivism rates, high costs, and the negative impacts of conventional methods of punishment – if not the system itself (Feeley 1979) – on rehabilitation and reintegration of offenders into wider society. Keeping people out of the system at the 'front end' became the catch-cry of diversionary policy-making. These themes have been heightened under the current moves towards specialist courts and other diversionary practices.

It is now worth reviewing some of these models. While the evaluations have tended to suggest that the reforms have not always achieved their sometimes lofty aims – sometimes people are merely diverted into a less formal, bureaucratic apparatus rather than away from the system entirely (Cohen 1985) – nevertheless it has generally been agreed that diversionary programs can bring about lower recidivism rates than the employment of other more formal hearing and sentencing options (Sarre 1999b). One can draw from the examples that follow a consistent theme: that offender-focused, less traditional programs of diversion or specialisation have great potential for preventing some criminal activity. Of course, many of these schemes are still in their pilot stages and one needs to question, of course, their long-term viability, especially in relation to persistent and habitual offenders. Be that as it may, some of the various projects are presented here for discussion.

Drug courts

Drug courts provide the first example of the trend towards diversionary justice structures referred to by one commentator as 'new rehabilitationism' (Zdenkowski 2000, p162). The South Australian pilot commenced in May 2000 and is funded for two years. The court's attention is focused on treatment and the rehabilitation of the offender who appears before it. Prosecution and defence teams work cooperatively rather than in an adversarial fashion. Advised by the Director of Public Prosecutions (DPP), a drug court magistrate makes a decision about whether a person is to be diverted to a program (methadone, group therapy etc) or not. The presiding judge, in the American experience at least, is not an independent arbitrator, but becomes actively involved as a 'confessor, taskmaster, cheerleader and mentor' (Inciardi *et al* 1996, p71, cited in Makkai 2000, p81). There are still a range of implementation problems to overcome before the effects of such courts on crime rates and victimisation rates can be assessed accurately in Australia (Makkai 1999). But American evaluations show good success rates in terms of less drug use and lower recidivism rates (Makkai 2000, p81).

Aboriginal Court Day (the 'Nunga' court)

The A\$40 million Royal Commission into Aboriginal Deaths in Custody (Royal Commission 1991) was a milestone down the continuing road of justice reform in this country. The key conclusion to come out of this report was that too many Indigenous Australians are coming into the formal justice setting. Its key recommendation, therefore, was to encourage jurisdictions to consider ways to reduce Aboriginal rates of imprisonment (Cunneen and McDonald 1997). The notion of a Nunga court day, while not being mooted in the 1991 report specifically, is an example of a contemporary idea that would have received acclaim from the Commissioners as involving a significant degree of Indigenous input in its planning and execution (South Australia 1999a). The court in South Australia, which commenced in 1999, sits one day per fortnight, for sentencing, not trials. The magistrate is guided by input from a range of sources, and sits not above the court but at the bar table, with an Aboriginal elder.

Similarly, the memorandum of understanding, signed in September 1999 between the South Australian State government and the elders of the Anangu Pitjantjatjara Lands, to enable the Umuwa community to self-supervise offenders on community service orders, parole and probation, is another example of a less formal justice setting designed to encourage attendance at court by Aboriginal defendants and to reduce re-offending (South Australia 1999b).

Family conferencing

The well-researched 'family group conference' juvenile justice model provides another example of a justice forum separate and apart from the formal system that has shown encouraging evidence of success (eg. Strang 2000, p24). The offender(s), their extended families and advocates (if appropriate), the victim(s) and their supporters, and the police are brought together with an independent facilitator. In South Australia the independent facilitator is a trained justice coordinator. Offenders are urged to confront their wrongdoing (for the most part, in South Australia at least, the less serious offences) while being allowed to develop their own negotiated outcome (Sarre 1999d). The aim of the process is to bring about reconciliation and reparation, not to exact punishment. It has been found in evaluative studies that offenders are more likely to respond to their justice experience positively when they perceive it to be fair, and the evidence is clear that conferencing programs do give rise to favourable perceptions (Strang 2000, p27).

Family Violence Court

The family violence court is, as piloted since 1997 in South Australia, an interventionist court. Essentially, magistrates (all male, by design) in these courts use their powers under the *Bail Act (SA)* to ensure that recipients of bail

orders or restraint orders are not inflamed into further acts of violence thereby. Police refer to the court all family matters that appear to have a family violence component. At the first hearing, guilt and innocence are irrelevant. Men who are a danger to their families are referred to an appropriate agency to deal with violence issues, such as anger management programs and substance abuse treatment. Final orders are made when the matter is returned to court, at which time the magistrate is better able to consider the alleged offender's future prospects in light of the immediate history of the matter.

Mental Health Court

A joint initiative of the South Australian Department of Human Services and the Department of Justice, this court, which commenced operation in 2000, takes referrals from police, legal counsel and magistrates. It is designed to, amongst other things, prevent persons who may border on being unfit to plead from being drawn inextricably into the legal system (Sarre 1983). Matters are selected on the following criteria: the cases must be able to be finalised in the summary courts, the accused must admit the objective elements of the offence, and he or she must not be suffering from severe mental incapacitation nor be facing a serious charge. In the final analysis, a person is only given an order of the court if the magistrate is satisfied that the program set out for the accused can achieve something, and that he or she can cope with whatever regime is prescribed. Once the accused is admitted to a program, the matter is adjourned until called on again, if at all.

Drug Assessment and Aid Panels

The South Australian Drug Assessment and Aid Panel, established in 1985 under the auspices of the *Controlled Substances Act (SA) 1984*, is a pre-court diversionary program designed to divert people caught with possession of illicit drugs for personal use away from the courts and to the Panel, placing pre-eminence upon the medical, rather than criminal, nature of the problem. There has been, in this context, specific attention given to Aboriginal offenders (ADCA 1996a, p8). Unless offenders wish to defend the matter in court, fail to adhere to the requirements of the Panel or are found unsuitable by the Panel, their matters are not referred to the courts and no conviction is recorded (ADCA 1996b, p14). The continued operation of the Panel bears testimony to its practitioners' perceptions of its ability to reduce criminality through an offender-focused treatment regime.

Victims' interests and offender-based initiatives: some common ground

Common ground in a less formal justice setting

While it is possible that a focus on offenders may diminish official sensitivity to their victims, there is nothing mutually exclusive about the reform associated with diversionary programs and the development of specialist courts. In other words, just because one element of the criminal justice process receives pre-eminent attention, it is not axiomatic that, thereby, other aspects of the process are ignored. It is worth remembering that victims, too, are likely to find that a formal court environment often robs them of the outcomes they may be seeking. It was incontrovertible a decade ago that many victims were dissatisfied, unhappy with or upset by what happened to them in and around court. Although significant reforms – witness assistance programs, court environs improvements, victim impact statements read by the victim in open court – have occurred in the last ten years, the fact remains that courts can be highly inhospitable places for victims.

[A] survey of 52 South Australian victims who had appeared as crown witnesses in 1990 ... found that victims were very unhappy. They resented the amount of time that they had to spend waiting in court as well as the facilities offered to them while they were there. In addition, many were distressed by having to encounter the offender or the offender's family and friends in waiting rooms, corridors, toilets or at the entrance to the court (Israel 1999, p235).

Thus, reforms that endeavour to destructure the formal justice process may hold something for victims, too, in removing the potential for injustice that is likely in a 'one size fits all' approach. Just as specialist courts, for example, allow significant interplay between judges and the parties that appear before them, so greater levels of informality may be more accommodating to victims who feel that formality has denied them a voice and frustrated their comprehension of the process in the past. In other words, there is no fundamental incompatibility between the rights of victims and the rights of an accused person to participate in the proceedings and to understand what is happening (Grabosky 1987; Sarre, 1994, p204; Brown *et al* 1996, pp1366-68; Zdenkowski 2000, p169).

Common ground in 'restorative' theories and practices

There is great value also in seeking out the principles of *restorative justice* in order to find other common ground. These principles are often expressed in different ways, but some clear themes emerge. In models of restorative justice, there is

1. shared responsibility for resolving crime and for one another;
2. the use of informal community mechanisms in addition to the involvement of criminal justice professionals;
3. the inclusion of victims as parties in their own right;
4. an understanding of crime as injury, not just law breaking;
5. an understanding that a state monopoly over the response to crime is inappropriate (Sarre 1997, 1999c).

In a traditional model of criminal justice, crime is defined as a violation of the state, the focus is on blame, deterrence and punishment, and the offence is defined in purely legal terms, devoid of moral, social and political dimensions. In a restorative model, crime is defined as a violation of one person by another, the focus is upon problem-solving, dialogue and restitution (where possible), mutuality, the repair of social injury and the possibilities of repentance and forgiveness. The offence is understood in a range of dimensions, including moral, social and political.

Immediately, some parallels between offender-based practices and victim-sensitive practices become apparent. A judge, specialist magistrate or trained justice coordinator is not unlikely to seek a victim impact statement, or to divert the offender to a restorative option that may involve victim-offender mediation. He or she may be more ready to choose a family conference setting (if available) since that setting is likely to involve a victim, an apology, and a commitment to restitution. Evaluations of victims' reactions to 'restorative' models of justice in New Zealand, the United States, Canada and the United Kingdom indicate that there are high levels of victim satisfaction where restorative, rather than retributive, models of justice are used (Lederach 1999; Wilson 1999; Strang 2000, p26). Hence, it is possible to argue that victims' rights need not be compromised, indeed may be strengthened, in a system committed to restorative principles.

This is not to say that the trend towards individualisation is immune from criticism from those who seek to champion victims' interests. Laster and Erez (2000, p252) are of the view that diversionary practices that pursue 'neo-liberal' notions of individual responsibility, especially through the negotiated (and often private) outcomes of restorative models, co-opt victims into participating in a ritual that cannot deal with the causes of crime. That is too pessimistic a

conclusion, however, since it assumes that current and traditional criminal justice administrations are assisting, to a significant degree, the criminological quest, which is simply not the case. It is possible, indeed, to assert that some individualised, offender-based justice initiatives not only confront the causes of crime, but do so in a way that allows victims to play a role in the quest. For example, a family conference arising out of a case of vandalism may uncover deep-seated frustrations that have marred the relationship between offenders and their targets. A family violence hearing may reveal a pattern of repeat victimisation that may be stopped by a particular intervention. Specialist courts, therefore, may reveal and allow solutions that are acceptable to offender and victim alike. In other words, diversionary options may promote a better outcome than a 'traditional' court order. Perhaps the appropriate way to proceed in light of Laster and Erez's caveat is to ensure that any evaluations of diversionary programs or practices, and especially specialist courts, insist upon the use of criteria that seek specifically to determine the impact of any initiative on victims' rights and victims' interests generally. That may include a consideration of whether involvement of victims frustrates or enhances the rehabilitation prospects of offenders, and frustrates or enhances the interests of victims. Moreover, evaluators should consider specifically whether diversionary practices allow for a better exploration into the causes of offending behaviour. It is not axiomatic that restorative models make victims into stooges. If that is happening, then evaluations should seek to find out why, and to make suggestions for change.

Conclusion

Will any of the legislative initiatives to give offenders more individualised, specialised and diversionary justice make any difference to, or have any adverse impact upon, victim concerns? A victimological commentator may have good reason, initially, to be pessimistic. Victims' interests in the criminal justice system have been high on the political agenda in South Australia for twenty years, but their niche was carved out before the latter-day diversionary emphases came into being, initiatives that pursue a very individualised focus upon offenders. Furthermore, although the official goal of the criminal justice system is to serve the public and thus the victim, the unofficial goal is to operate expeditiously to deal with offenders, and there may be a temptation in an individualised justice setting to down-play or omit extraneous factors (such as victims' interests, victim impact statements and so forth) from the process altogether.

There are signs of hope, however. It is not unlikely that a justice setting involving an activist facilitator, a specialist court or a more informal setting may be quite conducive to victims' concerns, especially if the process remains open and if the victim is kept informed of the process and invited to participate at strategic points. In other words, the moves towards greater informality are not exclusively beneficial to offenders. Moreover, in a world of 'restorative' justice, where offenders and victims may be brought together in a

setting where crime is seen as injury, not just law breaking, and where administrators are committed to outcomes that lead to reduced offending overall, one may find much common ground.

The final picture, in the absence of specific evaluative data, however, is not entirely clear. The fact remains that lawyers, judges, courts and the public at large are still unsure about how best to accommodate both the rights of the victim and the rights of an accused or convicted offender in a single justice process. Diversionary scheme practitioners are still coming to grips with the difficulties that are presented in theory and practice by the on-going processes of deconstructing. The time is ripe not only for more diversionary initiatives to be explored and implemented, but for each initiative to be evaluated in order to discover the sorts of justice processes that deliver best the outcomes desired and required by victims, their supporters and families.

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Endnote:

¹ South Australia was the first Australian jurisdiction to introduce a VIS by legislation. It came into effect 1 January 1989 and its mechanics are explained in Erez *et al* (1996, pp207ff).

Diversions Programs within the Criminal Justice System and their effects on Victims

Leigh Garrett

Rapporteurs Report

- Restorative justice is not a soft option for offenders.
- Most offenders depersonalise victims so the victim involvement is important.
- Informality and speed may assist offenders and reduce repeat victimisation.
- Information sharing procedures are well structured.
- What about the secondary victims of crime? - family and children of offenders -many are devastated.
- Many offences are drug related.
- Treatment regimes, which keep offenders in homes, are problematic because the home becomes a prison and creates issues for families.
- Concerns about mandated treatment programs with external focus of control - offenders need to be made accountable for their own behaviour.
- Many offenders are victims: eg. a high proportion of sex offenders, domestic violence and child sexual abuse needs to be dealt with early.
- Children of offenders are particularly vulnerable.
- Is the victim responsible for the offender's healing?
- Victims need choice.
- We need to be careful not to shift the responsibility onto the offender's victim.
- Victims must not be coerced.
- A confrontationalist approach may no longer be relevant.

Keynote Address:

“The Traumatic effects of crime on front line service providers”

**Alexander McFarlane, Professor of Psychiatry,
University of Adelaide**

Abstract

It appears that there are two ways in which people can be adversely effected by trauma. One is by their direct victimisation. The other, is by learning about the experience of other's experience. This is a critical issue for people who have to deal with victims in a variety of roles. In listening to and carefully documenting the experience of people who have been traumatised, there are many indirect effects. It appears that there are a variety of strategies by which people can adapt these. Broadly, there is the approach of withdrawal and avoidance. This can be manifest in a variety of ways such as a hardening of personal attitudes to suffering and attempts to distance the predicament of the victims. Alternatively, other people can become over involved and intensely identified with the victims. The critical strategy, both from a personal and occupational perspective is how people working directly or indirectly with the victims of crime can maintain optimal work performance and adaptation in the light of these issues. This will be discussed in this paper.

The Traumatic Effects of Crime on Front Line Service Providers

Alexander McFarlane

Introduction

The struggle between empathy and numbing for people dealing with victims of crime.

Workers dealing with victims of crime have the constant struggle to both maintain their empathy whilst at the same time having an adequate method for protecting themselves from the horror and suffering which they confront. In this regard, there is an inherent tension between the demands of the individual to fulfil roles within the law and emergency services and the needs of the victim. In this paper, I will explore the tensions inherent in the relationship between the helper and the victim. One of the paradoxes, is that with the progressive exposure of the helper, they slowly enter the world of the victim and can begin to suffer from similar alienation. In the novel, *The Thin Red Line*, James Jones understood this tension. The following passage described the predicament of men who had been seriously injured in an episode of shelling and the distance it has created from their uninjured comrades.

"They had been initiated into the strange insane twilight fraternity where explanation would be forever impossible. Everybody understood this, as they did themselves, dimly. It did not need to be mentioned. Everyone was sorry as they were themselves. But there was nothing to be done about it. Tenderness was all that could be given, and, like most of the self labelled human emotions, it meant nothing when put alongside the intensity of the experience." (Jones, 1962, page 46).

This quote highlights how empathy is an enormous struggle for people who have not had the direct experience themselves. In these circumstances, whilst approaches can be made, there is an inherent fracture between the effected and the unaffected.

The Denial of Trauma

Our society has had to live with the denial of trauma in many forms.

It is always safest to reflect on the failings of ones own profession, rather than to examine these issues in a domain where there has been no direct personal experience. One of the interesting issues about medicine, is that the doctor

patient relationship has only become a possibility with the development of technologies that have lessened the suffering of patients. For example, prior to the introduction of anaesthesia, imagine the demands made upon the surgeon and his attendants in conducting an amputation. Many people, in fact, resisted surgery, because they knew that intolerable pain and suffering would be endured which would change them psychologically in an irrevocable way. Hence, they preferred the ongoing suffering of the illness that may have required a surgical intervention.

In this context, it is ironic to see that surgeons openly opposed the introduction of anaesthetics. They believed that they, themselves, were the best of tonics.

Thus, they were only able to continue about their work by this peculiar denial and lack of empathy for their patients. This total failure to truly understand the awfulness of the suffering that they inflicted was a direct consequence of they themselves never having experienced the pain and anguish which they induced in their patients.

In some regards, the denial of the effects of psychological trauma up until recently, is an indication of how the psychological process of denial is what allows many people to carry out their professional roles, whether they be police officers, doctors, or lawyers.

The challenge is how people can be truly sensitive and understanding of the predicament of victims whilst be required to carry out roles in a way that does not allow them to become trapped in the distress and experience of the victims. Hence, there is inevitably a peculiar struggle and tension between the need for recognition and sensitive management on the part of the victim and the challenge for the police officer to go about his or her role in an objective and unemotional way. For example, one of the most demanding jobs for a police officer must be to interview the victim of a serious crime and then to deal with the accused in a respectful, impartial and objective manner.

The impact of technology on Professional Roles

History can be a great teacher of the way in which technology has changed professions and their relationship with their clients. One of the themes which emerges, is that it is often outsiders who observe the deficiencies in the way that organisations and professions deal with the suffering of people who they have to manage. In many ways, the professional roles blunt people's sensitivity to the point where they become inherently conservative and unable to adapt in a suitably empathic way to what they see. Ignatieff (1998), highlighted how the inventions of morse code and photography suddenly brought the battle field to the awareness of the public at large. This helped to create the distinctive sense of "distance between the myth of glory and its bloody reality" (p112).

It was in this genre that two great professions emerged. Firstly, Florence Nightingale came to see and know of the suffering of soldiers on the battle field bringing attention to the complete absence of adequate care and support in this area. It was from this realisation that the nursing profession emerged.

Similarly war correspondents began to see it as their role to no longer report war solely in terms of myths of glory, battle formations and the fine phrases of generals. The first great war correspondent was Tolstoy who fought as an artillery officer at the siege of Sebastopol. His great novel, *War and Peace*, struggles with the difference between the world of military communiqués and the experience of soldiers. His technique was to describe with an extraordinary eye for the sensory detail, the suffering and terror of the individual soldier. The essence of his tale was to convey the personal experience of observation "You will see war not as a beautiful, orderly and gleaming formation, with music and beating drums, streaming banners and generals on prancing horses, but war in its authentic expression - as blood, suffering and death" (Tolstoy, 1986, p48).

Hence, with the war correspondent, began a genre of grappling with conveying to the world at large, the reality of human suffering, rather than depicting it in an idealised form.

The role of the outside observer is perhaps most graphically characterised by the life of Jean Henri Durant. He wrote a book titled "A memory of Solpherino" (cited in Ignatieff, 1998) which was a personal account of a battle which occurred on June 24, 1859 between the Austrians and the Italians. He no longer saw war as a private matter between generals and soldiers which was hidden from the public domain. As a civilian, he chose to give testimony to the horrors and the moral dilemmas which war so often violated. He clearly took the perspective that this was the broader responsibility of the world.

Although an industrialist, who subsequently suffered the ignominy of bankruptcy, he set about establishing the Geneva conventions and organising the international Red Cross. He retired to a life of obscurity, and only through the efforts of a journalist, was identified and then nominated for the first Nobel Peace Prize in 1901. The lives of people such as Florence Nightingale, Tolstoy and Durant indicate that it is people outside the establishments who often move in with their own novel perspectives and change the general stream or demeanour of observation of the human condition.

This is one of the reasons why we should clearly welcome scrutiny of professions and the perspective of consumers in health and law enforcement agencies. Whilst their perspective can at some times be perceived as being attacking and denigrating of professional roles, it is important that the novelty of their observation and their sensitivity to a number of domains is grasped, welcomed and used as the engine to change and modify practises to ensure they are sensitive to and in keeping with the capacities and potential of the modern era.

One of the most striking examples of the inability of people within organisations to observe the true nature of the behaviour, concerns the ability of military leaders to understand the true nature of combat. The most graphic example is the failure of the leaders of the First World War to develop tactics to undo the extraordinarily destructive deadlock of the trenches of the First World War. In the Second World War, the chief historian at the American Armed Services, S. L. A. Marshall, chose a very different approach to documenting the history of aspects of that conflict. In fact, his work was the beginning of the debriefing movement. He chose to sit and interview soldiers fresh out of combat in their platoons. He found that a period of seven to eight hours was necessary to establish a true representation or understanding of what had occurred.

He came to establish that only between 15 and 20% of men in the line of fire "would take any part with their weapon" (Marshall, 1947). This was true whether the action was spread over a day or two or three. That is not to say that these men were cowardly. They were very willing to risk great danger to rescue the wounded, to get ammunition or to run messages. He identified the presence of enormous prohibitions to killing. Grossman (1995) has given a graphic account of how this knowledge was grasped by the armed services to develop fire support teams centred around the individuals who appeared to have this particular and peculiar skill.

The work of people like Marshall identifies the complete irony and misrepresentation of the world of Hollywood. However, people in the public are left with the impressions of the alacrity and lack of distress associated with most shootings. This total misrepresentation is potentially extremely dangerous for society as it fails to warn people of the real risks to themselves in becoming involved in conflicts.

Progressively, this type of knowledge is being used in ways that only blunt our sensitivities. "Saving Private Ryan" was hailed as a movie which graphically portrayed the reality of battle. In fact, it was more to do with a characterised episode of the television program "Combat", than it was to do with the reality of the experience of men at war.

We know so little about how men fought in battle, despite the many collective witnesses. What hope do we have, therefore, of understanding the complexities and the difficulties experienced by people involved in law enforcement, emergency service work and even those in fields such as medicine. There is a peculiar conspiracy of silence that fails to identify the prohibitions and struggles which most people confront in dealing with these various professional roles.

The Irony of Reality

One of the greatest challenges is to contemplate how people who are sane and integrated can truly deal with the horror of dealing with horrendous crime

scenes or accidents. Anybody who is in touch with their sensitivity would understandably be repulsed and refuse to enter this world because of the damage that it could do to their sanity and capacity to cope. This is one of the dilemmas which has always faced the world of codes of military conduct and the performance of police forces. Men are expected to place themselves in extraordinary situations and are severely punished if they do not follow orders. They are presumed to be able to do this in a conscious and logical way. Thus, if people break down in battle or in the performance of law enforcement or emergency service duties, there is always the suspicion that they are malingering, exaggerating or overwhelmed with fear, all a consequence of cowardice.

The notion that there is an alternative explanation as to why people's behaviour breaks down in these situations is one of the great challenges for personal management. As Jasef Heller characterised this dilemma in his novel "Catch 22" "There was only one catch and that was catch 22, which specified that a concern for ones own safety in the face of dangers were real and immediate with the process of an irrational mind" (Heller, 1999, p55). Hence, anybody who complained about the horrors of combat was deemed to be sane and could not be excused their duties. In the novel, a recurring scene of Snowden's death where he was shot and his entrails spilled out within his flack jacket, highlights the extraordinary horror and awfulness of this scene and how it stands in stark contrast to rationalism.

The voice of literature in contrast to the world of the cinema, does a much greater public service in the way that it explores the complexity and sensitivity of these issues. It is the internal dialogue and the struggle to manage horror yet remain sane which is a critical struggle. This in many ways characterises the life of people who have to deal with the immediacy of crime scenes or accidents. They both have to be able to perform in an objective, trained and planned way yet not become so numbed to the scene that they lose a sensitivity to the humanity of the suffering of the victims. As J. G. Ballard (1985) stated in the introduction to his novel "Crash" "We live inside of an enormous novel. It is now less and less necessary for the writer to invent the fictional content of his novel. The fiction is already there. The writer's task is to invent the reality."

The challenge is how this reality can be embraced and identified in organisations and for individuals in front line services without them becoming paralysed by the enormity of the human suffering which they have to confront. In many ways, people in the past have walked by the suffering of victims with a child like innocence. The victim is often spurned and distanced because they carry messages which are too difficult to live with as they constantly remind others of the fragility and sensitivities of the world.

"Images of human suffering do not assert their own meaning; they can only instantiate a moral claim if those who watch understand themselves to be potentially under obligation to those they see" (Ignatieff, 1998). This is one of the demands of living in the modern world. We are constantly confronted by

images of horror and destruction on the evening news. This takes on the quality of lurid entertainment and a dramatic storm. It drags people from the quiescence of their own lives. However, this is in many ways at a terrible social cost. A rapid boredom encroaches where the lives of victims become forgotten once their entertainment value has ceased to excite. There is almost a progressive escalation of the lurid detail and anticipation portrayed.

Very seldom is the issue raised as to our moral obligation to the people we see on the television screen. Does this obligation stop with our own family? Does it stop with the next door neighbour? Does it stop with the people who live in our street? Does it stop with our own city, does it stop with our own nation? Or do we have some responsibility to the events of Africa and the world? At what point do our moral sensitivities and obligations become numbed?

One of the ironies, is that the journalist themselves often become the victims of the world which they report on. They slowly cross the thin red line and themselves become captured by the horror. Inevitably, there is a conflict between the needs of moral sensibility and the demand for entertainment. Grossman (1985) has highlighted the dangerousness of many of the trends in the modern entertainment industry. Adolescents drink Coca Cola, munch chocolate and potato chips whilst witnessing the most gruesome and horrendous scenes which in reality would make them vomit. This is a wonderful training ground for desensitising people to the reality of human experience and leads to the progressive death of sensitivity and appropriate withdrawal.

Similarly, many computer games provoke an immediate reaction of killing an enemy without the normal prohibition or supervision which occurs in military establishments. Ironically, there are significant prohibitions in armed services for the accidental discharge of a weapon or the discharge of a weapon without a direct order. Thus, the killing in services is highly disciplined. Computer games are reflexive, exciting and inductive. The new role models are Arnold Schwarzenegger, who has little concern for inhibition and rules of engagement. It is little wonder that in a world where the ability of an individual to fight against huge odds means that the posturing, which is so much of the inducements of social authority, have lost to carry the normal weight that they did in a bygone world. Hence, on one hand the authority and a sensitivity to the dictates of the law are being undermined. Paradoxically, at the same time, the enforcers of the law are being asked to be more sensitive and in touch with the criminal and victim alike.

The psychological core of Progressive Traumatization

The work of Wilson and Lindy (1994), on understanding the nature of the countertransference that develops between therapists of the victims of traumatic stress is a useful paradigm for understanding the dimensions of the reactions of people dealing in the front line with victims of crime. On the one hand, increasingly, the individuals can become overwhelmed by the day to day

horror which they have to encounter. Progressively, their level of distress can increase to the point where they begin to identify with the victim. In other words, there is the progressive drawing of the individual to the traumatised person he or she has to deal with.

This is particularly likely to occur in situations where there is personal identification between the helper and the victim. For example, it might be that the personality or character of the victim reminds them of a close friend or spouse. The victim might be the same age as a child. On the other hand, the nature of the trauma or the accident may remind them very closely of some incident which they have previously survived or been at significant risk themselves.

People so effected can increasingly resort to avoidance and denial as a way of dealing with their sense of vulnerability. In front line organisations, this can significantly undermine the effectiveness and efficiency of the individual.

A great deal is demanded of people investigating crimes. On one hand, they are required to deal empathically with the victim, but on the other hand, their role requires them to approach the accused with a degree of impartiality and fairness in their investigation. This puts enormous psychological demands on the individual to use different defences in different types of situations.

The dilemma for individuals, is that often their job involves minimising the danger to themselves of becoming involved in the life of the victim. It is when this minimisation ceases to work that they become captured by the horror and find that they need to withdraw in an increasing state of fear and confusion (Keenan, 1993). This is when the struggle for psychological survival begins. Brian Keenan, an Irishman who was held captive in Lebanon for four years describes the psychological struggle of dealing with his fellow prisoners' suffering: "It struck home to me that we were participating in another person's suffering, we in part heal ourselves. We needed some way to dispel the alarm and fear that was beginning to take hold of us." (Keenan, 1993, p176). Thus, empathy is a subtle balance between the over identification with the victim and the struggle for personal survival through the understanding of others.

The other polarity is one of distancing and withdrawal. The stony faced expression of the investigating police officer and their apparent psychological toughness is the outward sign of this style of adjustment.

Another manifestation is witnessed in the cross examining barrister acting for a defendant, who actively denies the sensitivities or suffering of the victim of a crime through their insinuations and confrontation of the victim with questions. Progressively, this style of psychological defence is one that comes to demean and belittle the victim. The victim can be seen as a threat to ones own sense of vulnerability and potential for suffering. This style of adaptation is very similar to that which was used by surgeons in the pre-anaesthetic era at the time when they were required to do procedures without anaesthetic. This

capacity to be subtly blinded to the predicament of the people who a professional is asked to help, is one of importance in the consumer movement. Whilst the consumer movement might have on occasions been somewhat zealous and overly critical, ultimately, they are advocating the same ends which professions would seek. Namely, the aim is, the provision of a sensitive and responsive professional service where both the suffering of the victims can be dealt with, but also where the workers survive psychologically the demands of being empathic and the predicament of coming close to horror and helplessness.

This pattern of psychological defence was characterised by a remark in "All Quiet on the Western Front" (Remarque, 1994). "It has blunted our sensitivities, so that we do not go to pieces in the face of a terror that would demolish us if we were thinking clearly and consciously and so we live out a closed, hard existence of extreme superficiality, and it is only rare that an experience sparks something off" (Remarque, 1994, pp192-193). To the outside observer, this style of response can be perceived as one of indifference and contempt for the victim. However, more thoughtful reflection suggests that it is more to do with the psychological survival of the officer than some malignant indifference.

The Potential for Corruption

Increasingly, exposure to human suffering and the reality of the world of crime and indifference of the perpetrators, can create a sense of moral despair. As Tobias Wolff (1994) described the situation in Vietnam: "The ordinary human sensations of occupying a safe place in a coherent scheme allowed me to perform, to help myself as much as I could, but at times I was seized and shaken by the certainty that nothing I did meant anything, and all around me I sensed currents of hatred and malignant intent. When I felt it coming on I gave a sudden wrenching shudder as if I had bitten into something sour and forced my thoughts elsewhere. To consider the reality of my situation only made it worse" (p5).

It is in situations of this type of despair that individuals become vulnerable to corruption. It is easy to see corruption as the product of evil and the lack of discipline. However, it is as much about the demoralisation and the impossible moral binds that people are required to deal with in confronting aspects of human suffering which seldom gets discussed in sophisticated ways in the dialogue of journalism. So often, the dialogue of journalism avoids the complexities of cycles of crime and wishes to polarise between the innocence of the victim and the evils of the perpetrator. Unfortunately, all too often the perpetrators themselves have reached this point following a path of despair and traumatisation which they adapt to slowly, entering a cycle of violence out of their state of numbness and indifference to their own sensitivity. The cycle between the abused and the abuser is only too readily recognised in the domain of child abuse.

Freud: An Example of the Culture of Denial

The impact of the struggle to contain and understand the suffering of trauma can be understood by looking at the lives and ideas of doctors who have lived with this world and struggled to understand it. At the end of the 19th century the scales fell off clinicians' eyes and they began to see the environmental cause of much mental illness, rather than simply seeing this as a consequence of genetic inferiority. The progressive shifts in Freud's ideas about the neurotic disorders encapsulates the impact and ultimately intolerable nature of this realisation. Freud originally advocated the importance of trauma. For example, he saw trauma as the central aetiological issue in neurotic disorders. "External events determine the pathology of hysteria to an extent far greater than is known and recognised. It is, of course, obvious that in cases of "traumatic hysteria", what provides the symptoms is the accident" (Breuer and Freud, 1893).

Freud saw childhood sexual abuse as the critical traumatic event responsible for the neurotic symptoms of most of his patients. However, despite the fact that he had probably seen an autopsy of a child who had been killed while being sexually abused and knew of a number of other such post mortems, in 1897 he came to reject his views about the prevalence of child abuse. This appears to have been partly in response to the increasing alienation from his colleagues as a consequence of the social turmoil caused by these suggestions.

In the management of many cases, he attempted to explore the issues with relatives who denied the prevalence of sexual abuse. This led him to subsequently recant his view about the importance of childhood sexual abuse which consequently had a dramatic impact on the acceptance and management of sexually abused children for more than half a century. This indicates how the powerful pressures of social conformity can come to exercise their influence (Brown 1968).

Despite the stories told by millions of patients, the psychiatric community continued to accept Freud's assertions. This suggests that clinicians had a great deal of difficulty in acknowledging the existence of trauma. The reasons for this denial are an interesting issue in their own right. The Oedipus Complex was a powerful myth that tainted the capacity of generations of clinicians to observe the natural world and trust their senses and reason. Hence, the distancing and denial of the reality of human suffering indicates the vulnerability

of clinicians and investigators of criminal events to have their perceptions distorted by the need for personal survival. Their core beliefs can be as much realistically influenced by the observations that they make as their wish to deny the awfulness of what they see.

The dichotomies that can exist in people's beliefs about preventing suffering, yet finishing up as perpetrators, is perhaps equally indicated in the life of

Franklin D. Roosevelt. He had been to the front in the First World War. Whilst there were many political issues that influenced America's late entry into the Second World War, Roosevelt's own personal experience was probably equally relevant. For example, he wrote in a speech at Cautauqua in New York on 14th August, 1936: " I have seen war. I have seen war on land and sea. I have seen the blood running from the wounded. I have seen men coughing out their gassed lungs. I have seen the dead in the mud. I have seen cities destroyed. I have seen 200 limping, exhausted men coming out of a line - the survivors of a regiment of 1,000 that went forward 48 hours before. I have seen children starving. I have seen the agony of mothers and wives. I hate war" (Gilbert, 1994).

The traumatisation of America in the Civil War similarly played an important role in the cultural memory that limited USA engagement in the world of the late 19th century. Particularly the entry of the First World War. Yet, at the same time, Roosevelt was the man who began the Manhattan project which led to the bombing of Hiroshima and the terrible threat of the nuclear holocaust that lay over the latter part of the 20th century. Hence, human nature allows the sequestering of people's victimisation and at times the simultaneous instigation of highly risky strategies that have an enormous capacity for causing traumatic distress.

Mental Health Consequences of Traumatic Exposure.

Epidemiological studies, such as those of a group of young adults in Detroit (Breslau, Kessler, Chilcoat, Schutz, Davis and Andreski, 1998) suggests that witnessing injury or death, can in itself be traumatic. However, individuals who themselves, in the past, have been injured appear at much greater risk of being traumatised. Police officers and ambulance officers have a greater risk of injury than many other occupations. This can either be in motor vehicle accidents or the subject of assaults. There are situations where, all too tragically, officers are killed in the line of duty. This takes an exacting toll on their peers and colleagues.

Often the culture of forces, is to discourage the volunteering of an individual's distress. The seeking of treatment, if this becomes known to senior officers, can significantly undermine the individual's chance for promotion. Paradoxically, the organisation would have been much better served if these individuals did readily seek treatment. The adverse consequences remain whether they are treated or not. The mental health and well being survey, (ABS, 1998) showed that even in community samples, only 28% of those with anxiety disorders seek any form of treatment. Hence, organisations should focus on strategies and ways of encouraging individuals to seek appropriate professional assistance. This contrasts to the many organisation barriers which characteristically inhibit treatment seeking. Increasingly the data indicates that post traumatic stress disorder is associated with significant burden. The odds ratio for increased risk of attempting suicide is 6. The levels of impairment in

terms of inadequate work performance are similar to those of depression. As well, there is a generally higher pattern of use of general health services. In these settings, the underlying nature of the individuals distress and illness is not well recognised (Kessler, Bromet, Hughes and Nelson, 1995).

Substance abuse is also a significant risk associated with traumatisation (McFarlane, 1998). The associated secondary morbidities, both in terms of people's psychological difficulties, the impact on relationships and their physical health are often under estimated.

Similarly, risk taking behaviours, including sporting activities, can become a way of life for individuals involved in high pressure jobs. These pursuits can become the only way that the individuals come to feel alive.

One profession where these matters are seldom discussed is the legal profession. The cost of practising law is an issue that gains little public attention or research. The law places its practitioners in a peculiar position. They are required to take an adversarial stance which often involves methods of cross examination which would not be tolerated in any other arena of social discourse. In fact if the law were designed today, it is improbable that the tone or method of interrogation used in legal settings would ever be adopted as they go so against the currently accepted social conventions of mutual respect and diminished status of authority. The question arises as to what impact the practising of such a profession has on the individuals who have to behave in this manner. As Satre (1964) said "A man is always a teller of stories, he lives surrounded by his own stories and those of other people. He sees everything that happens to him in terms of these stories and he tries to live his life as if he were accounting it" (p 22). Hence, lawyers can come to accept the reality which they advocate. Particularly if they are working for a defendant, this can involve the denial and minimisation of the suffering of the victim.

The Social Sequestration of Victims

Even those working in caring professions as highlighted by Freud can become numbed and annulled to the suffering of a clientele which they deal with. I would argue that this is perhaps of greatest significance in the area of mental health. The mental health arena has been very slow to take on the concepts of psychological trauma in relation to the more severely mentally ill. In fact, one of the original attractions of the diagnosis of post traumatic stress disorder was to remove some of the stigma associated with this condition.

There are now a number of studies (Mueser, Goodman, Trumbetta, Rosenberg, Osher, Vidaver, Auciello and Foy, 1998) which highlight the very high rates of traumatisation amongst the mentally ill. This has also been examined in South Australia. The majority of these individuals go undiagnosed and unrecognised during the course of their admissions. Generally, their treatment takes little account of the impact of child abuse or rape which are all too common experiences, amongst the severely mentally ill.

One of the issues is that services often are unable to deal with the demand. As a consequence, forms of rationing are put in place, yet the factors influencing this rationing are not considered. A survey by Paterson (1999) of mental health workers looked at people ringing up an emergency psychiatric service. There were very high rates of traumatisation amongst the callers. Thirty-five percent had been involved in a life threatening accident, 50% had been assaulted and 50% had been sexually molested, yet approximately half of these people were not responded to with any direct service, although they had high levels of symptomatology. Hence, a service which is proposed by the politicians to provide adequate access to those with need in the community, inevitably introduces a rationalising of services. At present this results in people with a very legitimate need being turned away.

One consequence of the inequity between the supply and demand, is that the front line workers progressively become more and more numbed to the distress and suffering of those who contact them. Thus, the overwhelming demand made on these services leads to a type of numbing and distancing within these organisations. Ultimately, this is extremely stressful for the workers and an issue which demands attention at very senior levels in the health system.

The unintended consequences of budget cuts are the creation of random barriers that prevent management from providing care to the individual service providers who have to deal with highly traumatised individuals on a day to day basis. Often compensation systems fail to address adequately the consequence of the trauma on the individuals in this situation. In South Australia for example, the removal of common law rights to sue for negligence, means that the stature of the organisation far outweighs the capacity of the individual to protect him or herself in any legal arena, even if the employer has not acted with due care or concern. This is a matter of concern, as in some regard it expresses a world of disenfranchisement and lack of responsibility. Paradoxically, as an employer, the State needs to separate its protection of citizens from its fears about its liability for its injured employees. Respect and prevention are the core concerns and values which State organisations dealing with victims would hope to espouse.

Conclusion

The demands of working with traumatised people are considerable and are often underestimated by individuals and organisations working in this area. Ultimately, their roles can only be adequately performed if the psychological strategies that people need and use in coping with the victims of trauma are understood and dealt with, both in terms of personnel management and service structures. There is the potential for individuals to become so overwhelmed that they disengage to protect themselves from their distress. On the other hand, individuals can become numbed and hard to the suffering of

others. For this reason, consumers play a critical role in advocating and helping professionals deal with the demands of their extremely difficult roles.

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Interactive Workshops:

“Healthy workers & healthy organisations-what can we do?”

Participants

- **Ray Dowd, Police Welfare Services**
- **Paul Heinrich, Cognition / Crisis Response and Child Abuse Services**
- **Sue Robinson, Principal Staff Counsellor, Department for Correctional Services**
- **Merideth Perry, Occupational Consultancy Assessment and Referral Service Inc**
- **Karen Fitzgerald, Director, Child Protection Service**
- **Megan Fulford, Senior Police Psychologist and Manager of Clinical services, Victoria Police**

Interactive Workshops: Healthy workers & healthy organisations-what can we do?

Group 1 - Vicarious Traumatization

- Ray Dowd, Police Welfare Services.

Rapporteur's Report:

Vicarious traumatization – a transformation in the individual's inner experience which results from empathetic engagement with trauma survivors and their trauma material. (Dr Laurie Anne Pearlman)

Ways of dealing with trauma in the workplace. Psychological needs, emotional effects, strategies – talk with colleagues, counsellors and structured supervision contacts.

More recognition / acknowledgment for the role of employees. Supervisors trained to understand employees and give positive feedback.

De-briefing – organisational support, managing the situation. Have to be comfortable for disclosure.

Group 2 - Crisis Response and Child Abuse Services

- Paul Heinrich, Cognition / Crisis Response and Child Abuse Services.

Rapporteur's Report:

Is our response to trauma related to the nature of our work or our personality and is there a relationship between situational stress and vicarious trauma?

Our personal assumptions about the world are critical to our professional survival, as well as the culture of our organisation.

Participants were asked: "Before traumatic incidents occur, what will our organisation do to cope?"

Group 3 - Correctional Services

- Sue Robinson, Principal Staff Counsellor, Department for Correctional Services.

Rapporteur's Report

Traumatic events damage those involved and those who care for those involved. Trauma has a cumulative effect.

Organisations can do as much or more harm than the trauma if they do not recognise and manage the trauma appropriately. Denial of rights, by legislation or otherwise, only makes the problem worse.

Trauma affects different people in different ways. Intervention needs to be tailored to suit the individual need. Typical protective reactions are avoidance / withdrawal or over-involvement; neither are healthy.

Group 4 - Occupational Trauma Response

- Merideth Perry, Occupational Consultancy Assessment and Referral Service Inc.

Rapporteur's Report:

Secondary trauma – “dealing with it”.

Factors affecting traumatic response.

Trauma response plans – elements.

Peer support – what is it?

Group 5 - Child Protection

- Karen Fitzgerald, Director, Child Protection Service.

Rapporteur's Report:

Child protection operates within a context of social change and control. We are reluctant to intervene (child as property) but failure to do so has costs.

Professional dangerousness – we tend to collude with or increase the danger from abusing parents. Our organisations need to model different ways of functioning – non-blaming, supportive.

Facilitated reflection (not case discussion and not self-disclosure) sessions useful.

Workers need support, caseload management, rest and training.

Need to challenge the myth that you need to be strong.

Group 6 - Work Place Counselling

- Megan Fulford, Senior Police Psychologist and Manager of Clinical services, Victoria Police.

Rapporteur's Report:

Use of workplace counselling services impaired by questions about effectiveness, availability, stigma, need to be seen as coping, confidentiality and accessibility.

Cumulative effects of exposure to trauma – early intervention and organisational responses are important – ie peer support, information about what is available and what reactions are likely to be experienced.

Important for staff / workers to have choices ie freedom to determine what support is necessary and choices about what the individual can contribute to their own well being.

Interactive Workshops:

“Practical initiatives to reduce the effects of victimisation”

Interactive Workshops: Practical initiatives to reduce the effects of victimisation

Bullying

Presenters:

- Susan Clearihan, Coordinator Local Crime Prevention Committee.
- Dr Phillip Slee, School of Education, Flinders University.
- Mignon Souter, School Counsellor, Hendon Primary School.
- Jo Mareolus, Community Liaison Officer, Pt Adelaide Local Service Area, South Australian Police.

Abstract

Bullying is now being recognised internationally as a significant issue facing schools.

Bullying impacts negatively on a school's effectiveness to establish a safe and healthy learning environment.

Australian research has established that approximately 1 in 6 students report being bullied once a week or more.

Research indicates that bullying is a socially isolating, psychologically damaging and a physically harmful experience for those involved.

When not appropriately addressed bullying behaviour impacts on the broader school community including other students, parents or caregivers and other adults.

This study reports on a community based anti bullying initiative funded by The City of Charles Sturt Local Crime Prevention Committee Program through the South Australian Attorney General's Crime Prevention Unit.

Two schools chosen from the 23 that volunteered were involved in the year long project.

Initial survey findings indicated that both schools had particular issues associated with bullying which they needed to address.

Each school devised and implemented an intervention program to address bullying.

Findings from the year long school and community based program including the post intervention results will be reported in this paper.

Rapporteur's report:

Identify what bullying is. There is a link between bullying and crime.

It is a community – multi-agencies issue not just a school issue. Collaboration with the community is necessary – ie crime prevention committee, SAPOL, schools, parents, students and community help groups.

To solve bullying there needs to be a problem solving approach – ie identify the nature of the issues and the means to address them. Need to cut through the perceptions and beliefs and get to the reality of where and what is happening to whom.

Children & Young Adolescents

Part 1 - Children as Witnesses in Criminal Proceedings

Presenter:

- Jayne Rickard, Senior Social Worker, Child Protection Services.
- Women's and Children's Hospital and State President.
- National Association for Prevention of Child Abuse and Neglect.

Abstract

This workshop will look at children as witnesses in criminal proceedings.

Whatever the jurisdiction, the structures, procedures and attitudes to child witnesses in legal processes frequently discount, inhibit and silence children as witnesses.

In cases where the child is very young or has or had a close relationship with one of the parties or where the subject of the evidence is particularly sensitive eg sexual abuse, children often become so intimidated or distressed by the process that they are unable to give evidence satisfactorily or at all.

The workshop will look at changes that could address the problems:

- a) Children as reliable witnesses - assumptions of unreliability, research to the contrary, implications for investigations and courtroom encounters with children;
- b) Investigation and pre-trial processes - the initial interview, specialist investigation teams, video and audio taped interviews and children's evidence, video taped pre-trial hearings, committal hearings and consequences of pre-trial delays;
- c) Rules of evidence - competence, compellability, corroboration and judicial warnings, expert evidence, hearsay and evidence of recent complaint;
- d) The child witness in the courtroom - understanding the process, the role of the prosecution, witness preparation and support, court companions, CCTV and screens, physical aspects of the courtroom and its facilities.

Part 2 - Clinical work with Children who have been sexually and physically abused

Presenter:

Jennifer Patton, Senior Social Worker, Child Protection Service, Women's and Children's Hospital.

Abstract

This workshop will discuss clinical work with children who have been sexually and physically abused. Some of these children become involved in the court process when they are required to give evidence as victims.

Some strategies can be used to strengthen these children and reduce the risk of them being further victimised by the legal process. Clinical techniques and children's stories will be used to illustrate the experiences of children before and after court appearances.

Rapporteur's Report

Low percentage of child sex abuse matters progress to court and even fewer convictions. There needs to be significant practical and philosophical change within the Criminal Justice System to improve this situation for children – eg: children should be considered reliable witnesses, delays minimised, use of video taped evidence and appropriate use of language.

Expert opinion should be admissible in court concerning issues such as communication patterns and the perceived reliability of children.

The provision of support to children in preparation for giving evidence and the actual outcome of the case is crucial. Children need to have a context to understand the process. Therapy should focus on building up the child's strengths and assisting them to develop a sense of self in order to manage the situation of giving evidence and dealing with the outcome.

Domestic Violence

Presenters:

Melinda Mayne and Michael Riches, Crime Prevention Unit,
Attorney General's Department (SA).

Abstract

Domestic violence is a crime that affects at least one in four South Australians sometime during their lives. The impact that domestic violence can have on women, children and men is immense. It can affect self-esteem; physical, mental, emotional and spiritual health; children's cognitive and behavioural development; economic wellbeing; and a myriad of other essential components of a person's life.

This workshop will explore a variety of strategies that can be used to prevent domestic violence in our community. Reference will be made to current South Australian initiatives as well as a range of interstate and overseas models. These models will include early intervention strategies, situational crime prevention, community actions, collaborative approaches, repeat victimisation initiatives and strategies focussed on victims, children and perpetrators.

The South Australian based "NDV Project", designed to reduce repeat victimisation of domestic violence through a series of escalating police interventions, will be discussed in some detail. This project includes strategies to support victims (such as appropriate referrals, personalised safety plan, police contact, neighbourhood support, coordinated agency meetings, security audits and personal alarm systems) as well as a range of strategies to demotivate offenders (personal letters and visits from police, appropriate referrals, targeted police patrols, and the use of appropriate minimal justice options).

Workshop participants will be invited to contribute ideas that they have for the prevention of domestic violence with a view to "testing" those ideas against what we know about effective domestic violence prevention work. This will be a practical workshop to encourage participants to think about developing and/or improving domestic violence prevention work within their sphere of influence.

Rapporteur's Report

Prevention – A broad perspective is essential to stop, reduce impact, reduce prevalence and change the nature of violence.

Prevention requires a problem-solving model, which is broad in assessment but specific enough to develop meaningful strategies.

Collaboration is an essential element in dealing with domestic violence.

Reinforcement that evaluation (with adequate funding) is a key element of any project.

Prevention involves the community seeing domestic violence as being something they have responsibility for.

Pre-incident training for those dealing with domestic violence is essential to help focus their interventions.

The focus must be on victim(s) to be effective.

Elder Abuse

Presenters:

- Lisa Huber, Education Officer, The Office of Public Advocate.
- David Cripps, Advocate, the Aged Rights Advocacy Service.

Abstract

We'd like to introduce you to Lily, an 84-year-old widow, whose ability to manage her own affairs is diminishing. Lily is being financially abused by members of her family. South Australian research suggests that up to 12,000 older members of our community may be abused at any given time. Lisa Huber and David Cripps represent two agencies working together to raise awareness of financial abuse against older South Australians.

Using Lily's case, Lisa and David will explore with participants the nature of elder abuse and in particular, issues and practical initiatives that can reduce the effects of financial abuse. Complex issues such as family conflict, individual's rights and legal aspects will be considered in a practical manner, and strategies for dealing with them will be explored.

These issues include, but are not limited to, the following:

- Who determines when a person is of sound mind?
- What are the legal safeguards people can put in place (eg POA)?
- How to uphold vulnerable people's rights.
- What services can assist abused older people?

Some principles to follow when working with abused older people:

who to consult, where to seek advice, how to involve others appropriately.

Rapporteur's Report

What is elder abuse? – Anything done or omitted which causes harm to an older person. It is an abuse of trust. Types of abuse: - psychological, physical, financial neglect and social. Contributing factors to abuse: - children, crime, isolation, lack of security, lack of support, breakdown of trust, including blind parental trust of children, mental capacity and abandonment. Psychological and financial are the most prevalent.

Why is it important to address elder abuse? –We all need to feel we can protect our financial interests both now and in the future and the rights of the individual must be respected.

Agencies who can assist the elderly:

- Aged Rights Advocacy Service;
- Office of Public Advocate;
- Medical Practitioners;
- Guardianship Board;
- Legal Practitioners;
- Police – Victim Contact Officers / Crime Reduction Section;
- Community Officers (Council).

Sexual Assault

Young People's Rape Prevention Project

Presenter:

- Lucia Arman, Yarrow Place (Rape and Sexual Assault Service).

Abstract

There are a number of ways to reduce the effects of victimisation. One is to provide appropriate and effective services to people who have been victimised. Another is to try to prevent the victimisation from happening in the first place.

The Young People's Rape Prevention Project aims to do both these things. The stated aim of the project is to reduce the incidence of rape and sexual assault for young people aged 16 -25 in the inner city of Adelaide. This eighteen month pilot project (Jan 1999 - June 2000) has been designed using health promotion, harm minimisation and crime prevention principles. It targets three different population groups of young people. Separate processes have been designed to address the different risk factors for, and contexts of, 'street present' young people, university students and young people drinking in licensed premises.

Street kids are highly vulnerable to sexual assault. One survey found that 52% had been sexually assaulted in the previous 12 months and estimated that up to 76% of young homeless women will be sexually assaulted. In the first initiative, twelve street kid 'peer consultants' are designing prevention strategies for their context, and developing ways to communicate those strategies to their peer group. Inner city youth services are key partners in this work.

University students face different risk factors, including group living arrangements at residential colleges and camps, alcohol consumption and peer pressure to 'score' sexually. The second initiative is working with staff and students to research sexual harassment, sexual coercion, rape and sexual assault amongst university students and to design strategies to reduce their risk of victimisation. Training for university staff in crime prevention and harm minimisation has also been conducted. Student organisations, on-campus services, and the Crime Prevention Unit of the Attorney-General's Department are key partners.

The third project targets licensed premises. Data suggests that around 20% of sexual assault occurs either in and around, or after frequenting, a licensed premises. Jointly facilitated with Adelaide City Council, this project will work with licensed premises to design prevention strategies for that context.

Strategies might include training for staff, information for patrons, redesign of physical environments and changes to serving policies.

Crime prevention research suggests that multiple strategies addressing the same issue in one locality are more likely to be effective in reducing the incidence of crime. That in itself should contribute to reducing the effects of victimisation. However, these projects also aim to increase young people's awareness of the legal, health and welfare rights, options, and services available to victims of sexual assault; and to enable the various organisations and services who work with the target groups to provide more effective and appropriate services to people who disclose a rape or sexual assault.

This workshop will begin with a presentation about the processes that have been used to develop the three projects; the outcomes to date; and lessons for future strategies to reduce victimisation. Questions and discussion about the project itself and other potential strategies will be encouraged.

Rapporteur's report

Brainstormed approaches to prevention, examined issues and dilemmas to each of these approaches, of which there were many. Examined how to apply methods and approaches in particular contexts.

Examined Yarrow Place's young peoples' rape prevention project including their methodologies and strategies. Three projects with high risk groups in Adelaide:

- Peer consultancy – working with young street people;
- Uni program;
- Licensed premises.

Break and Enter

Co-presenters:

- Christine Walter, Crime Prevention Unit, Attorney-General's Department.
- Detective Chief Inspector Bill Prior, Crime Reduction Section, South Australia Police (SAPOL).

Abstract

Residential break and enter causes a variety of consequential effects for both the agencies that respond, and the victim. Victims are affected economically and emotionally, and for some victims it can have a long term impact. This workshop will look at initiatives to minimise the occurrence of this crime both through SAPOL and the Attorney-General's Department.

Over a period of approximately 14 months ending in January 2000, the Attorney-General's Department in partnership with National Crime Prevention, collaborated with several local agencies including SAPOL, Victim Support Service, Local Government, and Volunteering SA, to implement the Residential Break and Enter Pilot Project. International research shows that houses that experience this offence, have a high probability of experiencing another break and enter within six-eight weeks of the first. The Pilot Project aimed to prevent repeat victimisation by training volunteers to provide a service to victims that included tailored security advice, informal support, referral to other agencies and services, and links to neighbours.

SAPOL conducts a range of initiatives specifically designed to reduce the incidence and effect of break and enter offences. In August and September 1999, South Coast Police co-ordinated a special operation in the Morphett Vale area. The operation included participation by Neighbourhood Watch volunteers, Police Rangers (youths) and employees of the City of Onkaparinga. This operation involved dividing the city into four sections, and applying different strategies in each area.

This workshop will discuss why some strategies were more successful than others, and highlight the need to continually monitor and adjust crime prevention strategies for residential break and enter.

Rapporteur's report

Residential break and enter project and the use of volunteers for the purpose of educating victims in order to avoid repeat victimisation. The study looked at over 1500 hours of volunteer services to victims to determine whether they had any impact on repeat crime. Full results have yet to be published.

A police intelligence study into the best use of police resources in Morphet Vale area. Eleven different strategies were tested ranging from cameras, alarms, visible and covert presence over 5 weeks resulted in an overall reduction of 24% in crime for the area.

Keynote Address:

“SA Victims of Crime Review”

Michael O’Connell, Attorney-General’s Department

Abstract

South Australia has been at the forefront in acknowledging the plight of victims of crime. A range of initiatives has been developed to bring about improvements for these victims. In 1998 the Attorney-General announced a review to examine the operation of initiatives taken by government to support victims of crime to ensure that what had been done was working and to identify any changes required.

This paper presents an overview of the findings of the first report of the review and reflects on some of the debates surrounding victim policy and practice considered in framing the recommendations. It also draws on the reviewers’ experience in order to reveal some of the policy dilemmas and practical difficulties in this field. In particular, this paper considers whether or not to enshrine victims’ rights in legislation; identifies victims’ unmet needs for information and service and suggests remedies for these; and consolidates the case law on victim impact statements.

SA Victims of Crime Review

Michael O'Connell

Introduction

For two decades South Australia has been at the forefront in acknowledging the plight of victims of crime and developing a range of initiatives intended to bring about improvements that will benefit these victims. In 1998 the Attorney-General announced a review to examine the operation of initiatives taken by government to support victims of crime to ensure what had been done was working and to identify any changes required.

This paper presents an overview of the findings of the first report on the review. It reflects on some of the debate that arises in the literature and arose in consultation with people who work with victims of crime. This paper also draws out some of the dilemmas and difficulties for policy and practice in this area.

There are two other reports that I will not be addressing today. Report Two presents the results of a victims survey and Report Three is on criminal injuries compensation. These are yet to be released.

It is also appropriate to acknowledge that the review under discussion is not my report. Rather, it is the product of a dedicated team of people who have variously worked at the Justice Strategy Unit in the Attorney-General's Department. Now to the content itself.

Report One of the Review can be broken down into four themes. The first, an overview of victim reforms and associated initiatives taken in South Australia since the enactment of the *Criminal Injuries Compensation Act* in 1969. The second, an exploration of the impact of the Declaration of Rights for Victims of Crime, which was promulgated by government in 1985 and a consideration of whether to enshrine these rights in legislation. The third, a needs assessment of the provision of victim services and other assistance; and, the fourth, an examination of the operation and effectiveness of victim impact statements. Each theme could conceivably be a lecture in its own rite.

Setting the scene

On the founding of the colony of South Australia the British common law and the adversarial system of administering justice were adopted. The law and the system were, and continue to be, predicated on a basic tenet that the State is injured in the eye of the law and that it is the responsibility of the State to

initiate criminal proceedings. That tenet, however, does not exclude the State from having a commitment to treat victims “sympathetically, constructively and (in a) reassuring manner”.

So what has the State done towards fulfilling this commitment? The answer in brief chronological order is:

In 1969 South Australia was the third state to introduce a state funded criminal injuries compensation scheme. This scheme has been subject to amendment and appraisal by survey. Indeed, as I mentioned, it is a subject of the current review.

During the 1970s, a women’s shelter for victims of domestic violence and specialist services for victims of sexual assault were established; the Criminal Law and Penal Methods Committee acknowledged the need to amend sex laws and improve the treatment of victims of sexual offences; and, importantly - given they are our host - the Victim Support Service (or as it was then known VOCS) was founded.

In 1981 the Report of the Committee of Inquiry on Victims of Crime recommended a considerable range of reforms, covering public education, coordination of victim services and / or assistance; improvement across the criminal justice system in policy and practice; and compensation for victims. Many of the Committee’s recommendations were approached in a non-partisan way. Consequently, the bulk of the 67 recommendations had been implemented by the mid-1980s.

The 1985 Declaration of Rights for Victims of Crime was a highlight in recent history for victims’ advocates. South Australia was the first jurisdiction in Australia to make such a declaration. The declaration (which eclipses the United Nations’ *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power* by a couple of months) consists of 17 principles or rights. The distinction between principles and rights may not be immediately evident but it is an important one, which you may wish to consider in one of your workshops.

I will not recite the Declaration - you can read it in the booklet launched by the Attorney-General yesterday - suffice to say that, as one commentator put it, the declaration was meant to be a ‘set of mandatory guidelines for action’. Of course, the review is intended to identify whether or not there has been ‘action’.

In 1987 the South Australia Police created the Victims of Crime Branch. In the same year the Police sponsored a report to the Conference of Commissioners of Police, which formally placed victim issues on the national police agenda. Throughout the 1980s and 1990s the Police demonstrated a commitment to continual improvement in services for victims. It is almost tripe to say to an audience such as you that a ‘victim-oriented’ police officer

who understands victimisation, who cares and understands the importance of following up can make the whole experience for the victim significantly better. Moreover, a sensitive and wise police officer can help the victim to reduce the likelihood of them being victimised again.

(For those interested in preventing repeat victimisation, I suggest to you the repeat victimisation project run under the auspices of the Crime Prevention Unit in the Attorney-General's Department.)

The declaration of rights provided for victim impact statements. For several years these were done ad hoc. This changed in 1989 with the enactment of the *Criminal Law (Sentencing) Act*. The Act required a prosecutor to furnish particulars about the affect of crime on the victim. It also stipulated that a court in sentencing an offender should, if relevant, take into account (among other things) the effects of the crime. The Act also included provision for restitution, including the return of misappropriated property and compensation.

In 1990 the Office of the Director of Public Prosecutions was established and, by ministerial direction, the Director was required to incorporate the declaration into policy and practice. As Paul Rofe mentioned yesterday, this has been done in various ways. For example, aspects of the declaration feature throughout the 'prosecutorial guidelines', witness / victim support was established, and the Office has co-published several booklets targeting victims of sexual assault, homicide victims and child victims.

The Courts Administration Authority has responded as well. For example, victims' needs are now considered in court design. The new Youth Court, which was opened only last week, is a prime example. It has dedicated waiting areas for victim-witnesses. Several other courts have been modified to accommodate 'vulnerable witnesses'.

The Department for Correctional Services has responded in various ways also. The department maintains a register of victims who wish to be advised on: the name of the institution where their victimiser is imprisoned, detail of his or her sentence and security classification, and any escape made by the victimiser. A victims advocate sits on the Prisoner Assessment Committee.

Victims' Rights

There is a general awareness across the criminal justice system that victims want to be listened to, to feel that they have had some input, and to be involved at key stages in decision-making. As someone pointed out, "victims want to stop feeling helpless".

Balancing victims' rights with the rights' of an accused, even an offender, has on occasion proven problematic for criminal justice agencies. Overall, however, the review found that the commitment to victims' rights was initially

intense and the outcomes have been effective, but there is scope for improvement. How best to achieve this attracted much debate.

The reviewers endeavoured to approach this in a thoughtful way, determining what works and what doesn't work. For this purpose, a literature review was prepared, submissions were solicited from victim service providers in and out of government and justice agencies, and several focus groups (for want of a better term) were convened.

What advice did the literature review offer? I propose to give you just a 'snapshot' of the literature—

Research in Britain (Shapland, Willmore & Duff 1985) and South Australia (Gardner 1989, 1990) raised concerns about the treatment of victims in the criminal justice system. It showed that victims were generally not satisfied by their experience with the system. Whereas the majority of victims were satisfied with the police when they first come in contact, their satisfaction waned overtime. Not long into the crime investigation, victims became increasingly dissatisfied. The main reason for their dissatisfaction was the lack of information about the case. This lack of information was apparent at latter stages in the criminal justice process. Investigators did not always advise victims that a suspect had been detected, nor did the courts display enough concern for the victim's safety in bail hearings. Adjudicators and prosecutors tended not to consult victims during charge negotiation. Victims who attended court claimed that they often shared waiting rooms with the accused and their associates. Victims who did not have to attend court rarely received information about the outcome of the case. In sum, the researchers reported that many victims felt that they were undervalued by the criminal justice system.

To address these concerns, Shapland (1985) identified several options:

1. the victim could be given decision making power at the key decision making stages of the criminal justice process. This would involve more than consultation and require that victims be granted procedural rights;
2. the victim could be informed, even consulted, at key stages in the process - very much as happens now, including provision for victim impact statements;
3. the victim could be helped to cope with the effects of the crime and assisted at key stages in the process. This would entail granting victims' rights to services, rather than participatory rights.

The central question for the reviewers was what would bring improvements for victims?

Some people promote victims' rights, especially enhancing the victim's role in decision-making (including sentencing), as a way to reassert victims' control

over the criminal justice process and address claims such as “judges have lost control over their courtrooms” (Fletcher 1995)

Several commentators (Elias 1986, 1996; Grabosky 1987; Harding 1994; Fattah 1997) have expressed their concern about this. They suggest that championing the ‘victims cause’, manifest in a concerted push for victims’ rights, may “deflect criticism about ineffective law enforcement” (Elias 1986: 231) and other shortcomings in justice administration.

Contrasting these negative assertions, some victim advocates (eg Carrington & Nicholson 1984, 1989), maintain that elevating victims’ rights is an appropriate way to ensure victims are given their proper status in the criminal justice system. They note that the push for victims’ rights has led to improvements for victims, not the least of which are provisions such as notice of forthcoming proceedings; consultation with officials prior to case decisions; notice of major decisions in the case; opportunity to inform the court of the crime’s impact; and information and services for victims (Hillenbrand & Smith 1989, see also their comments in 1997).

The reviewers learnt early on, however, that bestowing rights upon victims does not necessarily mean victims’ needs will be satisfied. Finn DeLuca (1994), for instance, highlights some of the complex issues arising from authoritative case law in the USA (eg *Payne v Tennessee*) and the enactment of so-called victim oriented law. She concludes that much law reform and substantive court rulings created the illusion that victims play a primary role at key stages in the criminal justice process, whereas in reality, the psychological and emotional effects of crime are not carefully considered.

It has been suggested in the literature that victims’ rights are inappropriately premised on the notion of a victim so impacted by their victimisation that they need someone else to speak and act for them. From this perspective, the consequential expansion of victims’ rights has empowered professionals. This is another issue that you may wish to pursue. Some might argue that lawyers have benefited from a ‘compensation’ based model of victim service. Some might argue that psychologists have benefited from a ‘counselling’ based model of victim assistance. It has been pointed out in at least one American essay that the police have been able to use the push to improve services for victims to gain more resources.

McCoy (1993), for example, expressed concern about victims’ rights legislation which banned plea bargaining in felony cases. The law, he asserted, denied the victim an opportunity to participate in decision-making, while at the same time impacting inappropriately on due process protections afforded an accused (see also McCoy & Tillman 1986).

Instead of recommending the abolition of ‘plea agreements’, the Canadian Law Reform Commission (1989) recommended that prosecutors, as part of the plea negotiations, solicit and weigh the views of victims. The Commission

contended that this would protect victims' rights and maintain public confidence in the process.

It has been mooted that affording victims greater participatory rights may lead to further disparity in the treatment of offenders; potentially an offender's treatment would be dependant on which rights a victim utilised (Ashworth 1989; see also comments in Sumner & O'Connell 1998). The *partie civile* in some European countries provides victims with a right to participate. Not all victims exercise this right of participation. When they do, it means the offender has another party to the proceedings to deal with. It has been suggested that there will be greater disparity in sentencing. For example, successful mediation between a victim and offender may result in no penalty, whereas a fine or possibly imprisonment may be the consequence where the victim is not prepared to mediate.

Dale Bagshaw and others present yesterday alerted us to some of the risks for victims associated with mediation and other alternatives to court-administered justice.

On occasions the victims' rights, offenders' rights debate is presented as a 'zero-sum', that is, gains in offenders' rights result in losses for victims' rights or vice versa. There is, however, little, if any, evidence that improvement in the victims' rights along the lines proposed earlier as option two - that is, victims be informed, even consulted, at key stages in the criminal justice process - interferes with defendants' rights. Erez (1989, 1990, 1991, 1994, see also Erez et al 1994) makes this point in particular with respect to a victim's right to make a victim impact statement.

Similarly, the contest between victims' rights and offenders' rights has been denounced as "false". It is largely a by-product of the representations made by vested, political interests (Fattah 1990, 1991, see also 1992).

Questions like these continue to pervade the debate on victims' rights. There is no clear answer.

Amidst growing pressure to recognise and promote victims' rights, several parliaments in Australia have enshrined victims' rights in legislation. No state that I am aware of, however, has enacted law that bestows mandatory rights on victims; often the law is an affirmation of a set of principles or a charter. Some research, experience (eg. New Zealand has had a *Victims of Crime Act* since 1987) and anecdote suggests that simply placing victims' rights in law has little real 'positive' impact for victims. Indeed, as Garkawe (1996, 1998; also 1992) asserts, many victims remain unaware of their rights or unable to exercise them. Moreover, an United States' study (Office of Victims of Crime 1997) showed that even in jurisdictions with strong victims' rights legislation, victims' rights are not always honoured. Likewise, despite the European Forum for Victims Services reaching a consensus on "basic minimum rights" for victims, Groenhuijsen (1999; also 1996) concedes that "not a single

country in Europe is able to guarantee that these minimum standards can be observed in every criminal victimisation” (p2). On the other hand, if victims' rights remain little more than symbolism (something the Attorney-General is keen to avoid), then these rights are “destined to disappoint victims and their advocates” (Lamborn 1991).

Elias (1986) proffers that the real challenge is getting officials committed to assisting victims. Towards this end, I must reiterate South Australia has shifted markedly in the last two decades.

What did the submissions offer? It would not be a surprise to you to say that the views from the field were mixed. If a line were to be drawn, and I am not sure that it would be this precise, criminal justice agencies tended to favour the status quo, whilst victim service providers tended to favour enshrining victims rights in legislation.

Those in favour of enshrining the victims rights in legislation argued that—

- Victims continue to be denied their rights;
- Enshrining victims' rights in legislation would be a way that the government could affirm its commitment to victims;
- The declaration is only an administrative direction from the government to public agencies and officials and as such has little impact, if any, on private victim service providers.

Each of these arguments is valid.

There is a paucity of Australian research on whether enshrining victims' rights in legislation works better than an administrative direction. Victims' rights had been enshrined in legislation in Queensland, yet at the time of preparing the review in South Australia, the Queensland government was examining ways to re-enforce victims' statutory rights.

The Fitzgerald report (1989) observed that “legal sanctions do not necessarily prevent harmful activities”. And the Spargo Report (1999) on sexism and other discriminatory matters in the Police shows legislation driven change does not necessarily bring about the intended changes in attitudes and or improvements in behaviour.

Management theorists (eg Hammer & Champy 1994; Peters & Waterman 1990; Szilagyi & Wallace 1980) often point out that the threat of sanction (for example, punishment) is not necessarily the most effective way to bring about attitudinal change and behavioural modifications along the lines sought by the victim service providers. According to one commentator (Kanter 1976) significant change in attitudes and behaviour will only be achieved and sustained when the structural impediments within an organisation are

interrupted, even broken down. And, Garkawe (1998) asserts that victims' rights, even when in law, will remain rhetoric unless there is a fundamental cultural change to 'victim friendly bureaucracies'.

The reviewers were also aware that many victims' rights are already enshrined in legislation. For example—

- A victim's right to have their safety concerns taken into account during bail hearings is covered in the *Bail Act* (s12);
- There are restrictions on victims being required to appear at a preliminary examination (s106, *Summary Procedures Act*), as well as restrictions on eliciting information on a victim's prior sexual experience (s34i, *Evidence Act*);
- There are provisions to protect 'vulnerable witnesses' (s13, *Evidence Act*);
- The *Criminal Law (Sentencing) Act* - as mentioned - authorises the use of written and oral victim impact statements and provides for restitution, including monetary compensation;
- The various court Acts (s131(2)(c) *Supreme Court Act*; s51(2)(c) *District Court Act*; s51(2)(c) *Magistrates Court Act*) protect victim impact information from public inspection or release unless the court authorises it;
- Mental impairment laws allow the views of the victim or next of kin to be taken in order to assist the court in proceedings (s269R *Criminal Law Consolidation Act*);
- The *Correctional Services Act* (s85D) permits the release of information on a prisoner to a victim who requests it.

These are substantive legislative achievements that have been won.

Furthermore because the declaration is a direction from government, victims who feel that they were not treated appropriately or did not have their rights met can complain to the Office of the Ombudsman, or in the case of the Police to the Police Complaints Authority.

It was apparent that if further improvements were to be gained for victims that changes needed to be made in the administration of victims' rights. How then to achieve this?

The reviewers put together a set of recommendations intended to build on the current public sector reform agenda. These recommendations included the development of performance standards and enhanced reporting mechanisms to facilitate accountability. They also strongly encouraged better training and

education for all people employed under the auspices of, or associated with, the criminal justice system.

In addition, the reviewers recommended that the government reiterate its commitment to victims' rights. Of course, one way of doing this symbolically would be to simply enshrine these rights in legislation. The reviewers wanted practical responses, to practical problems. They wanted to move beyond the rhetoric and propose strategies that are more likely to deliver the desired improvement - that are more likely to help victims make sense of their circumstance and of the system.

If victims do not know about their rights, for instance, then we need to tell them. We need to improve, for instance, access to information for victims. A number of recommendations therefore focused on improvement in information provision. A new victims of crime information booklet was recommended, and as you heard yesterday it has been published. It will be more widely distributed than the former booklet, with the hope that it will become a useful resource for victims and their families and friends as well as service providers. After all,

the impetus for community involvement and political empowerment often comes from victims themselves or from their family and friends (Office for Victims of Crime 1998, p5).

This is a good point on which to leave the victims' rights debate, other than to say that the report presents a commentary on each of the 17 rights in the declaration and makes a recommendation on each.

Services for Victims

I now turn to the third theme - victim services. Since the first women's shelter was set-up in 1974 and the first specialised service for victims of sexual assault was established in the mid-1970s, definite improvement has taken place in the nature and availability of services and assistance for victims of crime. Some of which I have already identified.

Nearly every submission to the review raised concern about the capacity of the existing victim services to reach out to all victims of crime. Of specific concern were victims from particular groups. These groups included—

- Victims of crime from non-English speaking backgrounds; and
- Indigenous victims.

There was also a 'service' gap' for victims who have a mental or intellectual impairment.

It could be said that some of these groups has a proportionately higher 'risk' of

victimisation, yet victim services for them may be proportionately lesser than for other victims.

Sexual assault victims are well-served in the metropolitan area by Rape and Sexual Assault Services, but their own review showed short-comings in services for victims of sexual assault who reside in rural parts of the State. Victim Support Service found a similar gap in country services for victims of crime.

The review also found that language barriers partially accounted for the limited involvement of non-English speaking and indigenous victims in the services available. Furthermore, that training in working with 'specific' victim populations such as these was sparse. Understandably, there are several recommendations pertaining to access to services for these victims.

A constant theme emerged from the literature on victim assistance programmes in Canada, New Zealand and Britain. That is, that many assistance programmes have been set up within police departments. Many of these programmes aim to foster good working relationships between victims and police - something which is admirable in light of my earlier comments on victims' rights. There is also a suggestion of 'diffusion of benefit' (such as a flow-on benefit or positive effect) for the police and the justice system over all. Victims who no longer feel helpless, who feel that they are acknowledged as 'human beings and not just numbers', make better witnesses.

The preference to house victim assistance programmes in police stations, rather than the community has been subject to critique. Fattah (1999), by way of example, asserts that these programmes tend to be dominated by police concerns, rather than victims' concerns. Furthermore, these programmes are generally accessible only to victims who choose to disclose, or report, their victimisation to the police. We know that for some forms of criminal victimisation only a small proportion of victims do this.

On balance, however, the reviewers were convinced that a cost-effective way to remedy the service gap in rural areas was - at least as a first step - to urge a partnership between Victim Support Service and the Police. This partnership prevailed in an ad hoc way, and the good will between the two organisations was evident in even some rural areas. For example, the officer-in-charge of Port Pirie police station allowed Victim Support Service staff to meet at the police station with the local court companions. The Victim Support Service had devised a strategy to raise their profile among police. In other words, there was fertile ground on which to plant a seed.

It is widely known that the emotional harm and social isolation caused by victimisation may also be compounded by a lack of support. Many victims find this support with family and friends. Many victims - to paraphrase a report on criminal injuries compensation in South Australia - are more resilient than suggested in some of the academic literature. This view corresponds with a

British Home Office study on victim support, which found that many victims supported victim support services but did not consider they needed them.

The reviewers discovered that victims in the metropolitan area are served by a mosaic of government agencies and non-government organisations, with a mix of professional and volunteer workers. Compared with some interstate situations, victims in South Australia have been reasonably well served because of the propensity of some key agencies and organisations to work together.

There was a clear need for better coordination and cooperation in service delivery. To ensure this the review recommends the development of MOUs and protocols. These would make the largely 'personality' based network more sophisticated. I am pleased that this is one of the recommendations that the Attorney-General has acted on by tasking the Ministerial Committee on Victims of Crime to provide him advice and, if necessary, some further direction on how the improvement he seeks for victims can be attained.

I suppose when all is said and done, 'we have got to make sure that our funds are used in the wisest way possible' in ways that can help the most victims, most of the time.

Victim Impact Statements

The final theme is victim impact statements. I know the Attorney-General has already commented on oral victim impact statements (VIS). Before I remind you what he said, I will summarize some of the findings and conclusions on victim impact statements arising from the review.

At the outset it was intended that the reviewers would consider the operation and effectiveness of victim impact statements, and consider any further change to support the victim's role in sentencing. In the course of the review Parliament passed a law providing for victims of an indictable offence who suffer as a consequence any injury, loss or damage, to read a personal statement (that is, their victim impact statement) to a sentencing court. The new law stipulates that the statement must comply with rules of the court. Whereas this new law addresses the overwhelming support in submissions for victims to orally present victim impact statements, several fundamental issues remain unresolved. I want to mention some of these.

Purpose of VIS:

The use of victim impact statements, was advocated in this State for the following three reasons:

- Courts already take into account the effects of the crime on the victim. Use of victim impact statements will aid the court through informing by means of a formal process;

- (Victim impact statements) may reduce feelings of retribution and any alienation and dissatisfaction victims feel in their contact with the criminal justice system;
- statement of the extent of the victim's injury and loss will assist the court in making any restitution orders. (Office of Crime Statistics 1988:31)

Furthermore, attention was drawn to the positive contribution victim impact statement can make to the rehabilitation of offenders (Sumner, 1985).

On the first reason - courts already take into account the effects of the crime on the victim - there is a considerable amount of case law. On the second reason - victim impact statements may reduce a victim's feelings of retribution and alienation - some research data is available. On the third reason - victim impact statements will assist a court in making a restitution and / or compensation order - there is statute law and case law worthy of comment.

The Case Law

On the case law the reviewers reached a number of conclusions:

- The evidentiary rule of relevancy applies to victim impact information and therefore cannot be ignored²;
- Likewise, the evidentiary rules and law on admissibility apply to victim impact information and therefore cannot be ignored³;
- It is reasonable to expect that other rules of evidence (including hearsay and opinion) apply to victim impact statements, although South Australian courts have demonstrated a fairly flexible approach to the application of these rules to impact information⁴;
- Victim impact information that relates to an aggravating factor must, if challenged, be proved beyond a reasonable doubt, whereas victim impact information that relates to a mitigating factor must, if challenged, only be proved on the balance of probabilities⁵;

² Note s 10 *Criminal Law (Sentencing) Act* 1988 (SA). See *R v Webb* [1971] VR 147; *Salt v Galkowski* (1978) 19 SASR 130; *R v Kear* (SA Supreme Court, No. 16, 1977, unreported); *Veen v Regina* (No. 2) (1987-1988) 164 CLR 465, *McCormack v R*, unreported SA Ct of CA, 6 June 1991, *R v P* (1992) 39 FCR 276, *R v Muldoon* NSW CCA, No 60513/90, 13 December 1990, unreported, cited in the NSW Law Reform Commission 1996, p420; *R v Myer* (1984) 35 SASR 137, *R v Pinder* cited by Morgan (1993:441). See also USA cases: *Payne v Tennessee* 501 US 808, 111 SCt 2597, 115 Led2d 720 (1991); *State of South Dakota v Rhines* 1996 SD 55; *State v Bond* No. 143A95, 6 December 1996; *Charm v State* 924 P.2d 754 (Okla Cr 1996); *Darks v State* 954 P.2d 152 (Okla Cr 1998).

³ *R v Dowlan* (1997) 92 A Crim R 305.

⁴ Note s 6 *Criminal Law (Sentencing) Act* 1988 (SA). See *R v RB* (1996) 133 FLR 334, *R v Dowlan* (1997) 92 A Crim R 305; also *Payne v Tennessee* 501 US 808, 111 SCt 2597, 115 Led2d 720 (1991).

⁵ Note ss 7, 7A, 10, & 53 *Criminal Law (Sentencing) Act* 1988 (SA). See *R v Kear* (a case often cited by proponents of victim impact statements), Model Criminal Officers Committee of the Standing Committee of Attorneys-General

- Victim impact statements have evidentiary weight;
- A court should not take into account as an aggravating factor any injury, loss or damage unless it was foreseeable to the defendant or, if not foreseen by the defendant, it would have been foreseeable to a reasonable person⁶;
- A court has discretion to admit information on the consequences of the crime even when the defendant did not foresee it, but the court is likely to attach a lesser weight to unforeseen consequences than foreseen consequences;
- Victim impact statement may be cross-examined (see below) and, if that cross examination calls into question the victim's credibility, then leave to appeal, culminating in a re-trial, may be granted⁷;
- The current practice, which provides for prosecution and defence to examine the contents of a victim impact statement prior to it being furnished to a sentencing court is good practice and may reduce the risk of cross-examination;
- In determining a sentence the court may take into account the consequences or effects of crime on the victim, but these are not the only factors that the court should consider⁸;
- A victim's opinion on an appropriate sentence is generally not a factor to be taken into account by a sentencing court;
- Sentencing occurs in a far broader domain than just the desires of the victim⁹. It is to be expected that on occasions the sentencing outcome will not coincide with the victim's expectations.

(1998:111-112); *McCormack v R*, *R v Zhong Wen Huang Wong* (1995) 16 WAR 219 (WA Sup Ct FC); *R v Storey*, 6/12/96 (Vic Sup Ct CA), *R v Byrnes*, 11 December 1996; *R v Birmingham* [No 2] (1997) 69 SASR 502.

⁶ See *R v Mallinder* (1986) 23 ACR 179, at 187-88), Lawton LJ in *R v Blaue* [1975] 3 All ER 446, at 450, *Royall v R* (1991) 172 CLR 378, *Morse v Ashton* (1978) 18 SASR 221, *Coulter v The Queen* (1988) 164 CLR 350, *R v Mallinder* (1986) 23 A Crim R 179, *R v Economedes* (1990) 58 A Crim R 466, *R v Tremoana* (1990) 54 SASR 30, *Feldman v Samuels* [1956] SASR 55. See also *Laws of Australia*, Vol. 12, Warner, K.

'Criminal Sentencing', *R v Boyd* [1975] VR 168, *Inkson v Regina* (1996) 6 TasR 1; and Sumner & Sutton (1990), Hinton (1995, 1996), Sumner (1994, 1996).

⁷ See for example *R v Lewis-Hamilton* [1998] 1 VR 630.

⁸ See *Inkson v Regina* (1996) 6 TasR 1, *R v Thompson* (also in the USA Payne's case cited above); and note the Criminal Law Consolidation Act.

⁹ See for example Tomaino, J., (1999) 'Punishment Theory' (Chapter 6) & 'Punishment Practice' (Chapter 7) in Sarre, R. & Tomaino, J. (eds) *Exploring Criminal Justice: Contemporary Australian Themes*. See also Israel, M. (1999) 'Victims and Justice' (Chapter 8) in same text.

Victim impact statements may reduce feelings of retribution and any alienation and dissatisfaction victims feel in their contact with the criminal justice system.

The introduction of victim impact statements had not been formalised when Gardner (1990) sought the views of victims of crime on the criminal justice system. Nonetheless, the majority of victims approved of the idea of victim impact statements. Victims stated the following 'effects of crime' should be included in a victim impact statement:

- emotional effects (55.9%);
- injuries or other medical conditions (31.5%);
- financial loss (19.4%);
- concern for safety (17.1%);
- effects of the crime on a victim's family (16.7%);
- effects on a victim's lifestyle (14.9%).

Victims who were uninterested in a victim impact statement generally felt their case was too minor, or that there had been no effects.

Within the first year of police assuming the responsibility for victim impact statements, O'Connell (1990; see also Erez et al 1996) examined a small sample (n=151) of police-prepared victim impact statements. Almost half of the victims (47%) indicated that they wanted the prosecutor to "furnish particulars" of the harm done; 45% of victims wanted the prosecutor to seek an order for compensation. The correlation between victims wanting to have the effect conveyed to the sentencing court and victims wanting the court to consider compensation was not statistically significant. O'Connell's finding that victims want to provide information about the impact of the crime is consistent with British research (Shapland, Willmore & Duff 1985) that showed the most common demand by victims was to be given an opportunity to provide information about the crime and its impact on them.

Erez and others (1994a) evaluated the operation of victim impact statements in South Australia. Their findings include—

- most victims gave an impact statement to ensure justice was done;
- only 5% of the victims gave an impact statement to actually influence the sentence;
- the majority of victims (71%) wanted their impact statement to be used in sentencing;

- about half (45%) of victims who gave an impact statement felt relieved or satisfied afterwards;
- only 6% of victims who gave an impact statement felt worse afterwards.

Analysis of victim survey data suggested that victims satisfaction with the criminal justice system overall had not increased with the introduction of victim impact statements. Almost all members of the judiciary who were interviewed stated that they were forced to make assumptions about the harm suffered by a victim in the absence of a victim impact statement.

Erez and others (1994) pointed out, however, that the interpretation of the results of the evaluation rested on one's philosophical and moral views about the need for victim integration or greater participation in the criminal justice process. Arguably, their findings could be used to support both those in favour and those against victim impact statements.

The evaluators concluded that the findings dispelled "several arguments raised against (victim impact statements), but at the same time ... revealed problems in ... implementation" (1994: 74). Erez, Roeger and O'Connell (1996: 215) assert that the,

difficulties experienced with the implementation of VIS in South Australia are consistent with the view that for successful legal change, the support of all organisational parts involved in the reform is necessary. Support is generally forthcoming where participants are convinced about the need for change and where accompanying resources to effect the reform reinforce the perception of its significance.

This is consistent with some of the views that led the reviewers to recommend a managerialistic approach to reform. As aforementioned, the reviewers were told on a number of occasions by people from diverse backgrounds that the revised victim impact statement process was significantly better than the process subject to evaluation by Erez and others. It was pointed out, for instance, that victims generally find the victim impact statement questionnaire and pamphlet useful. The reviewers note, however, that there has been no sound evaluation of this process.

All submissions indicated considerable support for the continued use of victim impact statements.

The reviewers were advised that victims themselves make the statements for various reasons. There is no local research data to conclusively show whether or not victims' feelings of retribution are ameliorated. Several submissions and comments passed in several semi-structured interviews suggest, however, that victims who knowingly make a victim impact statement feel satisfied with the

opportunity to do so. Furthermore, it was pointed out that victims do not necessarily complete the questionnaire to seek greater punishment. In one case the victim asked the court to show some compassion towards an armed robber. A member of the judiciary stated in broad terms that he could not imagine sentencing a defendant without some information on the effect that the crime had had.

Research (Erez et al 1994; Blake 1989; Department of Justice (Canada) 1990) findings tend to suggest that victim impact statements have little, if any effect on sentencing patterns. Paradoxically perhaps, research findings also tend to show that victims who complete or give a victim impact statement are generally more satisfied with the sentence given than victims who do not complete or give a victim impact statement.

It was reported to the reviewers that frequently the prosecutor tenders the statement with little comment, yet defence counsels spend considerable time explaining their client's plight. When police prosecutors, for instance, orally presented victim impact information it was observed that key information from the victim's perspective was often glossed over for convenience. The reviewers could find no easy answer to this dilemma.

A statement of the extent of the victim's injury and loss will assist the court in making any restitution and compensation orders

Information on the effect of crime (whether that effect be injury, loss or damage) may be particularly useful to a court exercising its power to order the return of misappropriated property to the lawful owner (s52, *Criminal Law (Sentencing) Act*) and or to order a defendant to pay compensation (s53, *Criminal Law (Sentencing) Act*). Regarding the latter, while the Act stipulates that preference must be given to compensation for victims (s14), it is also a requirement that the court have regard for the capacity of the defendant to satisfy an 'order for payment of a pecuniary sum' (s13). A limit is imposed on the Magistrates' Court (ie \$20,000), but no limit applies to the Supreme or District Courts.

It is worth noting at this point that integrating offender paid compensation into criminal proceedings has not been without its critics. The tensions that may arise, for example, inconsistencies in orders made in criminal or civil jurisdictions for similar types of victimisation (Atiyah 1979); and the difficult accounting for victim's requirements while at the same time adjusting compensation for the defendant's means (Wasik 1978; Shapland et al 1985). Others have taken a contrary view (Hudson & Galaway 1980; Sumner 1985), arguing that both victims and defendants benefit. There is, however, much rhetoric in the debate with little evidence to substantiate whether or not any real gains for either the victim or the defendant are made (Shapland, et al 1985).

The idea of a "payment either in real terms or symbolic terms, made by the offender to the victim of crime, so that the victim is returned to a state comparable to that which existed prior to the crime, and likewise, the offender returned to a comparable state" (O'Connell, 1988) is not new. Rather it was a major concern of justice systems prior to the intervention of the State during the twelfth century.

Over the years, there have been a number of South Australian Statutes which provided for a court to order an offender pay compensation but as Daunton-Fear observed (1980), "these provisions (did) not represent careful legislative planning, rather they have developed on a piecemeal and partly overlapping basis." The *Criminal Law (Sentencing) Act* remedied the situation.

Section 53, *Criminal Law (Sentencing) Act*, has been used most often in cases involving property loss and or damage (see also Attorney General's Department 1992). The section was scrutinised by Millhouse, J (*Kerry v Henderson & Higgins*, No. 2732/90, 13/12/1990, unreported) in a justices' appeal regarding an order made against a defendant to not only repay the victim the sum misappropriated but monies to cover the interest payable on a loan taken by the victim in lieu of the loss suffered. Millhouse, J concluded that Parliament did not intend such an elaborate compensation scheme and the order was over turned.

The *Criminal Law (Sentencing) Act* requires a sentencing court to give reasons for not making an order for compensation. If compensation is not forthcoming through criminal proceedings then victims who suffer personal violence or mental injury may be eligible to pursue criminal injuries claims under the *Criminal Injuries Compensation Act*.

There is a paucity of empirical research on the use of restitution and/or compensation orders in South Australia; indeed, the reviewers were able to find only one report on the public record on the operation of s53. In 1992 a *Report to the Local Government Association on Law and Safety Issues* (Attorney General of South Australia, 1992), shows that in a six month period - 1 July to 31 December, 1991 - South Australian courts made 1,199 compensation orders against convicted offenders. Compensation orders were most often made for property offences.

It is unknown how many of these orders were satisfied either in full or partially; nor is there information on victims' views. It is therefore unclear whether victims are any better off as a result of making defendants responsible for compensating victims. There is, however, an inherent risk associated with this sentencing practice and that is, that victims themselves may be worse off. For example, victims whose expectations have been dashed by not receiving compensation in spite of an order in their favour, may hold the criminal justice system in greater contempt. In reality, defendants are largely "men of straw" (Daunton-Fear 1980) from whom extracting money is not without its difficulties.

Conclusions on the purposes for victim impact statements

In summary, victim impact statements were introduced in South Australia for three purposes. Unlike several other states, the purpose or purposes of victim impact statements has not been included in law. The discussion on each purpose led the reviewers to conclude:

- Particulars on the effect of crime and the circumstances or characteristics of the victim are potentially relevant, but these particulars are admissible only if they relate to the offence or offences for which the defendant is to be sentenced;
- While a court is not bound by the rules of evidence for the purpose of informing itself on sentence, prosecutors should be mindful that the mediums they use to provide particulars on the effect of crime (such as professional reports) may be subject to evidentiary rules on hearsay and opinion;
- A defendant has a fundamental right to challenge any particular on the effect of a crime, and if a particular is challenged the prosecutor must substantiate the particular to the appropriate burden of proof otherwise the court may disregard the particular completely or indicate the weight given to the particular;
- Overwhelmingly submissions and comments gleaned in the interviews supported the use of victim impact statements, although it is unclear what benefit, other than a sense of intrinsic satisfaction, which victims themselves derive from making such a statement;
- Victim impact statements complement legislation authorising a sentencing court to order restitution and/or compensation, although the effectiveness of this legislation is unclear.

Process and Procedural Issues Regarding the Use of Victim Impact Statements in South Australia

Three issues featured in almost all discussions on process and procedures: a definition of victim of crime; cross-examination on the content of victim impact statements and the role of prosecutors. Time affords me only an opportunity to give you a brief insight into the reviewers' views on each of these.

A Definition of Victim of Crime

Concern was expressed on what appeared to be arbitrary decisions about who was entitled to claim the status of a victim for the purpose of a victim impact

statement¹⁰. Having examined all the submissions and conducted an extensive Interstate review the reviewers concluded that there should be no definition of victim included in legislation pertaining to victim impact statements. Furthermore, in cases where the 'direct' victim is unable due to his or her linguistic, physical or intellectual capacity to make a victim impact statement, consideration should be given to an advocate providing a statement on the victim's behalf at the court's discretion.

Cross-examination

The mid- 1998 Parliamentary debate on victim impact statements canvassed a number of critical issues pertaining to victim impact statements, in particular victim impact statements presented orally by the victim to a sentencing court. The defendant's right to cross-examine the victim was one of the critical issues. Consistent with the view stated by the Attorney General (Griffin 1998), the reviewers have concluded that a defendant has a fundamental right to cross-examine and rebut victim impact information.

The reviewers hold, however, that the criteria similar to section 34i¹¹ of the *Evidence Act* in this State could be readily applied in circumstances where defence seek to cross-examine a victim on his/her victim impact statement. The reviewers strongly believe that like criteria should be applied in circumstances where the defence seek to cross-examine a victim of a sexual offence on his/her victim impact statement.

Role of Prosecutor

Neither the principle nor the law clearly articulate how the prosecutor should furnish such information to the sentencing court. Case law suggests, however, that the prosecutor must act reasonably and responsibly including alerting the court to any areas of concern (*R v Byrnes & Hopwood* (1996) 189 LSJS 190). Indeed, the prosecutor should act in the interests of justice rather than promote the interests of the victim at the expense of a just outcome (*R v P* (1992) 39 FLR 276). Towards this end, the prosecutor has an obligation to

¹⁰ Sumner (1987) & O'Connell (1992), also *R v Birmingham* [No.2] (1997) 69 SASR 502; *R v Thompson* (supra), *R v Byrnes* SA Sup Ct FC, 11 December 1996.

¹¹ Section 34i of the *Evidence Act* stipulates that:

"In proceedings in which a person is charged with a sexual offence, no questions shall be asked or evidence admitted -

- a) as to the sexual reputation of the alleged victim of the offence, or
- b) except with the leave of the judge, as to the alleged victim's sexual activities before or after the event of and surrounding the alleged offence (other than recent sexual activities with the accused)."

The judge is directed to be mindful of the distress, humiliation or embarrassment that asking questions on the alleged victim's sexual activities might cause. Section 34i(2) proscribes criteria to assist the judge in deciding whether to grant leave for the defence to ask questions on the alleged victim's sexual activities. The criteria -

- is the evidence of substantive probative value; or
- is the nature of the evidence likely to be gleaned from the questions, in the circumstances likely to materially impair confidence in the reliability of the victim's evidence, and that its admission is required in the interests of justice.

seek the truth and this may entail allowing cross-examination on victim impact information (*R v RB* (1996) 133 FLR 334). Under South Australian law this obligation extends to disclosure on inconsistent statements made by the victim.

The reviewers were advised that in Magistrates' Courts where prosecutors appeared most often to simply hand up victim impact statements, it was unusual for Magistrates to formally acknowledge the contents of the impact statement in giving their reasons for sentence. Likewise, in the Supreme Court and the District Court some submissions indicated that it appeared that victim impact information was not given adequate attention in passing sentence. The reviewers note that these are observations rather than empirically based conclusions. Nonetheless, the reviewers believe the matters raised require further consideration if victim impact statements are to reduce feelings of alienation and alleviate dissatisfaction (Sumner 1985).

Finally, the reviewers made some observations regarding the right to present an oral VIS that is provided for victims of indictable offences and the right for a VIS to be finished by a prosecutor in cases where the victims is a victim of a non-indictable offence. In short the reviewers recommended that Section 7A be repealed and Section 7 be amended to clarify that victim impact statements may be furnished by a prosecutor calling a victim to read his or her statement to the court. This has not attracted widespread support. Indeed even the judiciary has recommended leaving the law as is and examining its operation in due course.

Anecdote suggests that since sect 7A was enacted the change approximately 50% of victims choose to actually read their statement to the Court. The rest have it read out by the Judge's Associate, or in some cases a police officer who may be close to the case. Moreover, fears that victims might not accurately read the prepared statement, that they may take the opportunity to direct their comments at the accused, have not eventuated. Rather victims have shown great responsibility when reading their Statements. This is perhaps a positive note to end on.

Suffice to say that the next stage of the review will involve the preparation and release of reports on a survey of victims of crime and an examination of the criminal injuries compensation scheme.

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Keynote Address:

“Gaps in services and victim’s needs in Australia - can we do better?”

Robyn Holder, Victims of Crime Coordinator for the Australian Capital Territory

Abstract

Much of the history of developments in both generic and specialist victim support in Australia has been advocacy based. The passion and commitment that lay behind such advocacy has driven victim support issues high onto the political and justice agendas across the country. There is huge diversity in victim support throughout Australasia. Some of these differences relate to local circumstances. But it is opportune to begin to ask on what common or consensual ground can victim services and victim policy in Australia be drawn? Where to from here?

FUTURE DIRECTIONS FOR VICTIM SUPPORT IN AUSTRALIA

Robyn Holder

Introduction

Although many of you may think that being the last keynote at the end of a two-day conference is akin to performing the last watch, it is actually very privileged. I could simply say that – in relation to the topic of *Future Directions* – you have heard it all said and who is saying the first round...

But those of you, who know me, Michael Dawson in particular, know that it is well nigh impossible for me to keep my opinions to myself. So the privilege for me has been to hear all the learned and thoughtful contributions, all the questions and - most of all – to listen, listen to what's percolating underneath. What's being said over coffee and in the corridors?

My reflections on all this are just that, my own. Unless I say explicitly, they are not necessarily the views of Victim Support Australasia nor of its members.

Reflections

I am intrigued by some of the imperceptible seachanges that appear to have occurred over the years that have been touched, in the past few days, with the lightness of a butterfly in a garden. One that leads me into my topic is *when did it happen that 'the victims movement' became an industry of 'victim support services'*? It is perhaps digressing to enquire why and how this happened - indeed some may dispute the basic proposition, and others may gnash and wail and regret the change - but what does it mean for crime victims - our clients – for ourselves and those stakeholders interested in our evolution?

One consequence that has become apparent to me over and over again during this conference and the two days of our AGM which preceded it, is that many important people are only superficially aware of the change. Politicians, legal practitioners, policy makers and academics are, quite frankly, operating on some outdated information about victim support and crime victim issues in Australia. They need to re-visit some of the assumptions they are making. Assumptions like:

- the 'vengeful' victim; and
- the 'irrational and emotive' victims advocate.

If working assumptions such as these are not reviewed with reference to research and experience then policy and service directions and legislative

reform will take place that, it will be claimed, are not only in our interests but are what crime victims want when it is not.

Having said this, victim support is still a very broad church in Australia encompassing much diversity of experience, viewpoint, function, role, skill and knowledge. Which is what makes it a fascinating place to be. There are also huge differences across the states and territories. Which is what makes the challenge of developing a national approach through VSA such a, well, challenge!

Victim Support Across Australia

If you will allow me, let's consider that diversity for a moment. We might think, for example, that the heat and humidity of Queensland throws a wet blanket over anything that might be considered volatile. Yet the cyclone season appears to have visited the state rather severely of late. A storm which was deeply concerned about what was the core business and future of victim support - a NGO - in that state.

Then there's my own jurisdiction of the ACT where, contrary to popular belief, crime does actually occur; and where a city-state wrestles with wanting to have the chocolate bar of top quality when it has only a penny in its pocket for a humbug.

And it does so the shadow of the two titans of crime and disorder – NSW – Victoria. Sometimes it seems as though it has happened almost overnight, but certainly in an extraordinarily short space of time these states have created a completely new range of services in a Government/NGO mix. And they have done so with their respective politicians playing the game of thimble and pea with financial assistance or compensation or whatever you like to call it. Whichever way it's done and by whatever political party to whichever audience – it's still the same pea!

Our community-based colleagues in Tasmania continue to astound us by performing miracles in service delivery on the smell of an oily rag, in the shadow of one of the country's more horrific crimes.

Meanwhile, not so long ago, an earnest young man travelled to the far Northern Territory to take up the challenge of creating a service out of a support group and, in the space of a couple of months, found himself learning the subtle art of how to straddle two circus horses as they charged around the political arena – in opposite directions!

Quietly going about its business in all this heat and furore are our Western Australia colleagues located inside government who, though they wring their hands through review after review of how are they doing, actually appear to be well on the way to sorting everything from structural location to information sharing to regionalised delivery!

Last but no means least is South Australia. I, for one, am so impressed by the civility and courtesy of the debates – conversations really – about reform and service development that I am starting to wonder whether everyone, be they victim or offender, judge or victim support worker lives in a civilisation where to play the cello and sign the Sorry Book are unremarkable everyday events.

Without doubt this is a skittish portrayal of our differences across Australia. More importantly, are there common themes that currently confront us in our service developments?

Common Themes

There are a number I'd like to draw out.

The first common theme I have called the challenge of access and equity. There are a number of aspects to this. All the victim support services in the different states and territories are alive to the need to truly serve victims of crime young and old, black or white, male or female. Challenge this is in the metropolitan and large urban towns but its magnified 100 fold for us in regional and remote areas. Add to this the humungous mission before us to assist people victimised in situations as diverse as financial exploitation of elders to armed robbery. And deeper still, it is a crucial access and equity issue to me that, as we are absorbed in assisting people traumatised by the horror crimes of homicide and rape, we nonetheless maintain a resource balance that allows an orientation and capacity to also deliver to the more mundane but numerically greater number of people who experience burglary, criminal damage and car theft.

A second common theme is around the complexity of implementing service delivery in these circumstances. This is perhaps the single most obvious indicator of the shift of an advocacy movement to a service industry and, for some, this change is not happening quickly enough. NSW, Victoria and now the ACT have moved to a service model that involves a mix of direct service, purchasing and contracting. We could quite easily become absorbed in the minutiae of application and eligibility processes; and the very real danger exists of us forcing the square pegs of individual need into the round holes of category, syndrome and diagnosed disorder. Whilst welcoming the entry of the various helping professions into the victim support field, we need also to beware of 'ologists' touting too complex solutions to often simple human problems.

Even in those jurisdictions maintaining the tried and true model of uniform or singular service delivery, the contemporary challenges of effectiveness and giving effect to sustainable change in both individuals and in the agencies that serve the community are very real. Across the country we need to continue to pay attention to the content as well as the structure of our services; and to getting 'the mix' right for crime victims. That is, not too much, not too little for the right people at the right time.

The third contemporary theme could be as subset of this last one as it too relates to implementing change. All the jurisdictions have either legislative or administrative codes of victims' rights. With varying degrees of enthusiasm and good grace, agencies – in particular the criminal justice agencies – are attempting to give effect to those rights. Commonly this has led to a wide range of procedural, administrative, technical and management initiatives in police, prosecution, courts and corrections. In and of themselves these 'solutions' have often thrown up new problems and created intended consequences both positive and negative. Nevertheless, they are happening. These initiatives are not exciting, not glamorous and are often too easy to criticise as bureaucratic. For example, implementing the concrete obligations contained within the ACT *Victims of Crime Act* through our Family Violence Intervention Program is exacting work that can't be rushed.

Furthermore, in creating and implementing these changes as new sources of energy and leadership on crime victim issues have opened up. Sometimes the old champions of victims rights have felt ignored and sidelined as people in unexpected places speak to advocate for victim interests. So partnerships, inter-agency and multi-disciplinary activities are the order of the day.

Grouped around the fourth theme of professionalising service delivery across the states and territories are the familiar issues of the skills and knowledge base of the help-givers, and the transparency and accountability of the means and mechanisms of delivering that help. Threaded through this is the tension between what I have called on another occasion (Lucas & Holder 1999) the victim support heart and the victim support head. In professionalising service delivery it is a contemporary challenge to nurture the roots of victim support services in the experience and activism of crime victims themselves as the service tree growing branches out.

For the final common theme I'd really like to know if there are any politicians or media still left in the room for in every state and territory, VSA members are daily confronted by portrayals of the role of the crime victim and our services in the so-called law and order debate. If there were any such people left I would simply say this – we in victim support are not naive. We know when we are being used. Appropriating crime victims and privileging just one segment of view in that constituency and claiming we all stand for retributive policies is cynical, divisive, misguided and wrong. At the commencement of my talk I made the usual disclaimer about personal views, but on this I am delighted and proud to say that VSA wants no part of it. We do not believe that wholly or even predominantly retributive approaches are in the interests of crime victims nor our communities as a whole.

Diversity in our Future Directions

So where does the exploration of commonality and difference in victim support across Australia get us? What are the future directions? I shall do the unorthodox and ask you in the audience... The question "What future direction do you envisage for crime victims?" was put to persons working:

- in generic victim support;
- primarily with women and children affected by violence;
- with offenders;
- within indigenous communities;
- in police; and
- in courts administration.

The point of course is that many different people now have an interest in this question. Obviously there is not one future direction but a number of directions, even possible directions. By way of concluding I'd ask your indulgence to let me flesh out some of these possibilities.

The first relates to restorative justice. I do feel slightly taken aback that some speakers have obviously felt that victim services still need persuading that restorative justice is rich in opportunity for better outcomes for crime victims. I would have thought they were pushing at an open door. Nonetheless, as some such as Dale Bageshaw have pointed out, we have good reason to be cautious. Restorative justice may not be right – or perhaps not right yet - for certain types of offending behaviour.

I am intrigued by the proposition put forward by Professor Freiburg that we consider there is more potential for healing for crime victims through participation in restorative justice processes - formal or informal, state-sponsored or communal, with or without the offender - than there is in traditional rehabilitation activities such as counselling! In terms of the fundamental victim need that the harm of criminal victimisation be acknowledged and that they be included in determining reparation and restitution, restorative justice will come to feature largely in our futures. However, we need to stand firm in asserting that it can't be done on the cheap, and it can't be done without great thought and planning and in-built monitoring and evaluation.

In thinking about restorative justice, I agree with Leigh Garrett about its potential as a community building tool. For my second point about future

possibilities I am more and more convinced of the vital importance of crime victim services making communal responses an explicit and strategic intervention for individual crime victims. That is, nurturing the victim's own 'community of care'. We know that family and friendship networks and neighbourhood responses are the most common and ongoing source of support for the vast majority of crime victims whatever the crime. We even know that these responses are critical factors in victim recovery and restoration. It is really, really, really important that, as help-givers and planners of help-delivery we do not undermine this natural response.¹²

Restorative justice processes are just one way of achieving this. The Protective Behaviour Programs for children are one example. The sort of cocooning initiatives associated in the prevention of repeat victimisation are another. And for those of you who heard Susan Herman, Director of the US National Centre for Crime Victims, in Melbourne last year, her concept of *parallel justice* brings another (see Herman 1999). We must learn to respond to the needs of crime victims irrespective and independent of whether we can hold an individual offender to account.

In all of these communal initiatives I see the knitting together of torn bonds as a counterweight to the way in which some media and some politicians seek to aggravate wounds. I'm glad that Michael reminded us that it is Sorry Day as I feel that the courage and risk-taking of ordinary citizens – indigenous and non-indigenous – in Australia's reconciliation movement provides us in victim support with a model of how this communal and civic restoration could occur.

A third avenue for us to explore in the future may seem utterly self evident or a crass provocation. But I'd like to see us really trying to identify, understand and meet the needs of crime victims. I think that we have tended to focus on the symbolic expressions of acknowledgment for crime victims – that of criminal justice and compensation. Perhaps this is truer of generic or humanist victim services and less true for feminist victim services? Either way, these symbolic responses may have assisted that small proportion of crime victims whose matter actually gets into the criminal justice system or who is eligible and applies for compensation. But they are still only a small proportion and it is a big MAY! I would love for us to have the opportunity to take the \$4 or \$5 million that compensated 500 people in the ACT or the \$87 million that compensated 8,000 people in NSW and say *given the allocation of that level of resource for crime victims as a whole, let's take it back to the drawing board and see what we can come up with*. What a dream that would be!

Meeting the needs of crime victims is not, I hasten to say, about demanding more and more social workers and 'ologists'. But is about basing our developments, our policies and programs, and our clinical and communal

¹² Except, of course, in those circumstances where it is clearly damaging and/or dangerous to the crime victim and persons close to them not to intervene.

interventions upon evidence of what works for whom, in what circumstances, in what mix, at what time and over what time period in conjunction with what other factors. This is not about economic rationalism or neo-liberalism or any of those other critiques. To me this is part of the moral obligation Professor McFarlane talked about this morning. It is deeply, seriously meaningful to be with people in their place of pain. It is vital to know how to walk forward with them.

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Interactive Workshops:

“Victims’ future needs – issues for workers and agencies”

Interactive Workshops:

Judiciary, courts administration, police, prosecutions:

Facilitator:

Julie Baker, Acting Deputy State Courts Administrator

Rapporteur's Report

Use expertise in the industry to train the judiciary, lawyers, police prosecutions.

Victim agencies and workers keep victims fully informed.

Need for on-going training for all providers.

Difficulty getting access to information about the status of offenders.

Court room designs to cater for victims – one size doesn't fit all.

Sharing of resources and awareness between government and community services.

Vulnerable witness provisions – choice of the victim and not the judge / magistrate. Should be an automatic right.

Corrections, youth training centres, offenders aid:

Facilitator:

Anne Bloor, Regional Manager, Department for Correctional Services.

Rapporteur's Report

For victims:

- Portrayal by media of powerlessness;
- Information to court – victim issues in pre-sentence reports;
- Children's rights;
- On-going support services to victims.

For agencies:

- Victim Register publicity;
- Stakeholder committee to enhance accountability;
- Explain case conference model to adults;
- Explain specialist courts – Nunga, drug and mental health;
- Provide services for offenders who are victims;
- Focus on preventative strategies;
- Include victims in awareness programs for adults;
- Strategies for reaching Aboriginal victims;
- Building awareness for long term consequences for victims;
- Explaining honestly what the implications of sentencing and parole are and what to expect.

Education and children's services:

Facilitator:

Stephanie Page, Manager, Legal & Risk Management, Department of Education, Training and Employment.

Rapporteur's Report

- There is a reluctance by staff to report or lay charges, yet this may be the pressure needed to facilitate change.
- Schools need more information.
- Good use of inter-agency involvement.
- Victims need to know what services there are and how to access them.
- Victims need to know what is happening with the offender for their own sense of safety and rehabilitation.
- Sometimes school is the only safe place in a child's life.
- Staff find it difficult to report stress, even when they are victims of crime from parents or students.
- We need to be pro-active and have programs and / or resource people in schools who can use social work methodology to deal with issues.
- We need to validate people who have been a victim of crime.

Aboriginal and multi-cultural groups:

Facilitator:

Frank Lampard, Executive Officer, Division of State Aboriginal Affairs.

Rapporteur's Report

- Today is “National Sorry Day” - have we paid lip service to this? Where is the Nunga speaker, where are the Aboriginal and multi-cultural symbols, flags etc?
- People need to be valued – all races and cultures.
- Aboriginal people are victims of abuse of power and have been since first contact.

Health and welfare organisations:

Facilitator:

Steve Ramsey, Director, The Office for Families and Children.

Rapporteur's Report

- Under-resourcing – long waiting lists for clients, lack of services, huge workloads.
- Having high quality technology for effective services and to speed things up.
- Child witness treatment in court – subject to the same cross-examination as adults.
- Unavailability of information for some agencies due to some organisations working 9-5.
- Having a victim perspective at agency and local level.
- Early intervention for young people to prevent future problems.
- Agencies need to look at work practices to see whether they can work more effectively given the lack of services / resources.

Victim counselling services:

Facilitator:

Michael Dawson, Executive Director, Victim Support Service Inc.

Rapporteur's Report

Not enough contact with victims at Police Prosecution stage. Information about court processes and decisions is not reaching victims. Idea about a specialist VCO attached to Police Prosecutions. Many Police recognise that victims need skilled Police personnel but issue about how to fund Police services to victims.

Questions about pooling specialist resources/organisations to create a big, multi purpose service.

More training for front line service providers, especially the police, to ensure victims are treated well and referred on to relevant agencies like the police VCO's, Victim Support Service, Office of the Director of Public Prosecutions – WAS etc. Chain of information from each service is maintained. If there is trained and well executed response to victims in the early intervention this may reduce trauma and problems down the track.

Counselling is just a cog in the wheel. There has to be a range of responses to crime victims. Information is crucial. A listening ear is needed to give choices and options to people to make choices themselves.

Equality and access to services and information is very important, specially for special needs groups and people living in country regions.

Case Management. Need to have a partnership between organisations. This is difficult especially for Police who need to be available 24 hours. Integration with day time services is difficult and often it is Police who fill the gap especially in areas of safety and security.

Idea raised about road trauma victims. There is currently no specific counselling services to refer people.

Questions over how to deal with victims from "Snowtown" and the community who may be affected by what they see or hear particularly in the media. Important to listen and learn from past experiences of victims to find out what was helpful and what wasn't.

Interesting idea of crime prevention is repeat victimisation research.

Discussion about local community groups and organisations providing counselling and services for victims as this would most likely improve access to services.

Rapporteur's Report:

Dr Mark Israel, School of Law, Flinders University

Rapporteur's Report

Mark Israel

Introduction

I would like to start with a brief comment on the role of rapporteur, particularly given that I am an academic criminologist who – while undertaking research in victimology on state violence – cannot make a claim to expertise in the area of victims' services. I shall take the position of social critic, someone who Breyten Breytenbach argued needed to be given licence to 'bark along the borders' of a well organised and executed conference. Some of the comments that I shall make are, I hope, easily defensible. Some are meant to be more provocative – perhaps I am chancing my arm – and I am sure that you will feel free to contemplate and discard what I am saying, while not thinking too badly of me.

I say this in anticipation of the possibility of strong responses. I remember coming out of the first plenary session of the 1994 International Symposium on Victimology over the road and hearing a practitioner say of the presentation given by the first academic speaker 'well, that was a pile of crap'. The speaker was Robert Elias, an American writer who I think offers one of the more interesting takes on the state of the victims' movements in the United States.

The New Field of Victims' Services

This piece is a personal account of what I have seen over the last two days. I want to start by returning to the first paper delivered by Professor Arie Frieberg. Frieberg suggested that he was present at a momentous occasion, that he was witnessing the birth of a new area of study, 'the field of victim services'. Why has this field developed?

It has become commonplace to point out that throughout much of the history of our criminal justice system, victims have been excluded from the criminal justice process. Offenders, we are told repeatedly, were put on trial not because of any harm that they had done to a victim but because in causing harm to another, they had broken the laws of the state. So, we all know, the trial was seen as a contest between the state as prosecutor and the offender as defendant. The victim has no place in this contest. Early research in the United States, United Kingdom by Shapland and her colleagues, and in Australia by Julie Gardner – research that is rather elderly, now - found that victims were largely dissatisfied with their treatment by the criminal justice system. As Doreen McBarnett, a British researcher remarked in 1983, '...if victims feel that nobody cares about their suffering, it is in part because institutionally

nobody does.' It is difficult to claim that institutionally, no-one cares any more. You only have to look at the list of delegates to see that virtually every corner of the criminal justice system has seen it as important to come to this conference.

However, it is not enough to pay attention to victims – or to be more cynical – to allow that part of your agency that does have an interest in victims to attend conferences like this. The same American, British and Australian research that I mentioned earlier found that victims were not simply unhappy with the criminal justice system because they were being ignored. It was that they were being treated so badly. Their dissatisfaction rose the more that they saw of the system. Indeed, as you know, some commentators went so far as to describe what happened to victims at the hands of criminal justice agencies as 'secondary victimisation'.

Over the last 30 years, some attitudes towards victims have changed. Groups representing victims of crime, including organisations for those who have survived rape and domestic violence, have pressed for greater support for victims. It is not surprising that the failure of criminal justice agencies to help victims should have given rise not only to victims' support movement and agencies but also the study of the provision of services by those agencies. It is perhaps more surprising that it has taken so long.

What can academics bring to the field? Arie Freiberg suggested that they might help by:

- identifying the field;
- providing an information base;
- offering education and training to professionals;
- providing an independent monitoring and evaluation service.

I would like to consider the extent to which these areas have been addressed in this conference and the points where I feel somewhat uneasy, uneasy because it seems that academic researchers have failed to support the area properly. I shall return to the first point at the end of this report.

Providing an information base

In a couple of sessions that I attended, I heard the term 'problem-oriented' being employed. This interest in responding to the demands of the problem rather than the needs of the bureaucracy can also be contemplated in terms of 'evidence-led policy and practice'. You can reflect as well as I can on the degree to which the programs and practices that have been discussed at this conference have been based on robust evidence, or whether they have been shaped by political or organisational needs or even by individual whim,

recognising of course that good programs can and do grow from the drive of particular individuals.

Professor Sandy McFarlane's presentation provided a clear indication of what academia might be able to do. We can provide clear, robust data that will allow agencies to predict and find ways of responding to problems before their agency is overwhelmed. If we can predict the nature and patterns of trauma faced by professionals working in victims' services, then agencies might be able to engage and retain a motivated, healthy workforce whose members know that institutions value their work, and their mental and physical safety.

Researchers can also help agencies to investigate their client base by either supporting or undertaking needs analyses and drawing agencies' attention to relevant research instruments and findings developed elsewhere.

Offering education and training to professionals – I would be happy to talk about my own School of Law at Flinders University and the criminologists there later.

Providing an independent monitoring and evaluation service

How many of the programs that were discussed at this conference incorporated the results of evaluation (either process or effectiveness)? I await the publication of the results of the review of Victim Impact Statements by the South Australian Attorney-General's Department with interest. While it was interesting to see that new programs are being established that incorporate evaluation from the beginning, do they really want to see whether they have failed or all they simply looking for validation of their success? If the former, then agencies have to ensure that evaluators have independent status and, while knowledgeable about the field are not dependent for funding on continuing contracts from that sector. This can be a very difficult balance to strike.

Identifying the field

I think that the task of providing an intellectual framework for victims' services is a most important one for academics and a challenge that Australian academics have utterly failed to meet. The changes that have occurred in victims' services have been uneven between different jurisdictions and parts of jurisdictions, between different institutions and parts of institutions, but also between different kinds of victims. Indeed, one of the points of this kind of conference is that it allows people working in different sectors and areas to map and learn from the uneven nature of changes:

- Who do they deal with that we do not?
- What do they do with this problem?

➤ How did they cope with this disaster?

I would like to raise three questions that I think need to be faced.

To what extent should the criminal justice system become centered on the needs of victims as opposed to the needs of the broader community (offender rehabilitation, justice in punishment), and to what extent is that in the long-term interests of victims?

Victims should be extremely careful how they use their collective influence as a lobby group. We have seen presentations that have embraced the interests of groups that fall well beyond the ambit of most previous conferences in victimology (offenders' aid and rehabilitation, corrections) and I think that this is to be applauded.

It has not been a good conference for retribution. I always feel a bit nervous when I come to these conferences that I will be told that the answer to one group's problems is to pick on another, albeit less deserving, group. So victims' problems are, I hear, to be resolved by bashing offenders through the death penalty or mandatory sentencing. This conference was far more interested in restorative justice, though I think that we have to be careful about what we really mean by restorative justice – not every program that we happen to like should be hitched to everyone's current favourite paradigm.

To what extent are needs of victims being assimilated into other vested agendas (criminal justice institutions, victim support professionals, law and order lobby, private security, media)? While it is comforting to see all kinds of organisations pay attention to victims, why are they as institutions doing so and who is benefiting and, in doing so, what assumptions are being made about the needs of victims?

There is still something quite galling about predominantly white and male-dominated organizations telling us that they are sensitive to the needs of all kinds of victims when you consider just how badly, for example, women and indigenous people have been treated within those organizations.

What assumptions are being made about what is a 'legitimate' victim? Which groups are being ignored (Non-English Speaking Background, indigenous, elderly, youth, poor, homeless, gay and Lesbian, remote and rural communities)? Which kinds of crime are being ignored (for example, state crime, corporate crime, abuses of power and hate crimes)? Where are the victims' movements when people are subjected to police violence or die in custody? Where were victims' agencies in the debates about lead pollution, anti-tobacco legislation, or the Stolen Generation?

These are three questions that I think it would be worth agencies considering. Have I been 'barking along the borders' or 'talking a pile of crap'? I'll leave these thoughts with you.

Afterword:

“Victims of Crime: Working Together to Improve Services - Where to from here?”

Michael Dawson, Executive Director, Victim Support Service Inc.

John Cobb, Victim Support Service Inc.

Afterword

Victims of Crime: Working Together to Improve Services - Where to from here?

Michael Dawson & John Cobb

Nearly 200 delegates, over 30 from inter-state, representing the fields of victim services, criminal justice, health and welfare attended our conference in Adelaide in May.

We designed a program which aimed to focus on victims of crime within the services and activities of statutory and independent organisations in South Australia. We aimed to provide a vehicle whereby professionals could learn from each other about local and national initiatives designed to reduce victimisation and to improve community safety and sense of well being. Overwhelmingly, as the title suggested, we wanted to demonstrate the value, importance and continuing potential to work together to improve services for victims of crime.

The specific objectives of the conference were to:

- Promote and improve services to victims of crime;
- Improve awareness of issues effecting victims of crime with professional and community groups;
- Learn about developments occurring within the Criminal Justice System and their potential impact on victims;
- Identify and share community based initiatives which are beneficial to victims and help to reduce victimization;
- Identify gaps in services;
- Provide professionals with “tools for their kitbags” to help them work more effectively with crime victims;
- Raise the profile of the Victim Support Service and services available for crime victims.

Whilst conferences need to be stimulating and interesting, the organisers recognised the importance of trying to achieve identifiable outcomes which

could provide direction and guidance for the future. We were mindful of the fact that the Attorney General had published a major review relating to victims of crime over a year ago and to date only one recommendation, the publication of a new information booklet for victims, had been implemented. We recognised the potential for the Victims of Crime Ministerial Advisory Committee to influence improvements in services for victims, especially in areas of known deficiencies including children, culturally and linguistically diverse persons, Aboriginal people, services in country areas and victims with learning difficulties. Most of all, we recognised that the conference, with its broad base of representation, offered an excellent opportunity to pool knowledge, experience and expectations for victims' services in the future.

Six special interest groups, each convened by a member of the Victims of Crime Ministerial Advisory Committee, considered the statement: "Victims future needs – issues for workers and agencies". The following are some of the key points identified about which there was a significant degree of agreement. There is a need to:

- Improve training, sharing of resources and availability of information about criminal justice system initiatives– eg special courts, case conferencing, victims register and the implications of sentencing and parole;
- Provide better information and training regarding services available and victims rights to a greater number of service providers and crime victims;
- Improve provisions for children and other vulnerable witnesses to facilitate their participation in the criminal justice process;
- Improve accountability for agencies to deliver on the Declaration of Victims Rights and encourage interagency collaboration to improve victim services;
- Form a government position to co-ordinate victim services and monitor implementation of the Declaration of Victims Rights;
- Focus on preventative strategies including avoidance of repeat victimisation and early intervention with young people;
- Develop a victim perspective within a range of agencies at a local level;
- Develop a single, well resourced agency to deliver and coordinate a wide range of information services and training throughout the State;
- Improve equity and accessibility of services and information for Aboriginal victims, people in regional areas, children and adolescents,

people with an intellectual disability and people from culturally and linguistically diverse backgrounds;

- Increase emphasis on restorative justice priorities and expanding restorative justice options in the courts.

The Service will work closely with other stakeholders to take forward issues identified and debated at the conference. The implementation of our Strategic Plan for 2000 to 2003 will be highly significant to the future of the Victim Support Service and the improvements we are committed to achieve for crime victims.

We take this opportunity to thank the sponsors of the conference and those who participated in delivering the event for their contribution in fulfilling the “working together” theme. For crime victims to really obtain a quality and responsive range of services we shall all need to work in close collaboration and partnership to achieve outcomes. This conference was the beginning of this process.

Supplementary Paper:

**“A Brief Introduction To The Need for An
Incident Recovery - Model
Within Victim Services”**

Dr. Grant J. Devilly, The University of Melbourne

A Brief Introduction To The Need for An Incident Recovery - Model Within Victim Services

Grant J. Devilly

The sequelae to crime can be many and varied for the victim. This can range from physical injury, property loss and occupational disruption to grief, depression, anxiety and mental health issues generally. The purpose of this article is to propose an academic and clinical intervention strategy which aims to address the mental health issues of victims of crime.

Why Provide Mental Health Services To Victims Of Crime?

Firstly, it is important to understand the necessity for any type of intervention. This is a complex issue and lies within two domains. On the one hand, there is the monetary compensation versus practical and psychological assistance debate, and secondly there is the issue of looking at whether victims of crime require the availability of psychological help. This paper will deal with only the second issue.

The type of crime committed and the demographic grouping of the victim often reflect different psycho-social outcomes. Child abuse, for example, can lead to a host of internalising or externalising problems that can become pathological in nature, such as post traumatic stress disorder (PTSD), generalised anxiety, depressive disorders, oppositional / defiance, conduct disorder and the later development of paraphrliac behaviour, to name just a few. Rape can lead to specific anxiety disorders (such as obsessive compulsive disorder, post traumatic stress disorder, specific phobias, etc), depression and even a brief reactive psychosis. One study (Lopez, Piffaut & Seguin, 1992) showed that 71% of raped women suffered from major depression and 37.5% developed chronic PTSD that lasted from 1-3yrs. No matter which demographic group and crime-type victim, there are always special requirements that need to be borne in mind.

For example, the female rape victim may need rape specific information (e.g. epidemiological statistics) that she can integrate into her experience and allay any misplaced feelings of guilt that may have occurred following the attack. Therapists and researchers also need to be aware of the literature relating to female rape and predictors of outcome (e.g. perceived controllability over aversive events generally relate to symptom severity, yet the association between controllability and PTSD is neither mediated nor moderated by assault severity measures, (Kushner, Riggs, Foa & Miller, 1993); prolonged imaginal exposure leads to better long term outcomes than just stress inoculation training with rape victims, (Foa, Rothbaum,

Riggs & Murdoch, 1991); and specifically when conducted appropriately by well trained clinicians, (Deville and Foa, in press). The male rape victim, on the other hand, may need to look at issues relating to sense of self from a slightly different angle and interpreting the event within a society which the victim may have believed predominantly rewards the strong and ignores the weak.

As one can see the myriad possibilities of an interaction between crime type and demographic grouping leads to many possibilities of mental health outcome, the special needs that are required by the victim, and the literature that should be understood by the therapist or researcher. For the purpose of this article, and due to the frequent nature of this specific outcome due to crime, the example of PTSD has been taken to look at the epidemiology within the community at large.

The PTSD Example

One of the best controlled investigations into the epidemiology of PTSD was that conducted as part of the American National Comorbidity Survey (Kessler, Sonnega, Bromet, Hughes & Nelson, 1995). Overall, these authors found the lifetime prevalence of experiencing any trauma to be 60.7% of men and 51.2% of women, although this does not mean that these people then went on to develop PTSD. In fact Kessler and his colleagues found that the estimated lifetime prevalence of PTSD (using DSM-III-R criteria) was 7.8%, yet also noted that this rate was higher amongst women (10.4%) than amongst men (5.0%) and was also higher amongst the previously married. The trauma most likely to be found associated with PTSD, once the person presented complaining of problems following the event, was found to be rape with 65% of men and 45.9% of women. However, it should also be noted that in Kessler's study the women were more than seventeen times more likely than men to present with PTSD and rape as the traumatic event.

With the exception of rape, the highest rates of PTSD following a specific trauma, and conditional upon being selected for the assessment of PTSD, for women were physical abuse (48.5%), threat with a weapon (32.6%), molestation (26.5%) and physical attack (21.3%). For males, the conditional probability of being exposed to combat and presenting with PTSD (38.8%) was the highest incidence. It should be noted, however, that this is a conditional probability and does not reflect the likelihood of developing PTSD from being in a combat zone which has been estimated at being 14.7% (lifetime prevalence) and 33% for a reported incidence of one or more symptoms of PTSD at some time since the combat (Centres for Disease Control: Vietnam Experience Study, 1988). However, as with the women in Kessler *et al.*'s study, being a victim of crime also generated high rates of PTSD, with the highest being neglect (23.9%), physical abuse (22.3%), and molestation (12.2%).

As with much research into the epidemiology of pathological conditions the results, such as those above, have been conflicting due to the method of obtaining the data, the measures employed, classification cut-offs and samples surveyed. For example, Resnick, Kilpatrick, Dansky, Saunders and Best (1993) found that in a telephone survey of women, 12.3% of respondents had a DSM-III-R lifetime prevalence rate of PTSD (as opposed to Kessler *et al's* 10.4%). Resnick *et al* contribute this higher rate to the anonymity of using a telephone to procure the data. Likewise, O'Toole *et al* (1996) looked at 1000 randomly selected Australian Vietnam veterans and found the lifetime prevalence rate of PTSD to be 20.9% (SCID-PTSD scale) with 11.6% of the sample experiencing current PTSD symptoms. The use of different measures, sampling methods and geographically located groups can be seen, therefore, to influence epidemiological findings and limit their specific interpretation, although allowing for generalisations.

Lifetime co-morbidity rates with PTSD are also high for both men (88.3%) and women (79%), with PTSD, on the whole, being primary with respect to affective disorders and substance use disorders. However, of particular importance to victim services is the persistence of PTSD once having met the criteria. While the median time in Kessler's study to remission was 36 months for those who sought treatment and 64 months for those who did not, an important finding in its own right, it is noteworthy that over a third of those with PTSD remained meeting criteria for many years without remission whether or not they sought treatment.

To put this into some perspective and to provide the reader with an idea of how many people could be affected by PTSD alone within Australia, the Australia Bureau of Statistics concluded that:

"An estimated 79,100 persons aged 15 years and over were victims of robbery and 618,300 persons aged 15 years and over who were victims of assault in the 12 months prior to the survey. An estimated 30,100 females aged 18 years and over were victims of sexual assault in the same time period." (Australian Bureau of Statistics, 1998)

Of course this includes only robbery, assault and sexual assault and does not include the vast array of offences which can threaten the physical or personal integrity of the victim.

Treatment Delivery

With such large numbers being affected by crime and the survival curve of pathological responses, treatment efficacy and methods of delivery are therefore of critical importance to the community at large and victims' organisations specifically. Through the use of clinically controlled studies active therapeutic components are being identified and treatment methods are being streamlined and disseminated. Continuing with the example of

PTSD, until the late 80s it was predominantly believed that PTSD was generally resistant to therapeutic intervention and victims of crime with this disorder were prescribed long-term psychoanalytic therapy, individuals often being seen over many years two or three times a week. However, with the integration of the scientific method into clinical psychology and psychiatry came controlled clinical trials which have shaped our theoretical perspectives and the delivery of treatment under a best practice model. In the case of PTSD the initial trials utilised mainly Vietnam veterans, but over time this switched to rape victims and then victims of crime in general. It has reached a point now where 80% to 90% of all PTSD cases will be successfully treated in 8 to 12 sessions (Deville & Spence 1999; Foa *et al* 1999).

For example, Keane, Fairbank, Caddell and Zimmering (1989) conducted a randomised clinical trial of implosive (flooding) therapy with 24 Vietnam veterans diagnosed with PTSD. These participants either received 14-16 sessions of implosive therapy, including relaxation training, or were assigned to a wait-list control. When compared with the controls, at post-treatment and 6 month follow-up, the experimental condition evidenced significant improvement, across a range of standardised measures, in the symptom clusters of re-experiencing the event and anxiety and depression. However, the numbing and social avoidance aspects of PTSD did not show improvement. Cooper and Clum (1989) also compared imaginal flooding to milieu treatment in combat-related PTSD patients and, whilst finding flooding to be effective for PTSD symptomatology, showed it to be ineffective in changing depression and trait anxiety with this population. This increased effectiveness of direct exposure over milieu treatment as part of an inpatient PTSD programme for Vietnam veterans was similarly demonstrated by Boudewyns, Hyer, Woods, Harrison & McCranie (1990). Such approaches to combat-related PTSD (utilising exposure based therapies) within an inpatient PTSD programme have also been reported as effective in other, similar research reports (e.g. Frueh, Turner, Beidel, Mirabella & Jones, 1996).

Of direct importance to victims of crime and the provision of victim services for this diagnostic grouping was the aforementioned turn toward investigating treatment efficacy with rape victims and eventually generic PTSD cases. For example, Foa *et al.* (1991) compared a wait-list control (WL) with three treatment regimens; stress inoculation training (SIT), supportive counseling (SC) and prolonged exposure (PE). All 45 participants were female rape victims with a PTSD diagnosis. Each participant received 9 bi-weekly treatment sessions of 90 minutes duration. A summary of the results revealed that all treatment conditions displayed significant improvement at post-treatment and follow-up ($p < 0.001$). However, SIT displayed significantly greater improvement on PTSD symptomatology immediately following treatment than PE, SC and WL. At follow-up (3 month) PE displayed significantly greater improvement on

PTSD symptomatology. This improvement was across all 3 symptom clusters, in contradiction to the Keane *et al.* (1989) study. It is suggested that the inclusion of *in vivo* exposure, the theorised most active ingredient in the treatment of avoidance symptoms (Marks 1987), may have increased the treatment efficacy. Foa (1995) rationalised that if participants performed best in the short term with SIT, due to the anxiety management aspects of this treatment, and better in the long term with PE, then a combination of the two treatments may be the most effective.

In order to examine this hypothesis, Foa (1995), and Foa et al. (1999) conducted trials on rape victims, diagnosed with PTSD, with 4 conditions; WL, SIT, PE and PE plus SIT. Again 9 bi-weekly treatment sessions, each of 90 minutes duration, were administered. Contrary to predictions, it was found that whilst participants in all conditions improved, PE alone proved the most beneficial, followed by PE + SIT. In fact, any condition with the PE was superior to any condition without it. This result led Foa (1996, personal communication) to initiate trials of PE and Cognitive Restructuring, as a treatment protocol for PTSD, following the work of Resick and Schnicke (1992), and in line with the cognitive models of PTSD (e.g. Foa & Kozac, 1986). Resick & Schnicke (1992) compared a group based intervention employing a combination of cognitive techniques (i.e. predominantly challenging maladaptive thoughts) and behavioural practices (predominantly exposure) to a wait-list control group for women who had been raped. The CBT condition was devised from an information processing model with the basic tenet that, following rape, many individuals *assimilate* the event into their current beliefs (e.g. "I must have deserved it because good people aren't raped"), whilst a better outcome is achieved when people *accommodate* the event by changing their existing schemata (e.g. "Sometimes bad things can happen to good people"). The results showed that the CBT protocol was far superior to the wait-list control at post-treatment and this improvement in symptomatology was maintained to 6 month follow-up. This led the authors to speculate whether the cognitive component or the exposure component would be superior should such a design be implemented in future research.

Therefore, Tarrier, Pilgrim, Sommerfield, Faragher, Reynolds, Graham and Barrowclough (1999) reported on the relative efficacy of cognitive therapy and an exposure method in treating PTSD in participants who were predominantly victims of crime. They found no difference between a cognitive intervention and imaginal exposure at any time point, and due to the difficulties with the method of treatment delivery in this study very little in the way of implied efficacy could be made (Deville & Foa, in press). The lack of a statistically significant difference between cognitive interventions and exposure techniques was also found by Marks, Lovell, Noshirvani, Livanou and Thrasher (1998). However, it should probably also be noted that any condition which contained exposure appeared to display a larger effect size than other interventions by six month follow-up (although this was not statistically significant).

Deville and Spence (1999) compared Eye Movement Desensitisation and Reprocessing and a CBT variant based on Foa's PE+SIT (Trauma Treatment Protocol, TTP) in the treatment of generic PTSD, via a controlled, clinical study using therapists trained in both procedures. It was found that TTP was both statistically and clinically more effective in reducing pathology related to PTSD and that this superiority was maintained and, in fact, became more evident by three month follow-up.

As can be seen, such research is of vital importance, the results of which eventually translate into recommendation of treatment delivery. The above example of PTSD is just one of the possible mental health issues of which modern interventionists need to be aware. Such scientific investigations have naturally also been applied to other psychological reactions to crime and best practice models have been suggested. For example, research along the above line has been applied to other disorders, ones that are also common sequela to crime, such as obsessive-compulsive disorder (e.g. Van Oppen, deHaan, Van Balkom, Spinhoven, Hoogduin & VanDyck, 1995) panic disorder with agoraphobia (e.g. Bouchard, Gauthier, Laberge, French, Pelletier & Godbout, 1996; Oei, Llamas & Devilly, 1999), depression (e.g. Hollon, DeRubeis & Evans, 1996; Elkin, Gibbons, Shea, Sotsky, et al. 1996), generalised anxiety disorder (e.g. Durham, Murphy, Allan, Richard, et al, 1994; Borkovec, & Costello, 1993; Borkovec, Newman, Pincus, Lytle & Abel, manuscript in preparation), chronic pain (Kole-Snijders *et al*, 1999), and drug abuse (Ouimette, Finney & Moos, 1997; Guldish, Sorensen, Chan, Werdegar, Bostrom & Acampora, 1999) to name just a few. One can see that, therefore, it is important to be aware of the changing face of treatment recommendation and to be able to critically evaluate all treatment outcome research.

With this in mind the Department of Criminology at the University of Melbourne has initiated a victims' services course within the forensic masters and it is hoped that this will eventually develop into its own masters course. This course has only recently been initiated and it is expected that the course layout will change over time. However, at this time the course falls within two domains within victim services: Incident recover and organisational issues.

Victim Services: Speciality Training In Incident Recovery

This course initially aims to educate therapists and organisational workers and advocates for victims of crime about best practice models in a subject which addresses the assessment and treatment of victims of crime. This subject provides a systematic approach to the assessment and treatment of victims of crime and, more specifically, the issues surrounding Post Traumatic Stress Disorder (PTSD). With a scientist-practitioner model of assessment and treatment being advocated, this subject covers normal and pathological reactions to crime, an overview of the psychopathology of

anxiety and depressive disorders, possible diagnostic sequelae to trauma, the epidemiology of PTSD, theories of aetiology relating to PTSD and depression, the appropriate psychometric assessment of trauma reactions, treatment options, and a critique of more novel therapies. This subject also provides a practical skills training component that is ideally suited to therapists.

However, as mentioned at the start of this article, the type of crime committed and the demographic grouping of the victim often reflect different psycho-social outcomes. With this in mind a special needs group subject addresses the major interactions between crime type and the demographic grouping of the victim. Delivery of the course will be predominantly broken down into aspects of criminal justice, pragmatic and treatment intervention issues. As well as inspecting the overall evidence for special needs groups this course covers, amongst other groups, sexual assault and domestic violence, Aboriginal needs, ethnic and culturally diversified groups, victims of homicide, "missing presumed dead", and those requiring acute crisis interventions. This course also evaluates the necessity of providing acute crisis interventions and provides practical demonstrations of intervention delivery methods.

Naturally a placement, or forensic fieldwork practicum, is also offered. Students have the option of undertaking a fieldwork practicum lasting 52 days in their area of interest - which in this case is victim services. The practicum provides students with an opportunity to gain valuable experience in the professional forensic practice of their core discipline. A case conference component provides an opportunity for integration of material learned in other didactic and experiential settings, including (and where applicable, as determined by discipline) diagnosis, assessment, case formulation and treatment. Through this medium students gain valuable experience in presenting completed or on-going cases in a coherent and integrated manner.

Victim Services: Speciality Training In Organisational Issues

Although education regarding treatment models and techniques is of primary importance, it is only through the existence of advocacy, referral and assistance organisations that those who have been a victim of crime and cannot afford private treatment, will be effectively serviced. Therefore, another aspect of the course on victim services relates to basic organisational issues and also keeping abreast of political and research based innovations within the area. The organisational issues subject inspects service models, methods of service delivery, financial considerations at an organisational and departmental level, interaction with government and other community services and issues related to service deliverers. This includes methods of assessment related to appropriate therapeutic providers, decision making processes and the evaluation of the providers and the service as a whole.

More specifically the current issues subject addresses the latest trends in victim services, theoretical models in associated areas of psychopathology and local and international organisations. Guest speakers from domain specific backgrounds are strategically integrated into lecture delivery and political, as well as scientific factors, in policy generation and intervention trends are addressed. Further to this subject a course in victimology is also offered which provides an examination of a broad range of criminological and sociological issues in victimology, including concepts of 'victimhood', victimology as a discipline, trends in victimisation, the role of the Victim Referral and Assistance Service, and victims in the criminal justice system.

Conclusion

It is proposed that the provision of assistance within victim services is now at the stage where the ever popular term 'best practice model' is not just a good idea, but rather a reality and an expectation which those who have been victimised are entitled to: the best service at an organisational level, the most appropriate assessment, the most effective treatments which have been validated and delivered by those with contemporary and apropos training.

Just some of the issues relating to the psychological well-being of victims of crime have been presented, with the example of PTSD, and a new course outlining Australia's first victim services course has been proffered.

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Central Violence Intervention Program
Crime Prevention Unit
Victims of Crime Service Tasmania
Yarrow Place

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