

# **ANZAPPL CONFERENCE**

## **Victims of Crime: the therapeutic benefit of receiving compensation.**

### **Introduction**

In this paper I shall briefly explore the impact of crime and the therapeutic benefits of receiving compensation.

Many of my comments relate to our own Criminal Injuries Compensation scheme in South Australia, which is one that attempts to respond to the needs of individual crime victims by providing a balanced system of alternative options from which victims can choose what best meets their needs – this is a real strength of our scheme.

The scheme is available for people who have been traumatised/injured by any crime - even a property offence. Victims can receive:

- Reimbursement of expenses
- Grief and funeral expenses (in the cases of a crime resulting in death)
- Compensation for financial loss, and/or
- Payment for pain and suffering

This system and services for crime victims costs the South Australian Government around 12 million dollars a year of which approximately 4 million is raised from the so called “victims of crime levy”. The resulting outlay is 8 million dollars – a tiny proportion of the Government budget and no comparison to the 92 million spent on offenders.

We therefore have a totally different scenario from that which existed in Victoria prior to the introduction to the new scheme administered by the Victorian Victims Referral and Assistance Service.

### **Victoria**

Victoria was spending approximately 50 million dollars in compensation payments for around 6,000 crime victims per year – many of them being police, correctional services officers and security guards. Ms Jan Wade, the Victorian Attorney General explained only a few weeks prior to preparing this paper to victim service providers from around Australasia that this “could not be an sustained”. There were no specialist services for crime victims to obtain information, support and counselling at that time. My notes from Ms Wade’s talk suggest that the State could not have cash payments as well as services – one had to go to pay for the other. Now the Victorian Government is assisting some 4,000 victims per month. The benefits are obvious, however most other jurisdictions query why it had to be an either/or situation. CIC payments do provide benefit and relief to some victims when other options may or may not be what they need for recovery.

The Victorian scheme seems very broad and encompasses witnesses to a crime, and jurors who may be effected by their experience of the court case. These are beneficial aspects.

### **Impact of Crime**

I think it is worthwhile for us all to reflect briefly on the effects and impact of crime on its victims before returning to the issues around compensation – the process and benefits to victims.

The effects of crime can be profound and may impact in all areas of the victim's life. After experiencing a traumatic event a wide range of reactions can occur including:

**Physical –**

Nausea, headaches, sweating, tiredness, shaking, sleep difficulties, changes in appetite

**Emotional –**

Tearful, depressed, scared, anxious, anger, guilt, nightmares, sadness, feelings of isolation and loneliness.

**Behavioural –**

Withdrawn, increased smoking/alcohol, difficulty concentrating or making decisions, being very 'busy', scared to go out, change in relationships,

**Cognitive –**

Slow thinking, flashbacks, re-living the event, forgetfulness, poor concentration, distressing dreams.

There are many social problems which may arise from these reactions which neither the community nor the offender think about. Some of the social consequences may be;

- Avoiding people
- Conflict with family or friends
- Loss of confidence
- Increased use or abuse of alcohol/drugs
- Inability to go out alone
- General loss of interest in life

Financial Impacts are different from these social and emotional ones, however they are worth restating.

- Inability to work
- Needing to move house
- Medical expenses
- Replacement of property
- Phone calls and travel expenses
- Time off work for appointments
- Being forced to sell businesses

These are the common reactions we all know so well as helping professionals, but there are others which we don't often think about until it either happens to us or to our clients. Some of the other factors impinging on crime victims include;

- **Community attitudes**
  - Often victims feel that they are blamed by the community for being a victim of crime.

For example: A woman may be made to feel that she deserved to be raped because of the clothing she was wearing. Victims often report that others do not fully understand the impact of the crime and minimise their reactions. This may be expressed through comments such as “You should be over it now” or “You were lucky you weren't hurt more seriously”.

- **Dealing with the Criminal Justice System**
  - When dealing with Police, Prosecutions and the Courts, victims often feel powerless and that they have no control over their lives. This may be partly due to the crime itself but also can be exacerbated by the Criminal Justice process. For many victims it is a new overwhelming and somewhat ‘unreal’ experience. Often at times they are left feeling frustrated and confused about the process - in particular the lack of rights that they have within the system. Further dis-empowerment is the result.
  
- **The Media**
  - Including inaccurate reporting of the incident, harassing the victim to provide a comment and continually reporting about a crime (even years later when anniversaries are due) or during a similar case. It may also be minimising the effect of the crime or blaming the victim. Sometimes family and friends find out about the crime from the media and blame victims for this also.
  
- **Employment**
  - Employers are not always understanding or helpful and may blame the victim. Some victims have reported being criticised for handing over too much money or feel pressured to return to work straight away. Sadly many report no reaction at all to their plight by their employer.

How does the Community restore these victims and return them to the middle ground of the stability and control that most of us have over our lives – only part of what happened can be compensated or returned.

Often restoration can only be partly achieved – maybe through counselling, maybe through some payment as acknowledgment by the community of what has occurred.

We are all different, with different reactions, needs and solutions – I sincerely hope our Government doesn't take the flexibility of our system away. We know that individuals needs are different and we have a system which does provide choice.

### **Therapeutic Value of Compensation**

All states in Australia have some form of Criminal Injuries Compensation – and Finestone (1995 p 198) states that the rationale for such schemes are:

1. To provide an informal, compassionate and efficient forum where victims of crime can obtain some redress by way of recognition and validation of their experiences.
2. To provide some acknowledgment by the state, that the state has failed in its responsibility to protect the victim and acknowledge that the victim has suffered an injury.
3. Monetary Compensation – to provide a way in which the community can express its regret.

Ian Freckleton at the 8<sup>th</sup> International Symposium on Victimology said “Criminal Injuries Compensation not only plays a symbolic role but also a practical role in recognising people for injuries they have suffered and of which they are the innocent victim” (Freckleton 1994). Recognition is a much more accurate description than compensation.

Any therapeutic benefit is not flagged in this rationale - probably because some argue that it is debatable whether obtaining CIC has a therapeutic benefit for all victims – maybe because the amounts of money paid are so small? Ian Freckleton states in “Compensating the sexually assaulted” that “the money provided under Criminal Injuries Compensation schemes throughout Australia is not and never really has been ‘compensation’. It is a solace or a gesture on the part of the state falling well short of any serious effort to put the victim of crime in the position that he or she was in prior to the commission of the crime”(Easteal 1998 page 191). I and my colleagues at Victim Support Service believe that there is widely applicable therapeutic value from compensation, as I am sure many of the psychologists and psychiatrists here will agree. Some of the benefits include:

- The victim is given formal recognition by the community that they have been victimised through no fault of their own
  - The healing power to this acceptance of an injustice should not be underestimated because it is this recognition which is probably the most valued aspect of CIC to victims.
  - State recognition of being wrong is especially important for those victims whose offender is unknown or obtains a minimal sentence where justice is perceived as having not been done.
- The CIC application process is the only forum in which the victim is the central figure with general acknowledgment, being listened to by the system and receiving a verdict themselves. In the Criminal Justice process it is the offender who is the focus of all proceedings with the victim often feeling dis-empowered and ignored. It is the accused whose rights are protected by the Criminal proceedings.

The empowerment and involvement in CIC is often central to the victim regaining a sense of control and self-worth to begin their recovery from the trauma. This is not about the final payment received but rather about the process of participation.

- CIC is a tangible expression of the community and government responsibility to provide a safe environment, and compensation is similar to payments or other damage or injury through road crashes, theft of property, workers compensation etc. Without it, crime victims feel re-victimised by the state in addition to the perpetrator. It is only fair for them to receive compensation just as if they would when hurt in a car crash or at work.
- We believe the District Court to be the most appropriate and efficient forum for CIC – the quality of judgement is at a high level and traumatic delays are minimal. This again assists with victims recovery.
- A system which insists on the use of solicitors is beneficial to victims because the pressure is taken off them to sort through proceedings when they least need another traumatic journey into unfamiliar, legalistic territory.
- Funeral payments are generally obtained quite quickly (although totally insufficient for current costs).
- Crown Solicitor's Office is accessible and minimises bureaucracy in dealing with victims and their representatives or advocates. Victims appreciate this personal approachability which again assists in their recovery.

- The payments and reimbursements available are truly beneficial to victims – they are far from tokenism.
- Victims have the choice as to how they use pain and suffering payments to best alleviate their mental injury without being forced to accept either counselling or nothing. The pain and suffering payment can help relieve individual's stressors, which may include: a family holiday, a mortgage repayment, purchase or replacement of a car – we have clients in all these situations who have been assisted through these actions by relieving other stressors in their life that would otherwise be contributing to their slow rate of healing and general difficulty in coping with their victimisation. It is often these everyday pressures (mortgages, existing high purchase or bank card liabilities, etc) which are blown out of proportion, once becoming a crime victim. These pressures are no longer able to be managed as effectively as before.
- Hence, reducing them through a CIC payment can release the family from related pressures which affect their very survival.

### **Deciding to seek CIC**

Deciding to go through the process of seeking CIC is not taken lightly by most victims of crime – Victim Support Service sees people every day who are trying to make the decision of whether to proceed or not. The sort of disincentives they face include:

- The amounts offered are usually quite small and can leave victims feeling the impact of the crime has been minimised. Furthermore, there is not an adequate explanation given about the amount offered and the rationale for that decision. Again this can leave victims feeling powerless, undermined and undervalued.

- Lawyers are often not the most empathetic listeners and do not have time to be another counsellor – victims often feel rushed and not listened to.
- Psychologists/Psychiatrists assessments to support the claim are often short and one off which leaves victims feeling they haven't been able to tell the whole story.
- Victims are often reluctant to contest the amount offered. This reluctance may be due to a number of factors including:
  - No guarantees that the payment will be increased.
  - It may cost the victim money to contest the offer.
  - The victim may not feel able to endure another court hearing.
  - The victim may be unwilling to face the offender again.

Thus, victims are often left dissatisfied and frustrated that the system has failed to acknowledge the significant impact the crime has had.

- Where a crime has occurred in a person's workplace their payments may be reduced due to Workcover claims – the reduction of compensation payments in these cases is extremely frustrating and disappointing for victims, particularly when they believe they have done the right thing by not claiming time off or financial losses by reduced working hours (for example), through Workcover. They have attempted to return to work as quickly as possible. It is particularly annoying to victims when payments are reduced but without explanation.
- One of the major issues for victims applying for Compensation is that the offender will be a party to proceedings and can actually have a say in the amount of compensation they receive.

This can be particularly traumatising if an offender decides to represent himself at the Compensation hearing, and may have an opportunity to cross examine the victim and learn intimate details about the victim through the psychiatric or psychological report and have access to counselling notes and current information in some cases. Having perpetrators “in your face” is very intimidating.

Victims may require a high level of support to deal with the trial regarding Compensation. Those who proceed with a CIC claim do not have an easy ride – and generally must be fairly committed to last the distance - this reduces false or dubious claims.

## **Conclusion**

So, what is the point of all this?

There is much debate regarding the therapeutic benefits of Criminal Injuries Compensation and it is clear that in order to make a claim victims need to negotiate a complex and foreign legal system that can be frightening and seemingly unjust. However, if victims are given information to make informed choices, are treated with respect and dignity and are prepared and supported throughout the process, it can impact significantly on their healing and restoration.

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4 May 1999

*In preparing this paper the author wishes to acknowledge the contributions of Social Workers at Victim Support Service Inc.*

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