

Victims Rights - Fighting the Fight Stellenbosch July 2003

by

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Introduction

Victim Support Service Inc. is a non government community service which provides services for crime victims and advocates for services and victims rights. It is located in South Australia in the Southern part of Australia which is the last stop before Antarctica and therefore on the other side of the world from many of the participants at this conference. South Australia is a geographically large area with the relatively small population which is spread over some desolate and isolated areas of remote country and barren desert or grazing land. The population of the state is approximately 1.5 million with 1 million based in the capital city of Adelaide.

Police statistics show around 250,000 criminal victimisations per year in the state - which is not high by other standards around the world. However, victims' needs at an individual and collective basis are just as important as in countries where the crime rate is much higher.

The international victim's survey shows Australia to be one of the worst for general crime and shows it increasing rather than decreasing as in many other westernised countries. South Australia shows similar trends with some crimes particularly those of violence slightly increasing while others are stable or decreasing. The state also has a history of several unusual disappearances and serial murders.

A Brief description of Victim Support Service

Victim Support Service is run by a voluntary Board of Management with some elected and other appointed members from such backgrounds as the law, police, courts administration, counselling, accounting, business, or human services. The Board also feels it is important to retain its links with its crime victim client group and attempts to retain at least two crime victims/survivors on the Board. The role of the Board is to oversee financial management, strategic planning and all policy areas. It is legally responsible for the work and staff of the organisation.

We have staff and volunteers in 1 metropolitan and 5 regional offices. We provide a range of services through our professional staff with qualifications such as Psychology or Social Work. These counsellors provide information, counselling, therapeutic victims groups, brief intervention and referral to other organisations. We also provide advocacy on behalf of individual clients and to

influence the criminal justice system and the health system in their treatment of crime victims.

In addition we have trained volunteers who fulfil a wide range of functions including court preparation and companionship while victims or prosecution witnesses attend court, assistance with victim impact statements, administration, website development, public speaking /community education talks, resource centre, as well as sitting on various committees from the Board of Management through to Occupational Health & Safety and newsletter committees. We have another group of volunteers who are currently preparing a written history of the organisation as we are approaching our 25th Anniversary - at which the book will be launched.

Our staff provide services of consultancy, training and information to other professionals who are working with crime victims. We also co-facilitate several of our victims groups with other agency staff from time to time during the year. We are a relatively small organisation although the biggest non government victim support organisation in Australia, with around 19 staff including the 5 part time regional staff who, while delivering our services, are subcontracted to do so through our partnerships with other agencies in those areas.

Where it all began

This paper examines the true life story of how a small non government service for crime victims has successfully advocated for victims rights to finally be enshrined in legislation and recognised as a vital aspect of government policy for victims. The paper also traces how government funding for services has doubled in only 5 years in parallel, and because of, the rights advocacy activity undertaken.

South Australia was the first jurisdiction in Australasia to have a “Declaration of Victims Rights” and to have sanctioned use of Victim Impact Statements in court. The United Nations “Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power” was prepared from the South Australian policy document in 1985 and demonstrates how this small southern state of Australia has influenced victimology development internationally. Victim Support Service began life as the Victims of Crime Service in 1979.

When the first Declaration of Rights was adopted by the government as a policy document and was used to advocate with the United Nations there was considerable activity on the victimological front for about 5 years under the sponsorship of the then Labour government and Mr Chris Sumner, the Attorney-General of the day. Then with change of government there was a significant period of around 10 years of relative inactivity until the late 1990’s when the Liberal government and its Attorney-General, Trevor Griffin, took up a renewed interest in crime victims and their needs.

I would like now to describe the 3 stages of development of the organisation and its effectiveness in advocating for victims rights and services – which obviously means allocation of funding to provide those services.

Establishment – 26 Years Ago

Victim Support Service was started in 1979 as the Victims of Crime Service. It began through the activities primarily of one man, Ray Whitrod, who was a retired Police Commissioner from Queensland, a northern state of Australia, when he relocated to Adelaide in South Australia. He was well connected to a church and used this connection to develop a strong membership of empathetic and interested persons. The organisation was incorporated and provided the opportunity for surviving members of families in which a family member had been murdered could support each other. From this focus primarily on homicide victims families, the organisation did begin to take on a listening ear role and support for victims of other crimes. It was a small lobby group which was not funded by government until considerably later in its life. Mr Whitrod was an evangelical and charismatic individual who's passion for helping crime victims was infectious and drew in a good deal of support from the church community and others.

Almost inevitably to some degree because of his personality and charisma, Ray Whitrod became the focal point, the public spokesperson and mainstay of this fledging community group. This is not unusual in the development of similar community groups. At the time the organisation unashamedly used its charity focus and the fact that there was no funding for services for crime victims to appeal to the community's sympathy – as such victims were probably perceived to be somewhat helpless, unable to manage without help, and needing assistance. Today we believe in showing their strength. We seek now to build confidence, build self esteem, offer choice, build self empowerment as well as provide services - but only for those who choose to access them.

Although I was not part of the organisation at that time, the culture of such charitable bodies tended to be apologetic in the sense that the organisation apologised for “having to seek donations” as a charity. Victims were portrayed as “poor victims” and we were told we should be reaching out to them to give them some rights, money, and services. Services of course were provided through victims' mutual support – providing emotional and practical support and sympathy.

Victims really had no rights in those days and it was a long time before this was acknowledged and victims began no longer to be the forgotten ones in the criminal justice system.

The organisation operated from the back of a church initially, and then once some funding was made available from the government some rent was paid for a fairly basic city building. There were no staff initially and no such thing as a planned approach to mapping out a way forward for the future to develop or build a service system.

In other words it was a small, essentially religious-based gathering of very well meaning, kind hearted people, generous with spirit, time and what little they could afford to donate to the development of some supports for crime victims. It

was typical of many small community groups and lobby groups shouting to be heard above the din of commercialism and government bureaucracy and begging for recognition, and rights of a disadvantaged identifiable group (one of dozens) in our community.

8 Years Ago

Prior to my arrival 7 years ago, Victim Support Service had changed its name and developed enormously into dealing with all crime victims from any crime with 50 or so volunteers and about 7 staff. The turnover of the organisation was A\$360,000 with about 85% of that coming from a government grant.

Rather than being so single personality driven there were at least 2 public spokespeople in the organisation with less reliance on one person ie it's Executive Director. There were many volunteers with a scattering in several country towns. The emphasis was still primarily as a charitable organisation but showing much more assertiveness and fewer apologies for its work and its clients.

Rather than being so strongly an evangelical organisation as it had been for sometime, it began reflecting a more objective and logical presentation about victims' rights and victims' needs. At this stage it was still, however, perceived as anti-offender in its principles and stand on such matters as sentencing and imprisonment.

The organisation had successfully advocated for the Declaration of Victims Rights to be implemented and adopted as a government policy more than 10 years earlier. This was effective as far as it went to initiate some change and recognition of victims rights and had taken the South Australian criminal justice system a significant way forward in addressing victims needs. However, there was no real force behind the policy declaration. Progress had slowed and the organisation had become somewhat marginalised by changes of personality and change of government. The organisation had a high media profile but one which had begun to focus on negatives and differences between the organisation and government policy or practice. The organisation became financially at risk and lost some of its funding.

Late in 1996 the organisation undertook significant changes in financial management, human resources management, a stronger recognition of volunteerism in conjunction with professionally qualified staff delivering services. It began to build a comprehensive strategic plan to guide the repair and rebuilding of the organisation.

Now

As I write about this organisation's current make up and work there are a number of similarities which have continued throughout the organisations life as well as some significant differences. Let me give you a flavour of those.

We still focus on providing services to victims of any crime through our hundred or so volunteers and 25 staff. We have a turnover annually of about A\$1.5 million which is about three times what it was eight years ago. We have further strengthened the objective, balanced, evidenced-based arguments about victims needs and rights. There is still passion and overwhelming commitment from all parts of the organisation. It is however seen more as a service agency rather than a community group. Rather than emphasising the charitable nature of the organisation we emphasise victims right to services, right to funding to provide those services, and that victims, like other disadvantaged groups in the community, have a right to high quality services delivered by well trained and well qualified professionals. We have maintained our emphasis as a charity as far as possible without disempowering victims by arguing for sympathy – we promote empathy and highlight how victims are disadvantaged and often abused by traditional adversarial criminal justice system which does not equally recognise their rights. This is unfair, unacceptable, and to be challenged constantly until change is forthcoming. We are more confident, assertive to reflect the nature of the inequalities – but we do not present victims rights as an alternative to offenders rights. We work strongly to advocate for continuance of human rights including those for offenders, but demonstrate that victims are still way behind in the achievement of their human rights.

We have one city location and five regional offices in regional country towns of varying sizes - for which we argued long and hard.

Victims rights are now enshrined in their own legislation and include a complaints procedure which was not evident when there was a policy encouraging commitment to victims rights. There is a new state government position answering to the Attorney-General (Victims of Crime Coordinator) who addresses policy and implementation arising from the legislation for victims rights. There is Ministerial Advisory Committee of policy-makers and decision makers in all areas of the criminal justice system and some health/welfare fields that focuses on cross government initiatives and response to needs.

Victim Support Service is engaged by the criminal justice system and consulted frequently by politicians, government and other agencies.

We are financially secure and have effective strategic planning processes which keep us focused. We have assisted in the development of outcomes for crime victims.

Recent Outcomes for Crime Victims in South Australia

In the early days of Victims of Crime Service the achievements were significant and highlighted (as I have stated earlier) by the Declaration of Victims Rights and the first Victim Impact Statement. In the last 7 years other outcomes have been affected.

Victims Review

A comprehensive review was conducted into the needs of victims of crime generally, criminal injuries compensation effectiveness of victim impact states and particularly whether victims rights should be enshrined in legislation. We welcomed this review which was conducted over about two years before the final report was released. The review identified 65 recommendations addressing rights, service needs, new compensation guidelines, many inadequacies in government implementation and adherence to victims rights, and the need for awareness training about victims needs and rights.

Victims of Crime Act

Eventually a Victims of Crime Act was drawn up which enshrined the existing 17 rights into one piece of legislation with additional rights to a complaint process for victims and a right to be advised of their rights and the services available to crime victims.

We advocated for these additions and were a fairly lone voice seeking legislation – neither the Attorney-General nor his advisors were convinced at first, but came around to our way of thinking. As a result of this Act we now have:

- An across government committee to directly advise the Attorney-General and assist in implementing the legislation across government.
- A Victim's of Crime Coordinator to focus on maintaining and improving performance with regards to victims rights.
- A new victim of crime compensation scheme which (although a backward step with regard to more restricted eligibility for compensation) does retain the "pain and suffering" payment. This was under severe threat.

Unfortunately the primary eligibility is now restricted to violent offences in line with most other schemes internationally.

Regional Services

A major outcome of the Review was to confirm our insistence over some years that regional South Australia was severely disadvantaged by not having services for victims of crime. Victim Support Service only had for volunteers dotted around in case a victim was lucky enough to find them to help them attend a court case. 5 part-time offices were established each with a paid staff member and volunteers. Counselling, community education and practical support are now available in these locations.

Home Invasion Legislation

There has been a change to legislation in response to increases in Home Invasion. The offences of Burglary, Break and Enter, Robbery were redefined to increase penalties for home invasion when homes were occupied – regardless

of what time of day or night. Any threat of violence is recognised as damaging to victims and a life imprisonment maximum was introduced instead of a 10 year maximum. We were heavily involved in identifying this issue providing statistics and bringing about change in legislation. There were quite frightening public rallies calling for much more draconian, severe penalties.

Case notes kept confidential

The current Attorney-General when he was the shadow minister introduced legislation to protect counselling case notes from being nefariously used by the Defence in cases of sexual assault – this happened in civil claims for compensation. This was a major step forward to protect the relationship between victims and their counsellors – we still believe this protection should be extended to all victims of crime receiving counselling.

Awareness and Referrals increased

Victim Support Service had lost profile and capacity to deal quickly with crime victims because funding was short and publicity was curtailed through lack of resources. Hence victims did not know about services because other agencies were ill informed. Through our “marketing” particularly to police and the increased profile of victims issues, referrals for services have continued to grow every year. Hence more victims are being made aware of services than ever before, and other agencies are giving better advice.

Police Victim Contact Officers

There is now a police victim contact officer allocated to the major crash section (after many years of inadequate servicing of victims affected by fatal crashes) and new part time allocations of victim contact officers to several country areas. These officers have primary responsibility to inform and serve victims. The original 11 new positions provided by extra funds from the government in the early 90’s has increased as described. The victim contact officer is an important advocate within police for victims and provides a direct service. We have excellent relationships with police and receive 50% of our referrals from them – without the automatic or mandatory referral by police to victim Support services which occurs in other jurisdictions. We have to earn our referrals.

Information booklets

The Government “information for Victims of Crime” booklet has been totally revamped, regularly updated and supported by a new “pocket guide” of services which can be carried by police and other service providers. Victim Support Service was heavily involved in writing, rewriting and market testing with crime victims. These communication tools have assisted the promulgation of information to victims with great effect.

Victims Representation

Crime victims are now represented on various criminal justice committees to which Victim Support Service has been invited or elected by votes of members. The most important of these have a management or policy role in which victims issues can be put forward rather than left to chance, the goodwill of other stakeholders, or luck. The fact that invitations to participate were issued, demonstrates clearly the outcome we have achieved as an important stakeholder and contributor to the criminal justice system in South Australia. Some of these committees are:

- The South Australian Council of Social Service Board - manages the peak body for non-government community services across a much broader perspective than justice.
- Offenders Aid and Rehabilitation Service Council - a policy/reference group for the running of a non-government offender's agency. We were invited because of our balanced approach and interest in rehabilitation rather than incarceration and punishment.
- Centre for Restorative Justice Advisory Group – a fledging non-government group trying to bring restorative practices to the forefront of justice.
- Management Committee of the state's Rape and Sexual Assault Service – together with Victim Support Service the two services are the only specialised crime victims therapy services in South Australia (with the exception of Domestic Violence services).
- Managing Committees of the two most recent problem solving, treatment or diversion courts. One is for the Drug Court and the other for an innovative Mental Impairment Court. Victim representation acknowledges the role victims play in such courts and the need to consider victims needs.
- Australian Crime Prevention Council Executive Committee – demonstrating the synergy between victim support and crime prevention.
- The Prisoner Assessment Committee - a Correctional Services committee which assesses and plans offenders incarceration and rehabilitation. I am appointed to this committee by the Minister for Correctional Services. We also review home detention applications.

Not all Good News – some work in progress

While I believe our advocacy successes have been considerable there are a few matters in which I wish we had been able to achieve greater advances.

There are discussed below:

Diversion Courts

The first is the lack of victim orientation in our new diversion or problem-solving courts which divert offenders with drug or alcohol additions or mental

impairment to treatment rather than goal. While we agree in principle with such an approach to rehabilitation and therefore crime reduction, it is important to recognise the impact of this on victims. Victims should be well informed, and given the opportunity to participate in the process by giving victim impact statements. It is neither fair to make victims wait for the case to come back to court for sentencing after the treatment diversion, nor for them to be excluded from the process through lack of information.

We have not been effective in ensuring this process – however we have been asked to sit on the management committee of these courts – so we shall keep trying.

Judicial Training

Judicial and Magistrate training on victim empathy and awareness has been offered and agreed to but never implemented. We should not have to keep asking – but they are a resistant group and don't like to be "trained". We should not have to keep asking – but they are a resistant group and don't like to be "trained". We have been invited to several Court Authority functions and committees, including a special victim liaison meeting with a senior judge but not yet to annual professional development events.

Victim Awareness in Corrections

Correctional Services have developed many victim oriented services and policies, and invite us to sit on various committees. However we have failed to obtain an invitation to staff training on a regular basis, nor to give input to all victim awareness training courses for offenders. It would be much more satisfactory to be a regular, automatic participant in these events. We are also advocating for victim representation on the Parole Board.

Media Sensitivity

The media is probably a lost cause, however we do make regular comment in the media on a wide range of crime and victim issues. We also sponsor annual awards for "Victim Sensitive Journalism". Unfortunately we can see few if any change to media decision-makers or their journalists. We do win a few individuals over but they move on and the system largely stays the same.

Victims from other Cultures

We have argued constantly for funding to address the very low rate of referrals from victims from indigenous backgrounds or other, non English speaking cultures (culturally and linguistically diverse). We know that information about rights and services does not flow readily into these communities, and therefore victims who may want assistance are disempowered. We do not have the resources needed to make this a priority although we are paying for some translations for counselling or brief intervention. We are now working on both

these areas to develop some networks in the communities and maybe seek funding jointly to address these inequalities.

Child Victims

We have advocated strongly for children over many years - some years ago we lead a rally with a petition to be given to Parliament on the steps of Parliament House. More recently we made representation to a government review of child protection. We argued for major changes to the criminal justice system to protect and encourage children to speak out about their victimisation. Sadly the reviewer only recommends tinkering with the existing unsatisfactory adversarial system – ruling out the consideration of an inquisitorial process.

What did we do to bring about Change?

We fought to bring about these changes on two battle fronts – services in response to victims needs and raising the inequality of victim's rights. There are significant debates in the field of victimology about the most effective approach:

- (a) the principled, moral attack on ideology and policy to recognise human rights (a different and long term process of effecting attitudes and legislation) or
- (b) the more pragmatic, offer shorter term strategy of demonstrating need, identifying solutions and requesting funding.

It seems to me that the field is divided and proponents fall into either one school of thought or the other. Our organisation fluctuated from one to the other, in its first 10 years or so, and then in the last 7 years has fought strongly on both fronts.

Initially we fought for victims rights, achieving success in obtaining government commitment to the first declaration of victims rights in Australia in 1985, and the introduction of the first victim impact statement.

From there the next stage our members fought hard for funding to provide services – the same government provided some initial funds for staff and volunteer support. This gradually increased during the late 80's and early 90's but came to a halt at about 4 counsellors.

In 1996 after many years of no growth in services and no progress in furthering victim's rights we took a good long look at where we were at on both counts. We planned out a much more strategic approach which enabled us to double funding and staffing as well as dramatically improve awareness and commitment to victim's rights.

Firstly we consulted with, all key stakeholders in the criminal justice arena about their impression of victims place in the system, our organisation, its effectiveness, and what we should do next – people like being asked! Courts

administration, 3 levels of Judiciary, police, (from prosecutions, major crime, victim contact officers and management) correctional services, offenders aid, our volunteers, Directors of Public Prosecution, Coroner and others were invited to a two hour workshop to comment.

While listening to others we also considered ourselves, where we were at, and what we wanted to try to achieve. This was all rolled into a 3 year strategic plan which clarified mission, values, objectives and specific aims for our direction and specified how we planned to achieve this. Our plan became a working tool – keeping our focus we review progress twice yearly and revamp the overall plans 3 yearly. This has worked well to enable us to see clearly what we have achieved and what needs to change to make a bigger difference.

Influencing Government

A key to not only achieving our objectives for legislative and policy change at an ideological level as well as developing services in the ground was (and still is) to rebuild positive relations with government. Government includes Ministers (politicians) and the departmental bureaucrats who have significant influence through passive resistance or pro-active advocacy with policy makers. Our relations were no longer good 7 or 8 years ago.

Hence we set about proving ourselves. So we met key decision-makers in the criminal justice system and used introductory meetings to acknowledge their work (and egos where needed) ask questions and open up a personal dialogue.

We sought and found excuses to keep contact and build the relationships.

We deliberately set about being positive, constructive and balanced. We wanted to be reasonable and be seen to be reasonable rather than critical, radical or biased. We showed we were not asking for the world to change overnight but accepted the reality of needing to build and change by incremental steps. We were patient and ensured we were in the loop – other victim advocate colleagues have been too radical or openly critical and consequently marginalised and shut out of meaningful dialogue.

We also maintained these guiding principles in public statements – in meetings and media. There is no point in embarrassing decision-makers publicly or shaming them – it does not work and they will be victorious in any such battle of force or power. One step back in retreat can lead to two steps forward in the end.

Our media statements were no longer contributing to the polarity and conflict between different factions – we began to comment on crime generally and victims rights/needs. We kept our arguments behind closed doors – as long as we do so we keep being invited in to these inner sanctums.

Influencing non-government was different – less political, less challenging but using a victim awareness raising paradigm. We had been fairly well stuck in our office in isolation of the real world, merely responding to victims needs. We

joined committees, networks, peak bodies and working parties – by offering or gently inviting ourselves to make a contribution about crime victims. We offered to work together on working groups, or to host meetings in our offices (including administrative support to type and send out minutes, for example). We offered to collaborate, therefore be more involved, harder to ignore, and less dispensable. Stakeholders began to accept we were important and invite us to new forums.

We always said “yes, we’ll make a comment” to the media – shamelessly accepting that every time we were mentioned in the press we raised the profile of victims issues.

Our values and persona undertook a significant enhancement – no longer did we talk about “poor” victims. We showed why victims were disempowered/dispossessed of their rights and voice rather than begging for consideration and sympathy. The organisation reflected assertiveness and a quiet confidence rather than crying for help and charity.

We sought to empower victims not create dependence on service providers. Too many in the victim field quickly draw crime victims into seeking support, services or compensation. We have advocated for giving them time to make the choice about if, when, who and how they access services. This was inconsistent with how many service providers expected us to behave and helped them stop and think. We grew up into a mature professional service rather than a charitable, self-help, lobby group.

We became viewed differently by stakeholders.

Marketing

Some victim’s services receive degrees of “automatic” referrals from police, courts, and help lines, however we do not. We have to earn referrals and, as you can imagine from my earlier remarks about “values”, automatic referral (in our mind set) cuts across client determination and choice.

In 1996 referrals were declining! So we used private sector marketing ideas to increase awareness about our “products” and simplify referral processes – particularly with police who now account for around 50% of all our referrals.

We established a bright, positive new logo; reproduced our brochures, letterhead and public materials in a consistent recognisable corporate style which look professional; we produced fridge magnets, stickers and new posters with our logo, name and number to assist recognition and referral. These were delivered by hand to police stations, court houses and other services. We developed a website and wrote articles for relevant newsletters and magazines. The opportunity came to move out of our dingy offices in which almost anyone felt like a victim the minute they entered the building (according to the Chief Executive of the Justice Department) – moving to a freshly painted, shop front, ground floor office which so many clients have described as “welcoming” and “comfortable”.

Fixing a few problems

In 1996 the organisation was going through difficult times and needed to refocus, rebuild and develop its position in the state and the criminal justice system. To rebuild the trust and foundations of the organisation we set about changing and improving our financial management. We had only one major source of income in the form of a grant from the Attorney-General which was supplemented with small bits and pieces from all over. This was typical of a small charity but had to change for long term survival. We sought other grants for existing “business” and concentrated on larger amounts rather than small charity “fundraising”. Spending practices and accounting procedures were all changed to demonstrate transparency to funding bodies and account responsibly for our operations.

Human resource practices were revamped and modernised – including our management of volunteers.

Strategic planning (as previously mentioned) was introduced to manage the direction and strategies of all areas of our work.

Also on the list of repairs was the fore-mentioned media image of the organisation.

In essence we were a small, informally run community agency struggling under increasing pressure of government for accountability for its grant, and needed to modernise its practices. This was part of the strategy of regaining trust and the confidence of stakeholders.

Becoming more Businesslike

This environment, compounded by economic rationalist government policy, amalgamation of small services with bigger ones to improve “value” for money and economies of scale was all very unsettling to the non-government community sector. The pressure was on to shape up or ship out. Victim Support Service set about the task of surviving in this environment. We borrowed concepts and strategies from the world of private enterprise. We realised we had to adopt a different culture of energy, enthusiasm and customer focus rather than more usual laid back attitude common to charities of that era. We had to become more dynamic and pro-active or fold.

To do this internally was one challenge, but we also had to present a different image externally to the market place. We changed to a customer focus for the purpose of marketing our services and issues (as described earlier). The new image we presented was more modern, professional, supportive and empathetic but not patronising (through a different logo style). We developed more efficient practices (and probably more effective at the same time). This new image and marketing approval showed a different public face.

Combining internal cultural aspects with the external personality of the organisation were important at all levels to attract confidence, clients and acceptability within the criminal justice system and media. This however would not be enough to convince the funding bodies and government that they should continue financing us. So we showed them that we provided value for money and reported in much more detail about our activity, achievements, and plans. We gained their confidence and doubled within 5 years.

In conclusion

Victim Support Service has succeeded on both fronts - service delivery and victims rights. It was achieved not by accident, but through planning and strategies developed for both the short term successes, and long term wins. It could be said we won the battles and are winning the war. There is a long way to go but we have the foundations well established for further continuous or incremental improvement.

Michael Dawson