

Policing from the victims perspective – turning legislation into practice.

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Victoria Police are often the first point of contact for a victim following a crime and are a crucial gateway to the criminal justice system. Police officers are placed in a crucial and advantageous position in providing immediate intervention and assistance to victims of crime. The attention and response that victims receive from police may be one of the most significant post crime experiences for them. This is critical in not only determining recovery but can have a real impact for the remainder of their lives. It may influence a victim's choice in reporting the crime, assisting in the police investigations and an overall greater willingness to participate in the criminal justice process.

Police need victims as much as victims need the police. The relationship between them can be seen as a collaborative partnership. Without the cooperation of victim and witnesses charges would likely be withdrawn or dismissed, leaving the offender free to re offend. When this occurs both the victim and society are poorly served.

Background

Historically, police primary functions were to preserve the peace, protect life and property, prevent crime and to detect and apprehend offenders. Police were very much action orientated and offender focused. Victims tended to be viewed in terms of what they could do for the investigation resulting in them being treated as witnesses to crime with no regard to the effects. This lack of victim focus was played out across the criminal justice system with victims frequently citing the experience of contact with it as a source of further trauma (Mawby, 1999; Thomas & Repchuck, 2003).

Another example of offender focus is evident in the lack of victimization statistics. It was not until 1975 with the Australian Bureau of Statistics Crime Victimization Survey that researchers began to concern themselves with victimization rates. Prior to that time, researchers were more concerned with crime statistics and offending rates.

In the 1970s the plight of victims in the criminal justice system received increased public interest. A number of organisations promoting the rights of victims of crime developed in Australia including the Victims of Crime Association League (VOCAL) in Victoria, established by the then Chief Commissioner of Police. Internationally, victims' rights also received public attention.

In the United States the President's Task Force on victims of crime proposed an amendment to the Constitution to improve victims' rights parallel to those of the accused. In 1985 the Seventh United Nations Congress on the Prevention of Crime and Treatment of Offenders, addressed directly the rights of victims of crime resulting in the *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*. The Declaration refers to access to justice and fair treatment, responsiveness of judicial and administrative processes to the needs of victims, restitution and compensation.

The United Nations called on member states to incorporate this statement of principles into their domestic laws and practice. All professionals who worked with victims were called upon within the Declaration to improve their services to victims including police, judiciary, health and social services. Essentially, the United Nations highlighted the difficulties suffered by victims of crime in democratic countries and the need to improve their rights.

Some jurisdictions have opted to incorporate the principles of victims' charters in legislation, whilst others have implemented these principles through government policy directives to responsible government agencies. For example South Australia was one of the first Australian states to enact a *Declaration of Rights for Victims of Crime* in 1985 - two months before the United Nations Declaration. Like the United Nations Declaration, 17 principles were introduced to support victim's rights. South Australia enshrined its *Declaration of Rights for Victims of Crime* in legislation through their *Victims of Crime Act 2001*.

In contrast to South Australia, Western Australia introduced the *Victims of Crime Act 1994* to provide guidelines for public officers and agencies on the treatment for victims. However these guidelines have no statutory basis and there was no accountability measures. In January 2003 the Western Australian Attorney-General introduced discussion for the development of a Charter of Rights for victims. In 2004, there was a proposal of a Charter to be linked to an Act of Parliament such as the *Victims of Crime Act 1994*. However a direction for Western Australia is yet to be determined.

Queensland has also yet to formally adopt a Charter of Victims Rights. The *Criminal Offence Victims Act 1995* incorporates recognition of the place of victims in the criminal justice process and a code of treatment to be observed by public officials dealing with victims.

The Victorian experience

In 1985 the Victorian State Government's Legal and Constitutional Committee commenced an enquiry into the need for enhanced support services for victims of crime. In November 1987 their final report was presented to Parliament. The report recognized that victims of crime were neglected by the criminal justice system and the community at large and that the criminal justice emphasis had been on pursuing the offender with little regard for the trauma, distress and loss often experienced by crime victims. The Committee made 61 recommendations relating to victim issues and recommended a Statement of Principles be produced. The Victorian Sentencing Committee supported these proposals and further recommended that a Bill of Rights for victims be incorporated into Victorian Statute. The Statutory amendment did not take place.

Following the parliamentary report Victoria Police together with the Attorney General's Department, Community Services Victoria and the Office of Corrections formulated a *Declaration of Rights for Victims of Crime*. The Declaration was approved by Cabinet in October 1989 and was produced in the form of a pamphlet which included a short explanation of the 16 rights.

In the late 1980s and early 1990s there was an establishment of a number of police initiatives to assist victims of crime. In 1988 Victoria Police established a centralized Victims Service Coordinator which focused on major crime. The responsibilities included taking referrals from operational members for victims for support and assistance, training and information and the provision of advice to senior management about victims of crime. In 1998 the Victims Service Coordinator formed the Victim Advisory Unit and engaged two new employees which enabled the unit to expand its service. Programs were developed but not widespread or consistently delivered. The only area in which police directives were in place was in relation to specific crimes and victim categories such as family violence and sexual assault.

It was not until May 2004 the Attorney General's Justice Statement sought to adopt the United Nations *Declarations of Basic Principles of Justice for Victims of Crime and Abuse of Power* and focused on the development of a Victims' Charter

for Victoria. The Victims' Charter was contained in legislation called the *Victims' Charter Act 2006*, which became law on 1 November 2006.

Police obligations under the *Victims' Charter Act 2006*

The *Victims Charter Act 2006* (the Act) aims to increase victim participation in, and satisfaction with, the criminal justice system. The Act is a whole of government initiative and sets out principles which represent minimum standards governing responses to victims of crime across criminal justice and government agencies.

The Act sets out specific obligations on Victoria Police which include:

- Provide victims with information about support services and entitlements.
- Encourage victims to use these services to help them cope with the criminal justice system.
- Update victims, on request, with information about the progress of the investigation and prosecution.
- Update victims, on request, about the outcome of bail conditions.
- Refer victims who wish to complete a Victim Impact Statement for consideration at sentencing to support services for assistance.
- Store a victim's property in a secure and respectful manner and return it as soon as practicable.

By agreement with the Attorney General implementation of the Act will only be required for crimes against the person for the initial four years.

Translating the Act into practice

As the implementation of the Act approached an internal review process confirmed that Victoria Police did not have consistent capacity across the state to meet legislative obligations, in particular accurate and timely reporting of victim information to government. In 2004 – 2005 there were approximately 32 000 crimes against the person reported to Victoria Police. The Act had the most significant implications for operational members and criminal investigators who have the most contact with victims. A range of measures were subsequently undertaken to prepare the organisation.

The development of service standards for victims of crime is fundamental in achieving compliance with the Act. Service standards formalise legislative

obligations and address critical gaps regarding inconsistency in service delivery. Within Victoria Police service standards were translated into Operational Procedures which were distributed to all police across the state.

The Victoria Police communication strategy was a part of a broader whole of government strategy aimed at achieving cultural change across the justice system. Within Victoria Police, Chief Commissioner Nixon launched the *Victoria Police Policy Statement for Victims of Crime* and the *Victoria Police Victims of Crime Operational Procedures* on 26 October 2007, emphasizing the importance of both to the organisation as a whole.

While awareness of the Act increased, operational police and supervisors played a significant role in achieving compliance. As such it was important that they understand what was required of them. A multi-faceted education and training strategy was developed. This included a mandatory *e-learning* program for all operational members. Regional training officers across the state were trained to deliver a more comprehensive overview of both the Act and the needs of victims of crime. All new recruits are now trained at the point of entry into the organisation.

The capture of information regarding compliance with the Act is crucial for both monitoring police processes as well as providing the necessary information for accurate reporting to government. Within Victoria Police there are two systems of recording victim notification information on electronic databases – LEAP and Interpose. The LEAP database is for operational policing and stores particulars of all crimes brought to the notice of police as well as family violence incidents and missing person cases. Interpose is the intelligence and investigation support system. Both required structural changes to capture victim notification information.

Benefits of the Act for Victoria Police

An integrated service system for victims of crime is a benefit for the Victorian Government. The benefits to victims of crime of legislation designed to protect their rights and interests throughout the criminal justice process are numerous. Apart from the obvious benefits of a reduction in secondary victimization the Act also has benefits for policing more generally. Enhanced community confidence through increased victim's satisfaction with policing services and improved police responses to victims of crime impacts on both the willingness of the public to participate in the justice process and report crime. Confident policing through

increased referrals to support services has the potential to create stronger, more resilient witnesses. This in turn contributes to a decrease in victim witness drop out rate for investigators and prosecutors. The Act also contributes to intelligence led policing through improved data and knowledge regarding victims of crime who report to police.

Challenges to operationalising the Act within Victoria Police

The broadening of focus to include victims' needs is a cultural shift for Victoria Police. Whilst many members already provided an excellent service to the victims of crime there are always pockets of resistance to change in any organisation. A minority of police just want to concentrate on 'catching crooks'. Giving effect to victims' rights can be a gradual and evolutionary process which occurs over a period of time.

The divide between victims and offenders is not always clear cut. A significant number of victims of crime also perpetrate crimes against others. (Deadman & MacDonald, 2004; Australian Institute of Family Studies, 2005) For police this situation can present difficulties. On one occasion they may have taken a report regarding a crime from a distraught victim and subsequently arrested, interviewed and charged an offender who has behaved in an abusive and provocative manner towards them. The next week the same members may be confronted with the same offender who is now the victim of a crime. The ability to remain objective and sympathetic is not always easy. However, to successfully do so has potential implications for crime prevention. A clearer focus on victimisation, even in instances where the victim does not present as 'deserving', could have dual benefits in reducing both antisocial behaviour and victimisation.

The Act outlines requirements to assist victims to access support services. However such services cannot always be accessed by all victims coming into contact with police. Operational police are at times in a position of attempting to comply with the Act, and supporting victims as much as possible, but are let down by the lack of services and funding in the broader service system.

Future directions

By agreement, the implementation of the Act is presently limited to crimes against the person. Targeting victims according to class of offence has the potential to inadvertently overlook the significant needs of victims of property

crimes. For example, current arrangements do not accommodate nuances such as an assault with little or no injury that may require no intervention on behalf of the victim, notwithstanding its status as a crime against the person, compared to a wilful damage - perhaps a smashed window - where the victim is an elderly and frail person living alone.

It is possibly more beneficial to target victims who have a need of support from the broader service system on the basis of identified risk factors and vulnerabilities. Police could undertake a screening process via a short series of simple questions developed as a 'decision tree' to guide attending officers to the appropriate service level for victims. Such a model may take into account, but not be limited to, offence-specific factors such as the use of violence in the commission of the offence, the involvement of a sexual element or the context of the crime in the case of family violence. The model could also account for victim specific factors such as age, accounting for both children and the elderly, or the presence of any type of cognitive impairment. Social factors could also be identified including the degree of isolation or available supports within the victims' personal network.

The intelligent identification of victims in need would allow Victoria Police to focus attention in the most relevant manner. It would also increase the likelihood that victim services will actually meet demand in a manner that satisfies all stakeholders.

References

Australian Institute of Family Studies. Patterns and precursors of adolescent antisocial behaviour – outcomes and connections. Impact Printing, 2005.

Corns, C. "Victimology – An outline of some issues". Australian Crime Prevention Council Journal, (1987): 21-24.

Deadman, D. & MacDonald, Z. "Offenders as victims of crime? An investigation into the relationship between criminal behaviour and victimization". Journal of Statistical Sociology 167.1 (2004): 53-67.

Legal and Constitutional Committee. Report upon support services for victims of crime. Australian Government Printer, 1987.

Mawby, R.I. Policing across the world: Issues for the twenty-first century. London: UCL Press, 1999.

Thomas, M & Repchuk, E. "Best practices for families of homicide victims: A seamless continuum of care and services". Gazette 65.2 (2003): 32-34.

Victoria Police. Co-ordinated victim service strategy. Melbourne, 1993.