

## **Victims of Crime Conference 2008 Session Reviews**

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### **Keynote speaker – Day 1**

**Dr Irvin Waller (Canada)  
Reducing Victimization: The Pathway Forward**

Throughout the evolution of our current criminal justice system, the focus has not always been squarely on the offender. But the current focus the CJS now has on punitive policies, such as the tough on crime approach and the apparent need for increasing incarceration is to the detriment of victims of crime. Dr Irvin Waller's presentation was both eye-opening and frightening. It highlighted that governments are more than willing to ignore the factors that cause crime, preferring instead to focus on the clean-up after a crime has been committed. Dr Waller cited numerous statistics which provide evidence of the economic and physical costs of the current retributive approach to justice. In America there are currently 2.3million people incarcerated at enormous cost to the taxpayer. There are approximately 1 billion adults per year worldwide who are victims of crime. These statistics suggest that the current model of more police, increased penalties and high rates of imprisonment are ineffective yet governments continue to follow this trajectory. As Dr Waller stated, "what does the criminal justice system do? If anything, nothing." When governments are prepared to spend \$7 of each taxpayer's money on incarcerating offenders compared to \$1 on reducing crime through prevention, something is seriously wrong.

In the face of current knowledge about what works in terms of crime prevention and reducing victimisation, governments should heed Dr Waller's advice that "crime policies should be going after causes of crime" and that the ways to reduce crime are to tackle the reasons that people are involved in crime. This might include developing programs to reduce poverty and inequality, and in regards to violence against women may include programs targeted at school aged youths which aim to prevent bullying and promote healthy dating relationships.

Real action not just rhetoric is needed to restore victims confidence in the criminal justice system as currently less than half of all victims of crime report the crime to police. The human rights of victims must also be recognised. Dr Waller suggests using the UN Convention on Victims Rights to guide governments in ways to integrate victims' rights into the justice system. At the moment it seems that government action is stagnating on this issue. Dr Waller therefore suggests that it is up to us, as possessors of this knowledge, to push governments into action in order

to get them to match enforcement efforts with prevention measures and human rights for victims.

It was evident throughout Dr Waller's presentation how enthusiastic and passionate he is about establishing victims' rights and attempting to change government attitudes towards victims and the current criminal justice framework. As he suggests, "For the harm done by the offender, he is responsible. For the harm done because we do not use the best knowledge when that is available to us, we are responsible."

### **Concurrent Session 3 – Day 1**

The focus of this session was on the services that are provided to victims once they come into contact with the criminal justice system and how those services are provided.

#### **Ms. Sandra Reynaers**

Sandra Reynaers is a lawyer from the Netherlands who is undertaking PhD research which has a focus on the services that are offered to victims when they enter the criminal justice system. The research compares the criminal justice systems of two different countries – the Netherlands and England and Wales. The Netherlands uses the inquisitorial system which means that during a trial the witness cannot be cross-examined, while England and Wales use the adversarial system which means that there is more pressure placed on victims during the trial stage as the prosecution uses them to make their case. Ms. Reynaers found that the type of system used was the most important factor determining the type and amount of services offered to victims after a crime.

There were both organisational and practical differences between the countries in terms of the services they offered. In the Netherlands because the victim is not subjected to the same amount of stress during the trial, their needs are only generally assessed and this is only if the crime is deemed to be serious enough to warrant support services. Victims must also respond to a letter that is sent out to them if they wish to receive support. In England and Wales however, the victim's needs are assessed on an individual basis. The victim is contacted directly by police who draw up a needs assessment based specifically on the individual. Ms. Reynaers suggests that this individual needs assessment likely provides the best way to assist victims after they have endured a crime against them, though she does acknowledge that this may occur in response to the increased stress placed on witnesses within the English and Welsh criminal justice system because they are needed as witnesses. However, this approach to offering support services to victims makes it more likely that they will have their individual needs met and will receive the appropriate services for their needs as well as become aware of additional services which they may want to use. This is immensely important as it can offer victims a way to receive information about the criminal justice process, the possibility to

express themselves and to receive psychological support during the trial process. As victims of crime are not generally involved in, or considered, in the processes of the criminal justice system, this individual approach provides a definite step forward for victims in terms of their being acknowledged and included in the criminal justice process.

### **Victim Support Services Regional Team**

Victim Support Services operates at numerous locations throughout South Australia, including in seven regional areas. The Victim Support Regional Services Team (VSSRT) emphasised throughout their presentation that there are numerous differences to consider when working with victims of crime in regional as compared to urban areas. About twenty seven percent of crime occurs in regional areas; however they receive much less funding than urban areas. The services in regional areas are also in great demand as approximately one quarter of new Victims Support Services clients reside in country areas, and the nature of the crimes committed, which includes more crimes against the person such as sexual assault and domestic violence, means that relationships with victims need to be long-term.

Numerous factors must also be taken into account when considering why individuals in country areas may not report crime. These include beliefs surrounding the family as a self-contained, self-reliant unit which can solve its own issues; difficulty in accessing services because of long distances to travel; confidentiality not being able to be assumed; both offenders and perpetrators being well-known within the community and so being easily identifiable; public humiliation of family and friends as a result of reporting a crime or accessing support services; and the existence of more traditional beliefs regarding gender roles, which may contribute to the non-reporting of sexual assault and domestic violence.

These differing factors within regional communities means that the services provided are also different to urban areas. For instance, it is necessary for a service provider to provide generic rather than specialist services, as there are only a limited number of service providers in regional areas. The VSSRT is also working to improve the services offered to victims living in regional areas by working in conjunction with other agencies, such as the police, and with a particular focus on programs which have the aim of curbing personal crimes. Access to services can also depend on the distance victims live from them. The VSSRT passionately explained that the limited funding given to victims services based in regional areas significantly impacts upon the ability of service providers to offer the best support they can to victims in remote areas. In order to adequately address the needs of victims, this is an issue that urgently needs to be addressed to enable more victims to gain access to the services they need.

## Concurrent Session 4 – Day 1

In this particular session, one of many concurrent sessions that ran over the two days of the conference, delegates were invited to participate in a two part session that focussed firstly on childhood sexual abuse (CSA) and secondly on crime prevention and restorative justice.

The first part of this session was presented by Victim Support Service's Jodie Sloan, on behalf of Dr Jan Breckenridge, and discussed a study carried out by the now defunct *RespondSA* into patterns of disclosure and help-seeking by adult survivors of CSA. *RespondSA* was the first specialised agency in South Australia designated to deal with these survivors. What this study uncovered was that CSA is rarely disclosed at the time it occurs, and it is only later as an adult that these survivors might reveal what has happened to them. Inhibitors to disclosure include fear, shame, and wanting to protect their families. As such, the incidence of CSA continues to remain underestimated. The study also showed that victims were generally unaware of services available to help them following disclosure so they resorted to generic health organisations, whose counselling services were not always helpful to survivors. The importance of an agency like *RespondSA* is therefore incredibly beneficial to survivors of CSA as they understand the sensitivity of this issue. As one CSA survivor was quoted as saying, "If I face this demon and get it out will I still exist...It's all I've known for so long."

Although this session was slightly rushed due to time constraints, it highlighted the necessity of having specialist services that deal with survivors of CSA within our community. They are obviously better equipped than general health and counselling services to deal with the unique complexities that child abuse survivors face, and help them to feel 'normal' and not alone. The trauma of CSA lasts a lifetime, and without specialised services these victims will continue to suffer in silence. For a government claiming to be at the forefront of victims' rights, increasing the number of specialised agencies, in which victims feel able to disclose what has happened to them and satisfied with the response, should become a priority.

The second part of this session was addressed jointly by Andrew Patterson and Leigh Garrett who discussed practical crime prevention and victim support, and restorative justice respectively.

Andrew Patterson began with a look at proactive victim prevention and how crime prevention initiatives should be supported by victims' organisations, as preventing crime will obviously reduce victimisation. Unfortunately, after being flavour of the month for a number of years, governments have, in the last decade or so, backed away from crime prevention strategies, choosing instead to invest in tough on crime approaches so as not to appear soft to a fear incited public. Victims have of course been the main casualties of this change in attitude with the government and police espousing the benefits of crime reduction strategies in reducing the number of victim

reported crimes, as if this somehow justifies the lack of attention and support being given to victims.

Crime prevention involves “the anticipation, recognition and appraisal of a crime risk, and the initiation of measures to prevent or reduce it.” There are a numerous crime prevention strategies that can be employed to reduce victimisation. These include; early intervention with known ‘at risk’ populations; changing environmental designs to deter crime (CPTED); and situational crime prevention which is premised on the notion of increasing the effort and risk of committing the crime while reducing the reward. A strong example of situational crime prevention has been in banks where they redesigned the buildings and changed cash handling procedures to try and prevent robberies.

According to Patterson, crime prevention measures should be included in the victim support process. Once victimised, victims then fear re-victimisation and as such require reassurance that this risk has been reduced, which is where crime prevention measures come into play. As one victim of crime was quoted, “Recovery is more than just changing my head.” Victim support agencies should thus incorporate crime prevention initiatives in order to restore victim confidence, and provide alternatives to the ordinary criminal justice system, such as restorative justice practices, to allow for comprehensive support of victims.

Leigh Garrett, a firm proponent of the benefits of restorative justice (RJ), was then introduced to discuss the justice needs of victims and how these can better be achieved through RJ practices.

In the commission of a crime an offender generally depersonalises their victim. This victim is then usually excluded from the criminal justice process and upon conviction the offender is depersonalised to wider society, becoming just another criminal who is in turn excluded from society through imprisonment. RJ can, if successful, remove these feelings of social exclusion for both victims and offenders, restoring a sense of control, and for offenders RJ can help to improve interpersonal accountability.

Garrett advocates applying RJ in many criminal justice settings for both youth and adult offenders including family group conferencing; pre-sentencing in court; pre and post release from juvenile detention or prison. There could also be uses for RJ in other justice areas like the drug and alcohol courts, as well as in other areas of society, such as schools, to resolve teacher-student disputes and improve behaviour.

Consequently, Garrett claims, these RJ methods can definitely be integrated within the current criminal justice system but in particular it is the values of RJ, the ideas of social inclusion and giving victims a sense of control over what happens, that really need to make the leap. Garrett concluded his inspiring presentation by stating that the “current criminal justice system is a bit like the ambulance waiting at the bottom

of the cliff.” This idea that there is something to catch you once you fall but nothing to stop you falling perfectly highlights the ideas Patterson and Garrett were attempting to imbue us with. Through successful crime prevention and the incorporation of RJ values and practices into the criminal justice system, this tragic fall and the consequences for victims and communities can be avoided.

## **Plenary Session – Day 2**

### **Professor Kathleen Daly & Ms Brigitte Bouhours Rape and attrition in the legal process: a comparative analysis of five countries**

Over the past year Professor Daly has been conducting research in an attempt to better understand the conviction rates for rape and sexual assault offences that are reported to police, following their progression through the criminal justice system. She examined the conviction rates in five different countries – Australia, Canada, England and Wales, Scotland, and the United States – to determine the number of actual convictions resulting from initial police reports. As this was a comparative study, data was examined from the time periods 1970-1989 and 1990-2005 across all five countries. Professor Daly found that for all countries except the United States conviction rates for all rape and sexual assault offences have decreased since 1970, most significantly in Canada and England and Wales, with a smaller decrease in Australian conviction rates. Overall Professor Daly discovered that the conviction rate for any sexual offence is a tiny 15% of all reported offences to police, which when considering that the number of offences ever reported to police is only 14%, is staggeringly low. These findings were more applicable to adult victims rather than child victims.

While these findings are in the initial stages of interpretation, Professor Daly suggested that potential ways to increase convictions might include; shifting the focus of the justice system to an earlier stage of the process with emphasis being placed on plea-bargaining rather than following the case through to trial; attempting to reduce the stigma and denigration attached to sexual offences within society through more informal social control mechanisms, such as family values, which may encourage more offenders to plead guilty and may prevent sexual assaults from occurring. Whilst this study highlighted a number of significant findings in relation to rape convictions, there are a number of factors which may have influenced these findings including; different configurations of police, courts and outcomes across the five countries; changes in emphasis on the “real rape” scenario from 1970 to 2005. This highlights the need for further research into why reporting and conviction rates for sexual offences remain so low and why convictions have continued to decrease over time.

The subject matter and manner in which Professor Daly imparted such important research was incredibly engaging and raised numerous questions that demand our

attention if we are to do something about the appallingly low levels of rape and sexual assault reporting and conviction rates in this country. It requires us to think long and hard about how we treat victims of sexual offences when they are courageous enough to report what has happened to them and to look at ways in which the current criminal justice process can better accommodate the needs of the victims instead of the offenders.

## **Morning Concurrent Session 1 – Day 2**

This session had a focus on restorative justice practices and the benefits that both victims and offenders may find in engaging in restorative justice programs.

### **Ms. Naomi Carter**

Naomi Carter is a Senior Mediation Officer for the Victim-offender Mediation Unit (VMU) in Western Australia. The VMU offers post conviction, pre-sentencing reparative mediation for victims and offenders, which gives victims of crime the opportunity to gain both engagement with a primarily offender focused criminal justice system and the opportunity for meaningful reparations from the offender. The mediation process is entirely voluntary as both the offender and victim need to agree to participation. Offenders are assessed to determine their suitability to take part so that the victim is adequately protected. It is carried out primarily for offences being seen by the Magistrates Court.

In addition to offering victims of crime the opportunity to become more involved in the criminal justice process, VMU also gives them the opportunity to see that they are not responsible for the crime that has been committed against themselves or against friends or family and can inform them of other victims support services that they may want to use. The process has the aim of providing victims the chance to gain satisfactory reparation from the offender for the crime they have committed, which can include monetary compensation and also the donation of time by offenders to charities. Ms. Carter emphasised that the reparation process also provides an opportunity for offenders to take responsibility for their crime, and to see that their actions have impacted upon another person in a negative way. This is a very important outcome of the mediation process and has resulted in a number of offenders subsequently becoming involved with victims support services to give assistance to victims of crime. Offenders who engage in this process are also more likely to abide by sentencing outcomes. As it is a post conviction process, it also allows the court to understand that the offender has acknowledged the harmful nature of and taken responsibility for their actions.

The Victim-offender Mediation Unit has proven very important and useful for many victims, the majority of whom have positively benefited from the opportunity to engage with the offenders who harmed them. Ms. Carter emphasised that the VMU is adaptable to different victims needs and has a primary focus of enabling the victim

to engage with and receive information about the criminal justice process, the therapeutic value of which is often overlooked in a system which is very offender focused.

**Ms. Maryann Hearn and Ms. Julie Reidy**

Ms. Hearn and Ms. Reidy gave an overview of the youth justice conferencing program which runs in Queensland through the Department of Communities. This program offers restorative justice conferencing to young people who were between the ages of ten and sixteen at the time they committed their offence, and there is no limit on the type of offence that the conference process will see. Victim participation is voluntary in this process but they must be informed of their right to engage in it, with referrals being made by police or courts as to which offenders are best suited to the program.

The primary aim of the youth justice conferencing program is to provide 'restoration for those people affected by a young person's offending behaviour'. It works to get victims involved in the decision making process regarding the offender, encourages the offender to take responsibility for their behaviour and acknowledges the needs of the victim and offers them a chance for reparations. Victims have the opportunity to ask the offender questions about the offence during the conference, which usually include questions such as 'what were you thinking at the time?', 'who were you with?' and 'how did you meet them?'. It also offers them the opportunity to reach some closure regarding their victimisation. The conference process has benefits for the offender also, including hearing and seeing the harm they have caused, the opportunity to demonstrate their remorse and diversion from the formal court system.

Ms. Hearn and Ms. Reidy emphasised that there are challenges to both parties when engaging in the conferencing process including fear or uncomfortableness about facing the offender, fear of re-victimisation and the stigma that may be faced when labelled as a victim. For the offender also, there may be fear of facing their victim, which may prove more challenging than going through the court process. The victim does have the option of a representative such as a family member attending the conference for them, and any agreement made between the victim or their representative and the offender must meet the individual needs of the victim to ensure they are satisfied with the outcome and get the most out of the conference experience that they can. It must also be meaningful to the offender, however, such that by making the agreement they realise the harm that they have caused to the victim.

The conference program has proven to be very successful with 98% of conferences reaching an agreement between offender and victim, and 97% of victims and 98% of offenders saying they thought the conference was fair. The success of the conference and extent to which it benefited the victim is also evident as 97% of victims said they would recommend it to a friend. It appears, then, that this type of offence resolution should be used more often and the option given to more victims of

crime. It provides a much more satisfactory resolution to the harm caused to them by the offender than the exclusionary process of the criminal justice system, which has as its main aim the punishment of the offender on behalf of the state rather than reparation for the victim.