

## The Purpose of the Victim Impact Statement

- The Victim Impact Statement (VIS) provides an opportunity for the victim to express to the offender, to the Judge/Magistrate and to the court how the crime has affected, and is continuing to affect, their life.
- The information in the VIS can be used by the Judge/Magistrate when sentencing the convicted person.
- The victim has the choice of providing a VIS or not. However some victims find it important to have a voice in the process of sentencing.
- The victim does not have to attend court to present a VIS. The statement can be read in court by the Judge/Magistrate/Prosecutor or a person representing the victim.
- A victim can change their mind about providing a VIS at any time up to sentencing. Keep in mind however that the prosecution, defence counsel and the convicted person also need to see the statement before it is presented.
- The VIS is just one part of the entire sentencing process known as "submissions".
- Submissions are also presented by the defence counsel to the Judge/Magistrate on behalf of the convicted person. The victim does not have to attend for these submissions. It is usual practice for the VIS to be presented first.

## What to Include in a Victim Impact Statement

The VIS is divided into the following five sections:

1. Non-physical trauma suffered as a result of the crime. This describes:
  - (i) The emotional experience or impact (i.e. distress, shame, worry, feeling overwhelmed, angry, sad, embarrassed, degraded, confused).
  - (ii) The psychological impact or experience (such as the start of anxiety, panic or depression, loss of security/independence, hyperactivity/vigilance, requirement for counselling, feeling unsafe).
  - (iii) The impact on home lifestyle, work life or schooling including worries for the future.
2. Physical injuries suffered as a result of the crime. These include bruising, abrasions, cuts, disfigurement and residual or permanent disabilities incurred from the incident. It also includes the nature of any ongoing medical treatment including psychological/psychiatric treatment required as a result of the crime. Injuries may also include dental work.
3. Financial loss as a result of the crime. This section covers expenses not covered by health insurance, or healthcare card. It may include airfares, ambulance costs, car and/or public transport costs to attend treatment, other medical costs, replacing/repairing property, counselling fees, loss of income or other ongoing costs. *The attachment of any receipts/bills is encouraged.*
4. Insurance details. This refers to insurance claim(s) you have made for property loss/damage resulting from the incident. It also includes payments made by you for items (if anything) not covered by insurance, including the cost of excess payable for making an insurance claim. *The insurance company name and policy number should be cited.*

*This fact sheet has been developed to provide general information to victims of crime. It is not intended as a replacement for medical, therapeutic or legal advice. If you have particular concerns please contact your general practitioner, counsellor or Victim Support Service.*

5. Other relevant information. The impact on significant others including family, friends/partner, other specific difficulties not mentioned elsewhere, the requirement for further surgery/ongoing medical consultation or rehabilitation, to name a few.

### **What Not to Include in a Victim Impact Statement**

- A detailed description of the crime.
- Abuse or emotional content towards the offender.
- Offensive language.
- Comment(s) on the police or legal system.
- Opinion on the sentence that the court should award to the offender.

### **Who Gets to See or Hear a Victim Impact Statement?**

- The VIS is not a confidential document and anything contained in the document will be read by:
  - the Prosecutor
  - the Judge or Magistrate
  - the defence lawyer
  - the convicted person
- The convicted person is entitled to read the contents (but *not* to keep a copy) and must be present during presentation of the VIS.
- In the District and Supreme Courts the VIS can be read aloud by the victim or a nominated representative (i.e. family member/friend/support person). *The Prosecutor needs to be advised about who is to read the statement before the court begins.*
- If the victim does not wish to read the statement but wants it read aloud the Judges Associate will normally do this. In the Magistrates court the reading aloud of the VIS is at the discretion of the Magistrate.
- If the victim is of adult age and chooses to read the VIS aloud, or has someone read it on their behalf, this can be reported on in the media, i.e. direct quotes and photographs or filming of the victim once they leave court.
- If the court is *closed* during the reading of the VIS (i.e. if the witness is a child or their identity is suppressed) the media cannot report on the contents of the VIS.
- If the VIS is not read aloud it goes on the court file and is not reported in the media. *Nonetheless it is used by the Judge/Magistrate as usual in the sentencing process.*
- Judges/Magistrates can sometimes comment on the contents of the VIS when sentencing even though the VIS has not been read out in court. These sentencing remarks can be reported in the media.
- The victim may choose to keep a copy of the VIS for their own records.

## **Support for Victims Giving Evidence**

- Some witnesses are especially “vulnerable” and can apply, through the Prosecutor, to the Magistrate or Judge, for special arrangements to be made when they give their evidence. To qualify for vulnerable witness provisions, victims of crime and other prosecution witnesses must fall into one of the following categories:
  - under 16 years of age
  - has an intellectual disability
  - victim of an alleged sexual offence
  - at some special disadvantage.
- The following provisions may be sought on behalf of vulnerable witnesses:
  - A screen – to be placed between the witness and the accused.
  - Presenting evidence by closed circuit television (CCTV)
  - A closed court – which prevents anyone not directly involved in the court process from being in the court room
  - A suppression order – which prevent public disclosure of certain information (typically a name or photograph of a witness)
  - A Court Companion (which can be provided by Victim Support Service)
- With prior arrangement, Court Companions can attend court with victims to provide support and guidance during the court process. To request a Court Companion phone Victim Support Service on (08) 8231 5626 or 1800 182 368.

## **Assistance from Victim Support Service and Witness Assistance Service**

- Witness Assistance Service Officers at the Office of the Director of Public Prosecutions (ODPP) can support victims and witnesses for the prosecution who are attending the District or Supreme Courts.
- Both Victim Support Service and Witness Assistance Service can assist a prosecution witness to prepare for giving evidence.
- Court familiarisation tours by Victim Support Service and Witness Assistance Service prior to giving evidence can help to relieve anxiety.
- Assistance with preparing your VIS:
  - Victim Support Service: (08) 8231 5626, or
  - Witness Assistance Service (ODPP): (08) 8207 1529