

# Victim Support Service Inc.

## CRIME VICTIMS, THEIR RIGHTFUL PLACE - AN AGENDA FOR CHANGE

### 1. Introduction

Crime victims have come a long way in the last 20 years in South Australia. The community's expectations have changed and governments have been progressive by introducing legislative improvements to recognise victims' rights, ensure more victim-aware processes, and vastly improve services for victims. South Australia was the first Australasian jurisdiction to introduce a declaration of victims' rights and the State's non-government victims' service was the first of its kind in the region.

South Australia was a leader in the development of Victimology in the world in the late 70's and arguably remains at the forefront of the recognition of victims' rights today. Victim Support Service (VSS) operates in a criminal jurisdiction which continues to strive for innovation and change. This circumstance provides an ideal environment in which to set out opportunities for continuous improvement to how victims participate in the criminal justice system. Certainly victims are no longer totally forgotten, even dismissed, from the processes of justice, as they were 20 years ago, however, we believe there is a long way to go before crime victims can claim to be in their rightful place.

We take a balanced approach with both principles and practicalities, to working towards change and identify below some of the steps we believe need to be taken to achieve continuous improvement for crime victims over time.

### 2. Victims' Rights

The relevance and effectiveness of the "Declaration of Principles Governing Treatment of Victims in the Criminal Justice System" needs to be reviewed taking into account developments in other jurisdictions.

Victim Support Service advocates for:

- Victims to be provided with full rights to be consulted (eg in respect of plea negotiations) and to have their views taken into account.
- Introduction of the right for their dissenting views to be recorded and forwarded to the court as a "Statement of Agreed Facts".
- Extending victims' rights to cases where defendants are dealt with under mental health provisions.
- Improving the attitude within the Criminal Justice System and across government towards victims through the Victims of Crime Ministerial Advisory Committee and other forums (eg through compulsory training).
- Greater protection of victims and their families against insensitive media reporting.

- Victims to have the right to funded legal representation or advice to assist with all stages of their victimization – compensation, plea negotiation, court assistance, VIS preparation and presentation, Parole Board.
- Vulnerable witnesses to have the automatic right to adequate protection from intimidation whilst attending court. This includes the use of CCTV, improved screens and an increase of the practice of removing the defendant from the court to improve the level of care and protection towards victims, especially vulnerable people and victims of offences against the person.
- Victims' right to ask the Director of Public Prosecution (DPP) to lodge an appeal against conviction and/or leniency of sentence. Should the DPP determine not to appeal, the victim to have the right to request a judicial officer to examine their grounds for appeal and determine whether, in the public interest, an appeal should be heard.

### **3. National / Federal Responsibility for Victims**

There is a need for Federal Government to assume responsibility for victims' issues and through central funding and legislation to develop a consistency of services and rights across the Nation.

Victim Support Service advocates for:

- A Federally funded national victims organisation to provide leadership, coordination and integration to deliver consistent and improved services to crime victims across the Australia. This could be co-ordinated by Victim Support Australasia (currently funded and supported by membership) which has strived to provide a central leadership role for its members for nearly 20 years.
- National funding and legislation relating to service provision, victims' rights legislation, compensation, laws/practice relating to confiscation of criminal assets and spent convictions.
- Equality of services to victims of crime occurring anywhere in Australia and for Australian citizens overseas - including federal courts.
- To initiate, contribute to, and learn from experience, knowledge and research undertaken nationally and internationally, especially related to determining effective interventions to reduce victimization and recidivism.

### **4. Significantly Improve Accessibility to Services**

**Only approximately 1% of crime victims in SA access VSS services and still many crime victims neither know what services exist, nor are aware of their rights.**

Victim Support Service advocates for:

- A criminal justice system which better recognises and meets the needs of crime victims and the development of appropriate services for victims who are children, indigenous, have an intellectual disability, or are from a linguistically or culturally diverse background.
- Improved systems to more effectively assess need and more pro-actively offer services to crime victims.
- The development of expertise in effective service provision for emerging areas of victimisation – eg terrorism, e-crime, human trafficking, identity theft.

## **5. Reduce Crime And The Impact Of Victimisation**

**The government, criminal justice agencies and communities need to develop more effective strategies to reduce the level of crime, the impact of victimization and improve community safety.**

Victim Support Service advocates for:

- The causes of crime to be addressed through social policy, early intervention and whole of government strategies
- Effective risk assessment procedures in corrective services to direct resources towards offenders at high risk of recidivism at pre-sentence, during community supervision, pre and post release supervision to improve their chances of rehabilitation.
- Improved opportunities for active community involvement with initiatives designed to prevent crime and enhance community safety.
- Research and exchange of information about the effectiveness of successful programs – ie “what works”.
- Victim awareness education for schools and young offenders in order to improve their understanding about the personal consequences of crime on other people – especially bullying and abuse of power.
- Develop a justice system which is more relevant to Indigenous people and effective in its operation – eg Circle Sentencing.

## **6. Ensure Victims Are Adequately Compensated**

**In addition to the many and varied physical and emotional reactions experienced by crime victims, most suffer financial loss. Perpetrators of crimes should be held responsible for compensating victims and governments, through the criminal justice system, have a responsibility to establish effective systems for the determination, collection, enforcement and payment of compensation either from individual perpetrators or state administered compensation funds.**

Victim Support Service advocates for:

- A formal review of the legislation for victims' compensation, as recognition for harm caused. Access has been reduced and restricted by the Victims of Crime Act 2001.
- Effective and realistic assessment of harm by appropriate professionals (including Psychiatrists, Psychologists and treating Counsellors) to be able to be submitted at the initial claim for compensation
- Compensation to be re-established for people who have suffered genuine trauma as a result of non-violent crimes.
- More effective ways to ensure that offenders compensate victims – greater use of police/courts confiscation powers, court ordered compensation, debt recovery systems and use of civil proceedings.

## **7. Systemic Improvements**

**There are many further opportunities to improve how the criminal justice system itself can respond to the needs of victims and continue to improve in areas which are related to, but not directly arising from, the Declaration of Principles Governing Victims Rights.**

Victim Support Service advocates for:

- Change to the police caution to prevent the late introduction of defence information (including alibis).
- A jury to be able to be instructed by the Court to interpret a defendant exercising his/her right to refuse to answer questions, as an indication that the person may be attempting to avoid self-incrimination – witnesses/victims have no such 'right to silence'.
- Witness assistance services to become available to victims in magistrates courts.
- Defence to provide advance disclosure of defence case to the prosecution prior to trial.
- Courts to be more empathetic to victims' needs – eg an appointments system for presenting evidence, separate waiting areas, option for witnesses to provide their evidence using CCTV from anywhere in Australia (which would save cost, inconvenience, travel and delays).
- Dramatic reduction in court delays through significant financial injection and improved processes to reduce re-victimisation and extending the time of suffering for victims.
- Develop more "inquisitorial" processes in the justice system especially for cases involving victims who are children, people with mental health problems or intellectual disability, and domestic violence or sexual assault.
- Consider legislation to allow the disclosure of related information about a defendant's prior convictions to the court as part of the prosecution evidence when previous similar behaviour has occurred.

- Protection of case-notes of victims receiving counselling for any criminal victimisation - as is available for victims of sexual assault.
- Sentencing remarks which always demonstrate that the impact of the crime has been adequately taken into account.
- Sentencing which better reflects the views of victims and community expectations - especially with regard to punishment versus treatment, deterrence versus prevention. VSS supports sentencing guidelines.
- Increased use of Restorative Justice practices as a recognised legitimate justice process.

## **8. Conclusion**

This paper outlines a wide range of proposals to improve the rights of victims, to reduce further system generated victimization and increase the availability of services. It proposes an ambitious agenda for change which includes the need for:

- Wide community support
- Inter-agency collaboration
- Attitudinal change
- Focus on crime prevention, community safety and tackling the causes of crime
- Greater use of technology and research
- Progressive legislation and procedural change
- Improved services for crime victims and;
- Greater legal and procedural equality between the rights of crime victims and offenders.

*Prepared and approved by the Board of Victim Support Service in  
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