

TRANSFORMING CRIMINAL JUSTICE: PUTTING PEOPLE FIRST

STRATEGIC OVERVIEW

Submission

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Table of Contents

Victim Support Service.....	3
Introduction.....	4
Executive Summary.....	7
Recommendations.....	8
Detailed response.....	10
1. Strengthening victim-centric service delivery.....	10
Victims' Rights.....	10
Recommendation 1.....	10
Recommendation 2.....	11
Recommendation 3.....	11
Recommendation 4.....	11
Recommendation 5.....	13
Recommendation 6.....	13
Recommendation 7.....	14
Recommendation 8.....	14
2. Strengthening volunteer and support services for victims.....	15
2.1. Initial Access to Support.....	15
Recommendation 9.....	15
2.2 Ongoing Support.....	15
Recommendation 10.....	16
Recommendation 11.....	17
2.3. National Best Practice.....	17
Recommendation 12.....	18
3. Community Education.....	18
3.1. Community Education.....	18
3.2 School Education.....	18
Recommendation 13.....	19
4. Develop a Collaborative Criminal Justice Eco-System.....	19
4.1. Criminal Justice Sector Reform Council (CJSRC).....	19
Recommendation 14.....	19
4.2 Performance Measures.....	19
4.3 Non-Government Organisations (NGOs).....	20
4.4 Integrated Information Technology.....	20
4.5 Victims of Crime Survey.....	20
Recommendation 15.....	21
References.....	22

Victim Support Service

The vision of the Victim Support Service (VSS) is that *all* victims of crime (“victims”) in South Australia receive the support *they* need. We do this by providing a bespoke response to each victim, combining therapeutic expertise with knowledge of the criminal justice system to help victims both emotionally and practically. Our approach is augmented by a team of volunteers who guide victims through the court process.

The organisation has been working with and for victims in South Australia since 1979. We deliver programs that focus on victim engagement and evidence-based practice in areas such as trauma, crime prevention, homicide, domestic and family violence and child sexual abuse. To do so, we partner with government, non-government organisations, the wider community, and all agencies of the criminal justice system (CJS).

VSS provides a range of services including:

Practical Assistance	Information
<ul style="list-style-type: none"> • Assistance with claims for victim compensation • Supporting victims through the court process • Assistance with Victim Impact Statements • Advocating for victims’ rights 	<ul style="list-style-type: none"> • Statewide Victim Helpline (1800-VICTIM) • Statewide network of victim service centres • Victimology Resource Centre • Community education and training programs
Therapeutic Interventions	Domestic and Family Violence
<ul style="list-style-type: none"> • Free counselling for victims of crime • Specialist support for co-victims of homicide • Royal Commission into Institutional Responses to Child Sexual Abuse - Support Services 	<ul style="list-style-type: none"> • Home security through the ‘Staying Home, Staying Safe’ (SHSS) program • Statewide administration of Family Safety Framework meetings

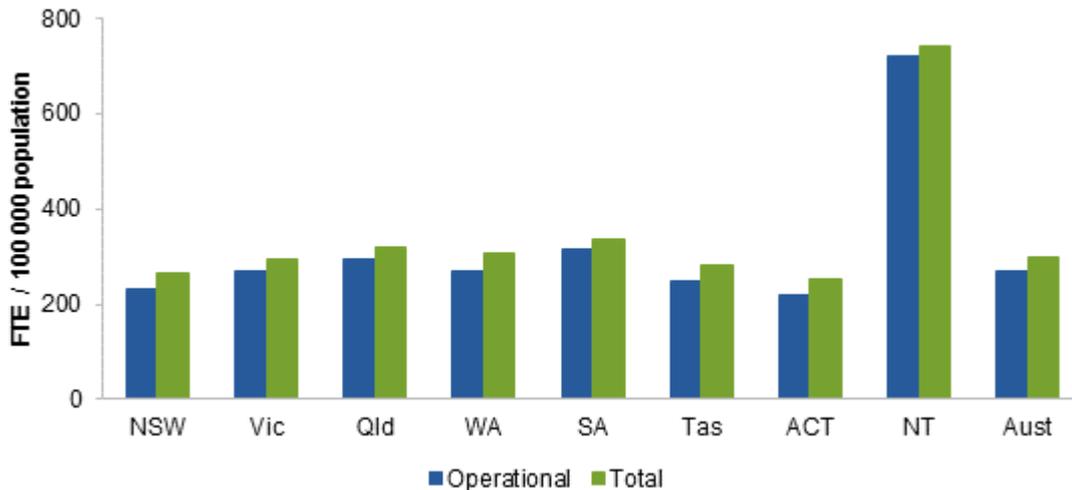
VSS has an annual turnover of \$3 million to provide services throughout South Australia. Two-thirds of the funds are provided annually by the South Australian Attorney-General’s Department from the Victims of Crime Fund. Each year VSS must submit a request for funding to the Attorney-General to maintain services.

VSS appreciates the opportunity to comment on “Transforming Criminal Justice”.

Introduction

The most recent estimate of the total cost of crime to the Australian community - including criminal justice, security, insurance and victim assistance - amounted to almost \$36 billion (4.1% of GDP). In 2013-14, expenditure by governments on criminal justice was just under \$15 billion, or 42 percent of the total cost. Of this, just over \$10 billion was spent on police services (Australian Institute of Criminology, 2013). Bar the Northern Territory, South Australia now has the highest number of police per head of population in Australia. (Figure 1)

Figure 1: Police staff per 100 000 population 2013-14 (Productivity Commission 2015)



On average, it costs \$106,000 per annum to incarcerate an offender. The recurrent cost of managing recidivists with mental health co-morbidities has been put at more than \$2 million per offender. In the last decade, the imprisonment rate in Australia has increased by 40 percent (from 124/100,000 to 173/100,000 population).

Despite this level of investment:

- Australia continues to spend more on policing, with an annual average spending growth rate of 3.1 percent since 2009-10;
- Around one-third of inmates in South Australian prisons are awaiting trial;
- Only around half of court trials in South Australia go ahead on the day they have been listed;
- South Australia has one of the lowest findings of guilt in the higher courts in Australia (Figure 2, overleaf);
- Approximately 4 in 10 released prisoners return to prison within two years (Figure 3, overleaf);
- In the last major survey of victims in SA, 78 percent said the CJS did not give them enough attention or help (Victim Survey 1994);
- An extensive pool of research identifies that the CJS is a frequent cause of secondary victimization among crime victims (Fattah, 1997; Gutheil, Bursztajn, Brodsky, and Strasburger, 2000; Koss, 2000; Symonds, 1975).

Figure 2: Proportion of higher court finalised adjudicated defendants resulting in a guilty plea or finding, 2012-13 (Productivity Commission 2015)



Figure 3: Prisoners released who returned to prison under sentence within two years (percent) (Productivity Commission 2015)

	NSW	VIC	QLD	WA	SA	TAS	ACT	NT	AUST
2009-10	42.4	33.7	33.5	45.3	30.2	31.7	..	47.9	38.5
2010-11	43.3	37.1	35.2	44.2	29.8	36.2	na	47.1	39.8
2011-12	42.5	35.1	37.7	36.1	29.1	36.4	40.8	52.4	39.3
2012-13	42.7	36.8	38.3	36.3	29.0	39.1	46.6	54.0	40.0
2013-14	45.8	39.5	39.0	39.0	38.4	39.3	41.9	51.7	42.1

By any reading of the trends, the level of expenditure on the CJS, coupled with the current return on investment, renders the present system unsustainable.

So VSS welcomes the intent of ‘Transforming Criminal Justice’. The current system is cumbersome, with too many complex procedures and archaic working practices. The use of technology lags behind modern business practices, and the CJS is plagued by unacceptable delays, and competing objectives and performance measures which lead to blurred accountabilities. This leads to an unacceptable return on investment as measured by community perceptions of safety, crime reporting rates, case backlogs, court attendance rates, case clearance rates, costs per finalization, and recidivism rates.

Victims become involved with the full range of criminal justice agencies by choice or necessity, seeking information, understanding, recovery and justice. They may come into contact with the police who are investigating the crime; the legal system if there is a prosecution; victim support services for information, advice and therapy; and the media if the case is reported in the press. Such interactions can have substantial implications for the victim’s recovery processes. If they are given the help they expect, and are treated with

respect, care, empathy and support, then the system can aid recovery (Riches and Dawson, 1998). However, if they are treated insensitively and uncaringly, met with refusals to help, given inadequate information or disparaged, then the system can compound harms already committed, magnifying feelings of anger, guilt and powerlessness (Harrison, 1999); exacerbating symptoms of post-traumatic stress (Orth and Maercker, 2004); and inhibiting and prolonging the grieving process (Brown, 1993; Riches and Dawson, 1998; Rock, 1998). This phenomenon is known as *secondary victimization*, which occurs when a victim of crime feels they have been subjected to inadequate, insensitive or inappropriate treatment, attitudes, behaviour, responses and/or practices by criminal justice agencies that compound their original trauma (Victim Support UK, 2002).

This treatment of victims by the CJS is axiomatic of an adversarial system, where crimes are seen as committed not against an individual victim but against the state. Hence, only two parties - the prosecution and defence - are formally recognized during the trial. From the outset, victims are faced with a system in which they have no legal rights or status, and the emphasis is seen to be balanced in favour of the rights of the accused. This often comes as a shock to victims, who can find themselves marginalized from the proceedings, denied information, and excluded from decision-making or participation in the process. Thus, throughout the criminal justice process, secondary victimization may arise when victims' needs - for care, support, involvement and information - are disregarded owing to the institutional culture of the CJS, where the main concern is to catch the offender and obtain convictions (Wolhuter et al., 2009).

These feelings are exacerbated when victims and witnesses spend time hanging around courts waiting to give evidence, and too often they are not called, or give up waiting. Witness absence is one of the key reasons for ineffective trials.

Improved information gathering, increased reporting and increased conviction rates should all form part of a "victim focused" CJS that is built on a deeper understanding of victims (Robinson et al., 2008).

The adversarial system ... definitely leans to looking after a defendant rather than a victim. The only thing a complainant can do is make sure they are very well supported when going through court.

(Lawyer,
Springvale Monash Legal Service)

Various policies and protocols have been implemented to improve the treatment of victims and witnesses during their contact with the CJS. Developments include the recognition of victim's rights in legislation; the establishment of a Victims of Crime Commissioner; police Victim Contact Officers; the introduction of statewide victim support services; the Witness Assistance Service; and the recent Disability Justice Plan. Yet victims and witnesses continue to be referred to as the 'poor relation' in the CJS that is often seen as weighted in favour of the defendant or overly focussed on 'cases' rather than individuals.

Executive Summary

This Submission outlines a range of proposals designed to improve the rights of victims and reduce the incidence of system generated victimization. We acknowledge the commitment outlined in 'Transforming Criminal Justice' to a more customer-centric system. Our recommendations are designed to specifically improve the engagement of victims through a more "victim focused system" that would place victims at the centre of the CJS and lower attrition rates by supporting and encouraging victims and witnesses to continue their participation in the criminal justice process. We are proposing an ambitious agenda for change. To meet these challenges, the key transformations that the CJS will need to embrace include:

1. Strengthening victim-centric service delivery;
2. Strengthening volunteer and support services for victims;
3. Developing community education;
4. Developing a collaborative criminal justice 'eco-system'

This will require a significant shift in approach, underpinned by:

1. Inter-agency collaboration;
2. Attitudinal and cultural change;
3. Greater use of integrated technology;
4. Procedural fairness;
5. Greater legal and procedural equality between the rights of crime victims and offenders.

We are concerned that most of the challenges identified in our submission are not new. Indeed, our understanding is that, since 2005, only around 25 percent of recommendations from a plethora of justice reviews initiated by the South Australian government have been implemented. Such a track record inevitably draws a degree of scepticism amongst stakeholders, raising concerns that yet another review of the justice system will lead to a relatively lightweight set of reforms.

The recent decision to put on hold the proposed court precinct is another sign of the state's growing tendency to cut investment in most parts of our CJS (with the exception of policing). It follows cuts in regional court circuits, the proposal to amalgamate the Youth Court with the Magistrates Court, and the pending closure of the Magistrates Court at Holden Hill. We hope that the ambition to 'transform' justice is driven by a desire to provide an efficient, effective and fair justice system rather than an expeditious, 'technocratic' and low-cost approach.

Whilst we welcome a commitment to efficiency, the courts also have a sense of public or community accountability for the administration of justice. There is a need for the court process to satisfy "the customer". For victims, this means that 'procedural justice' prevails just as much as 'outcome justice'. That is, victims are fully engaged in the decision-making process as their case proceeds through the system.

It is our contention that, at present, the needs and expectations of victims are not well understood and met by the agencies of the CJS. We are concerned that efficiency considerations will be used as the overarching indicators of a more victim-focused CJS when, in fact, victims' rights enshrined in legislation remain largely overlooked. Procedures which can convince victims that they are being given an adequate hearing will go some way to assuring the community that the Courts are providing an effective and fair system of justice for all.

Recommendations

1. Strengthening victim-centric service delivery

Recommendation 1

That the Government and CJSRC:

- amends the Victims of Crime Act 2001 to better enforce victim's rights;
- develops underlying whole-of-government policies and procedures to have regard to and give effect to the rights of victims of crime under the Act; and
- establishes measures to assess compliance by public agencies and officials.

Recommendation 2

Conduct a review of the ways in which information is currently disseminated to victims and implement more contemporary approaches.

Recommendation 3

Establish a peer review system for Judges to support their professional development and ensure best practice in judicial case management.

Recommendation 4

Establish a new funding model that would remove incentives for lawyers to prolong legal proceedings.

Recommendation 5

Introduce a performance indicator to measure the utilisation of Victim Impact Statements (VIS) in the sentencing of cases.

Recommendation 6

Establish a consistent and systemised process by which agencies of the CJS will support victims to complete a compelling and timely VIS.

Recommendation 7

Increase meaningful reparation to victims by establishing what works in helping them to cope and recover, and setting out how we will work towards a comprehensive victim-led restorative justice framework.

Recommendation 8

Review the suitability of using the VIS to explain restorative justice to the victim and record their interest in participation.

2. Strengthening volunteer and support services for victims

Recommendation 9

Create one entry point in to the network of support services that assist victims of crime in South Australia.

Recommendation 10

Develop a service model for victim and witness support service in the Magistrates' Court.

Recommendation 11

Implement a volunteer Special Advocate program to ensure that the most at risk victims have at least one adult consistently with him or her through the court process.

Recommendation 12

Advocate for a national agency or commission for the support of victims of crime to be established on a statutory basis.

3. Developing Community Education

Recommendation 13

Incorporate crime and victimisation into the school curriculum as part of a whole-school approach to child protection.

4. Developing a collaborative criminal justice 'eco-system'

Recommendation 14

Amend s 15 of the *Victims of Crime Act 2001* to require that a Victims of Crime Consultative Committee be established. This Committee can then advise the Criminal Justice Sector Reform Council (CJSRC) on victim-related issues.

Recommendation 15

Implement an annual VOC survey to measure the experience of victims across the entire CJS continuum.

Detailed response

1. Strengthening victim-centric service delivery

Victims' Rights

Although victims' rights are proclaimed in the *Victims of Crime Act 2001* (SA), we recommend that the Act is amended to mandate agencies of the CJS to implement procedures that would compel them to meet the requirements of the Act.

As stated by the Hon Michael Atkinson at the time the Victims of Crime Bill was being debated in Parliament:

This bill purports to place in legislation rights of victims of crime that were in the declaration of the rights for victims of crime published by the government a couple of years ago. I say 'purports' because a breach of these rights carries no punishment, damages or compensation; breaches are dealt with as a grievance by the Ombudsman or by the Police Complaints Authority. These are rights in the abstract. Among these abstract rights are the rights to information on the progress of a police investigation, withdrawal of prosecution, escape from custody and recapture (South Australia, 2001).

We agree. VSS supports amendments to the Act which will better protect the rights of victims of crime. While s 5(4) states that 'public agencies and officials are authorised and **required to** have regard, and to give effect, to the principles so far as it is practicable to do so having regard to the other obligations binding on them' (emphasis added), in our experience, CJS agencies do not always meet this requirement.

The Commissioner for Victims' Rights plays a key role in monitoring compliance and responding to victims' grievances, but there is no cross-CJS function or system which ensures that all criminal justice agencies are complying with the Act when delivering services to victims. The result is that the *Victims of Crime Act* is relatively toothless in its day-to-day application. Current procedures that underpin the Act must be strengthened as part of a transformation process.

Recommendation 1

That the Government and CJSRC:

- amends the *Victims of Crime Act 2001* to better enforce victim's rights;
- develops underlying whole-of-government policies and procedures to have regard to and give effect to the rights of victims of crime under the Act; and
- establishes measures to assess compliance by public agencies and officials.

1.1.1. The Right to Information

The right to information is currently met through outmoded and inefficient methods. The Victim Information Booklet, issued by SAPOL and the Commissioner for Victims' Rights, is a 70-page booklet mainly disseminated in hard-copy format. Support services are listed from page 50 onwards. The Victim Support Service, for example, is listed on page 53. The practical consequence of this is that VSS and SAPOL staff staple contact details of VSS to the front of the booklet before dispatching them to victims. We would recommend a review of the current documents and processes that would lead to more contemporary means of conveying information.

Recommendation 2

Conduct a review of the ways in which information is currently disseminated to victims and implement more contemporary approaches.

The proposed development of an online crime tracking service, as per the Government's election manifesto of February 2014, could significantly improve information services for victims. The system should seek to continually re-educate victims' of their rights under the *Victims of Crime Act* as their case progresses through the CJS.

When a case gets to court, the victim receives a notification letter from the Commissioner for Victims' Rights advising them of the court date and court particulars, and reminding them of their right to make a Victim Impact Statement. This procedure would be reinforced if the victim had an abbreviated form of their rights read to them at their first appearance in court.

In recent months VSS has received a growing number of complaints from clients and Police Victim Contact Officers that court hearings have taken place at a time different to that highlighted in the letter they have received from the Commissioner. As a result, they have arrived late for the hearing, adding considerably to their stress, anxiety and inconvenience. We would contend that matters should not be called until the victim has arrived at the prescribed time.

This is exacerbated by the current 'adjournment culture' that makes participation by victims in the court process so difficult. We would strongly urge the judiciary to adopt stricter compliance requirements with rules that discourage adjournments.

One possible explanation for an apparent reluctance of the Judiciary to adopt stricter compliance requirements is that their performance is ostensibly managed by the Court of Appeal, that is, an appeal of their decision is the only measure of whether they have 'done a good job'. A system of peer review would facilitate the spread of best practice across the profession, supporting the efficient management of cases.

This may also help to reduce the current rate of successful appeals. Recent analysis by *The Advertiser* of criminal appeals in 2014 found that sentences handed down by the Magistrates Court were reduced by more than half on appeal, while Supreme and District Court sentences were cut by more than a third (*The Advertiser*, 22 March 2015).

The current frequency and success rate of appeals, if left unchecked, will undermine any attempts to reduce delays in the CJS, further damaging the experience of victims and undermining their faith in the system.

Recommendation 3

Establish a peer review system for Judges and Magistrates to support their professional development and ensure best practice in judicial case management.

Research into criminal trial delays across Australia recognised that the fee structure for legal aid matters may in part drive the 'adjournment culture'. Whilst we accept that the fee that is paid should be commensurate with the amount of work required, the current payment structure encourages lawyers to take matters to trial and delay matters as much as possible rather than resolve them at the earliest opportunity.

Recommendation 4

Establish a new funding model that would remove incentives for lawyers to prolong legal proceedings.

1.1.2. The Right to Consultation

The right for victims to be consulted on conditions of bail, the prosecution process and sentencing, under the declaration of principles governing treatment of victims, must be strengthened. This is likely to become more critical if the early resolution of cases becomes an overriding performance measure for a transformed CJS.

In response to 'technocratic justice', consideration should be given to procedural mechanisms that could better integrate victims (or at least victim perspectives) within the existing system to make criminal justice administration more accountable. This includes forms of consultation before important decisions such as altering or dropping of charges are made by the Office of the Director of Public Prosecutions (ODPP). This is particularly important where the early resolution of a case could deny a victim access to financial compensation.

One option is to develop a system through which victims' views would be recorded and presented to the court, including the right for their dissenting views to be heard. This could be achieved through a "Statement of Agreed Facts" presented by prosecution, defence and victim to the court. Additionally, a stay of sentence should be built in to the early resolution process to give victims sufficient time to express their views on discounted sentences.

A clear procedure is also required through which victims can ask the ODPP to lodge an appeal against a conviction and/or the leniency of a sentence. Should the ODPP determine not to proceed with an appeal, the victim should receive the reasons behind the decision in writing. Subsequently, the victim should have the right to request a judicial officer of the appeals court to examine their grounds for appeal and determine whether, in the public interest, an appeal should be heard.

1.1.3. The Right to Participation

The right to participate in sentencing through a Victim Impact Statement (VIS; *Victims of Crime Act* s10) is one of the most established mechanisms through which victims are directly engaged by the CJS. Despite this, except during the evaluation of victim impact statements in 1993-94, comprehensive data has not been kept by any agency of the CJS with respect to the number of requests to victims to make VIS, the number of VIS made, and the number of VIS made in courts.

The Commissioner for Victims' Rights identified that a VIS was received in 60-90 percent of cases in the higher courts, as estimated by Judges, but in less than 3 percent of cases in the Magistrates Court, as estimated by Magistrates (O'Connell, 2009). In the absence of any current data, our understanding is that a VIS is still very rarely received in the Magistrates Court.

In preparing the case file, it is standard practice in some SAPOL Local Service Areas (LSA) to advise the victim to write their VIS straight after the completion of their statement or prior to the matter going to court for its first appearance. We submit that this practice is inappropriate and disadvantageous to the victim. In most major indictable cases the victim should only complete their VIS once a guilty verdict has been established and the defendant is awaiting sentencing. The key reasons behind this recommendation are:

In one sense, technocratic justice might be expected to assist victims: it saves them from the unpleasantness of having to participate in trials. However, this advantage comes at a price: the victim becomes redundant.

For victims, technocratic justice means that the system no longer requires their assistance beyond the reporting of the crime (Christie, 1977: 3; Abrahamson, 1985: 523). Cases have become "units" to be processed as expeditiously as possible. If victim involvement in any part of the process interferes with the dictates of efficient case-flow, it is likely to encounter considerable resistance.

(Douglas & Laster, 1994)

- The victim is unlikely to know the full impact of the crime in the immediate aftermath of the event. This is likely to emerge over time.
- Under rules of disclosure, the prosecution case file has to be fully disclosed to the defence, including the VIS if it has been included as part of the file. This can provide the defence with potentially sensitive information, including how the crime has affected the victim.
- In preparing a VIS prior to the verdict, the victim can be given false hope of a guilty outcome, leading to unnecessary secondary victimisation.

VSS has expertise in assisting in the preparation of VIS. All victims should be referred to VSS to receive practical advice and assistance to prepare a compelling VIS. VSS should be funded to provide specialist support, and should administer the carriage of the VIS on behalf of the victim so that they are admitted in to the CJS at a point-in-time that is most beneficial to the victim.

Recommendation 5

Introduce a performance indicator to measure the utilisation of Victim Impact Statements (VIS) in the sentencing of cases.

Recommendation 6

Establish a consistent and systemised process by which agencies of the CJS will support victims to complete a compelling and timely VIS.

Not all victims want reparation but sometimes it would help them to receive an apology from the offender, some financial compensation or some other form of redress.

The success of victim participation in family conferencing in the Youth Court in South Australia is to be applauded. Evidence suggests that restorative justice delivers higher levels of victim satisfaction, and that programs work at least as effectively as formal justice responses (Daly, 2004). This has already been observed in South Australia. An evaluation of the Adult Restorative Justice Conferencing Pilot between 2004 and 2005 reported high levels of victim satisfaction (Goldsmith, Halsey & Bamford 2005).

VSS and the Department for Correctional Services (DCS) have worked together on several occasions to organise and facilitate ad-hoc victim-offender meetings. VSS has participated in the assessment, facilitation and post-mediation follow-up for victims, whilst DCS has provided a similar service for offenders. At a meeting in September 2014, both agencies identified the lack of a victim-led restorative justice framework as a major barrier to the effective extension of restorative justice practices in South Australia.

A review of the CJS in South Australia is an opportunity to consider the suitability of restorative justice as a legitimate justice process and to extend such practices to other parts of the court system, including adult courts. Any review should also consider how the offer of restorative justice should be made to victims where provision is available. For example, consideration should be given as to how the VIS might be used as an opportunity to explain restorative justice to the victim and to record their interest in participation.

There is some evidence to suggest that investing more in restorative justice programs will contribute to reducing crime and rehabilitating offenders, as well as to improving the well-being of victims. However, adult restorative justice conferencing has not become a mainstream pre- or post-sentence strategy in South Australia and this is clearly an area that should be further developed.

(Hora, 2010)

Restorative justice should also form part of the curriculum in Law Schools so that justice system personnel are familiar with the process and its potential benefits to victims and offenders.

Recommendation 7

Increase meaningful reparation to victims by establishing what works in helping them to cope and recover, and setting out how we will work towards a comprehensive victim-led restorative justice framework.

Recommendation 8

Review the suitability of using the VIS to explain restorative justice to the victim and record their interest in participation.

Victim participation in the decisions of the Parole Board should also be strengthened, particularly for victims who are not registered with DCS. In determining applications for release on parole the Board should be required to consider an up-dated VIS and other representations made by victims and their legal representative/advocate.

From a customer-service perspective, efforts should be made to improve knowledge and understanding of prosecution staff of the impact of crime on victims. Research has shown how re-victimisation by the legal system is reduced when people feel believed by a professional and prepared for trial (Ellison, 2007). Prosecutors, for example, who introduce themselves to victims and make the effort to update them on their case are highly valued by victims. Too often the Prosecution provide limited or no contact leading to misunderstanding of their role, insufficient explanation of progress of the trial or reasons for delays. This serves to increase feelings of marginalisation.

Participation by victims and witnesses in court procedures, especially vulnerable victims and witnesses and those living long distances from court, should also be improved by making it standard practice to give evidence through video-link, as is the case with prisoners. This should include supporting pre-recorded cross-examination of vulnerable witnesses.

Consideration should also be given to introducing a more “inquisitorial” process for cases involving vulnerable victims and witnesses, especially in cases involving domestic violence or sexual assault, children, or people with mental health problems or intellectual disability. We support the proposal by Judge Peggy Fulton Hora to encourage law schools to offer courses in non-adversarial justice, including therapeutic jurisprudence and restorative justice (Hora, 2010). This would lead to higher levels of victim participation, especially in crimes such as sexual assault where high levels of under-reporting have been linked to how victims anticipate being treated by an adversarial CJS.

VSS also argues that participation by victims in the CJS is adversely affected by the closure of courts and court circuits. In particular, we would encourage the government to support the Courts Administration Authority (CAA) to reinstate Supreme court circuits and increase District court circuits in regional areas in order to improve access to justice.

2. Strengthening volunteer and support services for victims

2.1. Initial Access to Support

South Australia has developed a comprehensive support system for victims of crime, built around a network of agencies that provide specific support services and functions. This includes:

- Victim Contact Officers and Family Violence Officers employed by Police;
- the Commissioner for Victims' Rights;
- Yarrow Place Rape and Sexual Assault Service;
- the ODPP Witness Assistance Service;
- various legal support services such as the Legal Services Commission and Women's Legal Service;
- Department for Correctional Services Victim Services Unit;
- various domestic violence service providers;
- Child Protection Services; and
- Victim Support Service.

This extensive but complex network can be confusing and confronting for victims, particularly at a time when a traumatic experience may have left them vulnerable, confused and devoid of confidence.

In developing a more customer-centric CJS, entry to this network of support services needs to be simplified, using modern customer service principles such as relationship management and measuring client satisfaction. This should include the implementation of a statewide 'gateway' service - in a similar vein to housing and domestic violence services - that would facilitate one entry point in to the system, followed by onward referral to the most appropriate support agency. The 'gateway' should be supported by a marketing and branding campaign similar to '1800 Crime Stoppers' that would serve to educate the public on ways to get help when they become a victim of crime.

This arrangement exists in other states. In Victoria, for example, a free-call 1800 Victims of Crime telephone helpline is available from 8.00am to 11.00pm, seven days a week, and is the first step for victims to get free services to help them manage the effects of crime.

The Victoria Police have also invested in 'SupportLink', an IT framework that enables police to refer via a single referral gateway to local, state and nationally based support agencies.

VSS implemented a '1800 VICTIM' helpline in October 2014, and has already seen a 37% increase in new client referrals.

Recommendation 9

Create one entry point in to the network of support services that assist victims of crime in South Australia.

2.2 Ongoing Support

In the future, victims and witnesses should expect that their contact with the CJS will be well managed. This starts with victims accessing initial services through a dedicated helpline, followed by their allocation to the most appropriate support service.

2.2.1 More Practical Assistance

For many victims, “appropriate support” will mean practical assistance in the immediate aftermath of a crime. This could include help with reporting a crime, getting broken doors and windows fixed, filling out forms (for example for compensation claims), or accessing specialist support services. In the UK, initial assistance is provided by volunteer victim care officers, who ask some initial questions about what has happened and how the victim has been affected by the crime. If they want support, the victim care officer will put together a ‘helping plan’ for the victim. We believe that there is significant scope to provide more practical assistance to victims in South Australia through an expanded volunteer program. VSS is currently piloting an approach in partnership with the Department for Communities and Social Inclusion (DCSI) and SAPOL through our ‘First Response’ program, where trained volunteers provide practical assistance to victims of property crime in a targeted LSA.

2.2.2 Support in Court

South Australia needs a more progressive, effective court system which builds confidence and trust – so that victims and witnesses have greater protection throughout the court process and a louder voice to ensure that their side of the story is heard. A court system that is viewed as complicated and hard to understand does not inspire public confidence.

When cases first reach the Magistrates Court in South Australia, support for victims is virtually non-existent, leading to low levels of participation, as indicated by the scarcity of Victim Impact Statements in the Magistrates Court. Victims are not supported by the Witness Assistance Service, the VSS Court Companion Service or legal advocates, and Police Prosecutors are usually too weighed down by too many cases to properly engage with victims and witnesses.

Low participation rates will also lead to lower levels of direct victim restitution against perpetrators. We believe that court orders for compensation are an important sentencing tool that holds offenders responsible and that court-ordered financial restitution is an important form of restorative justice. In practice, however, Magistrates rarely administer on-the-spot fines.

VSS is currently exploring how more support can be provided to victims in the Magistrates Court. This support may include improving access to information about victims’ rights, court companion support, and assistance in the preparation of Victim Impact Statements. We are also assessing ways to provide a receipt as evidence to Police Prosecutors for goods and services that were procured by the victim as a result of the breach of an Intervention Order in cases of family and domestic violence. VSS often replaces household security items through its domestic violence program that have been deliberately damaged by perpetrators, and believes that more can be done in the Magistrates Court to make perpetrators financially responsible for the damage they have caused.

Recommendation 10

Develop a service model for victim and witness support service in the Magistrates’ Court.

At the very least victims and witnesses who are most at risk of dropping out of court proceedings should be effectively supported, and consideration should be given to the introduction of a risk management tool to target those considered most likely to drop out.

Recommendation 11

Implement a volunteer Special Advocate program to ensure that the most at risk victims have at least one adult consistently with him or her through the court process.

2.2.3 Trauma-informed therapeutic services

Victims of major indictable offences that have been traumatised by their experience require specialist trauma-informed support from suitably qualified professionals that are knowledgeable of the CJS. Due to the impact of secondary victimisation, it is appropriate that professional case workers should manage their clients throughout the criminal justice continuum. UK research has shown that case workers can improve communication across the legal system (Robinson et al., 2008) and that victims who have the support of an advocate report improved experiences and lower secondary victimisation (Maier, 2008).

We believe this approach would be strengthened if case workers had access to legal advocates that could help bridge the gap between therapeutic support and justice. VSS strongly supports the recent recommendations made by the South Australian Government in 'Taking a Stand' to establish a Women's Domestic Violence Court Assistance Service to help victims navigate the court system. VSS also strongly endorses the response by SAPOL to introduce solicitors into their Police Prosecution Units to support the prosecution of complex DV cases.

The proposed DV Court Assistance Service could provide a potential model on which to build a new support framework for victims, where case workers can engage legal expertise as they support victims through the CJS.

2.2.4 Support for victims when an offender is released from custody

Our experience tells us that the point of prisoner release can re-traumatise some victims. More needs to be done to improve links between victim support services and the DCS Victims Register, so that more victims can receive ongoing information about their case and can re-engage with support services if necessary. Improved information-sharing between DCS and victim support services would also support the strengthening of victim-led restorative justice practices prior to the point of release which, in some cases, would reduce secondary victimisation.

2.3. National Best Practice

Victim Support Australasia has strived to provide a central leadership role for its members for nearly 20 years. Australia needs a national victim's service funded by the Commonwealth to provide leadership, coordination and integration in order to deliver consistent and improved services to crime victims across the whole country.

A national agency or commission for the support of victims of crime would assume primary responsibility for:

- 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;
- initiating, contributing to and learning from experience, knowledge and research undertaken nationally and internationally, especially related to determining effective interventions that reduce victimisation.

Recommendation 12

Advocate for a national agency or commission for the support of victims of crime to be established on a statutory basis.

3. Community Education

An increased understanding of court processes, judicial responsibilities and victims' rights would enable more users of the CJS to assert their rights in the face of limited procedural or agency support. Understanding of court processes, judicial responsibilities and victim's rights should be strengthened through training, education & awareness raising initiatives.

3.1. Community Education

Ideas to increase community understanding of court processes, judicial responsibilities and victim's rights include:

- a Mock Sentencing 'roadshow' that would explain the sentencing process to communities throughout South Australia;
- 'You be the Judge' website that would assist people to understand and consider the factors involved in sentencing decisions;
- training for community organisations in how to offer, explain and complete a VIS;
- the Chief Justice or Chief Judge to nominate one sitting judge as a spokesperson for the judiciary, to engage and educate the community and the media on judicial issues, including sentencing decisions;
- ensuring training courses for journalists to reinforce a better understanding of court processes, judicial responsibilities and victimology;
- allowing broadcasting from courts of sentencing remarks, beginning with the Court of Appeal, then Supreme Court, with a view to extending it to the District Court, as we believe that allowing the public to hear judges' decisions in their own words will help them better understand the reasons why and how the judgment was reached.

3.2 School Education

A recent report from Victim Support UK "Suffering in Silence: Children and Unreported Crime" (2014) found that 10 to 18 year-olds are more likely to be victims of crime than any other age group, but less than one-fifth of juvenile victims report this to police. One reason for this was that many children and young people do not realise that what they have experienced constitutes a crime. If they do, they often do not know how to report their experience. Professionals to whom they are mostly likely to disclose, such as teachers, often lack the confidence and skills to recognise victimisation. Among its recommendations, the Report suggests that crime and victimisation should be incorporated in to the curriculum as part of a whole-school approach to child protection, and that key professionals should be trained to identify and respond appropriately to signs of victimisation.

In her *Smart Justice* report (2010), the then SA Thinker in Residence Peggy Hora recommended that strategies to increase public knowledge of the justice system should commence in schools through 'civics education'.

Recommendation 13

Incorporate crime and victimisation in to the school curriculum as part of a whole-school approach to child protection.

4. Develop a Collaborative Criminal Justice Eco-System

We cannot continue with a situation in which one part of the justice system routinely operates in a way that causes problems for another. Nor can we continue to procure incompatible IT systems or take decisions about the location of courts, police stations, support services etc without thinking about the impact this has on the overall CJS landscape. Shared objectives, shared data, shared performance measures and collaborative working arrangements are all needed if the agencies of the CJS are going to work together to enable them to identify and address poor performance and promote best practice, from a whole system rather than a single agency perspective.

4.1. Criminal Justice Sector Reform Council (CJSRC)

For non-government agencies that sit outside the CJSRC, it is not clear how they should feed into the decisions of the Council. This is particularly important for victims, who have no dedicated representative on the Council. We note that none of the five current projects of the Council are specifically victim-orientated.

We recommend that s 15 of the *Victims of Crime Act* is strengthened to require a Consultative Committee to be established and maintained. That Committee could then advise the CJSRC on victim-related issues. It should be comprised of judicial officers, senior stakeholders from CJ agencies, and victims of crime representatives. Judicial officers should be drawn from all judicial levels including the Court of Appeal, the District Court, the State Coroner, and the Magistrates' Court. Stakeholders should include SAPOL, the ODPP, DCS, the Parole Board, the Commissioner for Victims' Rights, Families SA, Youth Justice and victim services. This level of membership would enable a unique sharing of knowledge and insights. Its terms of reference should include:

- to provide a forum for victims of crime and relevant justice and victim services agencies to discuss victims' policies, practices and service delivery improvements;
- to advise the CJSRC on policies, practices and reforms relating to victims' issues and support services;
- to promote the interests of victims in the administration of justice;
- to promote the principles of the *Victims' of Crime Act 2001*.

Recommendation 14

Amend s 15 of the *Victims of Crime Act 2001* to require that a Victims of Crime Consultative Committee be established. This Committee can then advise the Criminal Justice Sector Reform Council (CJSRC) on victim-related issues.

4.2 Performance Measures

Agencies will only be able to pull in the same direction to achieve the shared outcomes if the way the system measures their performance enables this. Misalignment of performance measures is repeatedly cited as a key cause of inefficient practices across agencies.

The Strategic Overview identifies that reducing crime will be a key indicator of how the CJS is performing. One measure highlighted by the Strategic Overview to assess crime reduction

is the percentage of victim reported crime, which has dropped by 42 percent since 2002-3 (Page 14).

We are concerned at the appropriateness of victim reported crime as a key measure of crime reduction. Reductions in victim reported crime could be driven by the very ineffectiveness and inefficient nature of the CJS that a performance framework is seeking to quantify. Hence, a reduction in victim reported crime may reflect a growth in the under reporting of crime.

A better measure is the self-reported experiences of victims of crime that can be collected through a victims' of crime survey which should be accessible at any point in the criminal justice continuum (see 4.6)

4.3 Non-Government Organisations (NGOs)

'Transforming Criminal Justice' fails to recognise the important role that non-government organisations (NGOs) can and do play in delivering an effective and efficient CJS, particularly when it comes to delivering cost effective and customer-friendly services. One of the significant benefits of the victim service model in South Australia, for example, is that VSS is able to deliver additional victim services through non-SA government funded programs. In 2014-15 around one-third of VSS program delivery will be funded from sources other than the Victims of Crime Fund, enabling us to deliver bespoke services for victims of domestic violence, child sexual abuse and property crime.

If 'Transforming Criminal Justice' is serious about delivering more effective and efficient justice for victims, particularly at a time of severe fiscal constraint, the agencies of the CJS should seek increasingly to engage with the NGO sector to support service delivery.

4.4 Integrated Information Technology

Deploying the right technology in the right places has the potential to quickly transform criminal justice from a fragmented, paper-based system to a digital service that provides an efficient customer experience which meets the standards the public rightly expect from a modern public service.

We support the current Criminal Justice Information Management project overseen by the CJSRC. We hope that it will lead to the development of a single information management system allowing for evidence and case information to be shared across the CJS. This will ensure more efficient working practices for ODPP and the judiciary and provide the single source for CJS information in the future. The information that criminal justice agencies keep related to cases going through the courts should be kept together in one place, instead of being re-entered and replicated on numerous different systems, and all the relevant parties should be able to access the same data.

VSS also supported an improvement to the promotion of and access to, the Victims of Crime Register at DCS by enabling other agencies to register cases via a shared database.

The SA Government should enable a shared database to be established between SAPOL, ODPP, CAA (including diversion/mediation services), DCS and victim services to improve efficiency, the ability to more effectively assess need and suitability for intervention, and the facility to more pro-actively offer services.

4.5 Victims of Crime Survey

Not since the Office of Crime Statistics and Research (OCSAR) conducted the Victims of Crime Survey in 2000 has there been a comprehensive survey of crime victims in South Australia. It is unfortunate that the criminal justice system has operated for 15 years devoid of data that would support it to understand and respond to the experiences of victims.

VSS therefore welcomes the intent behind the Victim Witness Survey (VieWS) to be conducted by OCSAR on behalf of the CJSRC, starting in 2015.

We understand that the survey will provide the Council with a measure of victim and witness satisfaction with the Criminal Justice System and will be used to monitor the progress of the Transforming Criminal Justice strategy. The survey will provide valuable insights into the experiences of victims and witnesses and, from our perspective, provide useful information for planning purposes. It will provide feedback about the needs of victims and witnesses, highlight any gaps that currently exist in support services, and possibly identify new or emerging issues to be addressed. We therefore welcome the opportunity to support the planning and implementation of the VieWS.

However the focus of the survey is too narrow. The experience of victims and witnesses in the courts, whilst critical, is only one part of the criminal justice continuum. Many more victims experience the front end of the system – the initial police response and subsequent investigation – than those whose cases are heard in court. Statistics from SAPOL show that less than 1 percent of total offences in 2013-14 were committed to trial by the ODPP.

We also believe that very little is understood about the experience of victims once an offender has been convicted and sentenced. If the CJS is going to become more customer-focussed, then we need to better understand where our limited resources should be best deployed in the system to most effectively meet the needs and expectations of victims. This perspective will be missed if the VieWS only focusses on their experience of the court process.

Recommendation 15

Implement an annual VOC survey that assesses the experience of victims across the entire CJS continuum.

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