

Participation of Victims of Crime in NSW Court Processes

A Study Commissioned by Victims Services, NSW

Summary Information Sheet

Introduction

This is a summary of the main findings of the research project *Participation of Victims of Crime in NSW Court Processes*, conducted by Dr Tyrone Kirchengast, Chief Investigator, Faculty of Law, University of New South Wales, Australia. The research was conducted from 2012-2014.

Ethics approval was gained from the UNSW Human Research Ethics Committee (approval number HREC Ref: # HC12572).

This summary information sheet draws from the data and recommendations published in the *Final Report – Full Report*. A shorter, executive version is also available, *Final Report – Executive Summary*.

Both reports are available for download from the Victims Services NSW Website, the Victims of Crime Clearinghouse Website - www.victimsclearinghouse.nsw.gov.au

Aims and Background

This project systematically evaluated how the needs of victims of crime could best be served by the NSW criminal justice system. The main research questions addressed include:

- What is the nature and extent of victims' participation in NSW court processes?
- What are victims' expectations and actual experiences with court processes? How do they wish to participate in these processes?
- What are the barriers to effective victim participation in court processes and how can they be overcome?

The research was conducted on the basis that victims participate in court a variety of ways and that the attitudes and values held by justice officials – police officers, police prosecutors, public prosecutors, magistrates, judges, and counsel – are significant to experiences of victims in court.

Method

142 Victims were surveyed and 19 justice officials interviewed for this research.

78 victims indicated that their court matters were finalised at the time of completing the questionnaire.

Findings

Victims whose court matters were finalised indicated a range of modes of participation in NSW court processes:

Were you involved in the court case in any following ways (select all that apply)	Response percent
Private Prosecution	0.00%
Provided a Victim Impact Statement	38.46%
Attended court as an observer (sat in public gallery)	47.44%
Attended court to give evidence but was not called	17.95%
Gave evidence in court	25.64%
Gave evidence via CCTV	3.85%
Gave evidence but did not attend court	7.69%
Participated in forum sentencing	0.00%
Participated in youth justice conferencing	0.00%
Participated in circle sentencing	0.00%
Other	12.82%

Victims whose court matters were finalised rated the support they received in the following way:

Did you receive support from any of the following people or organisations while the court case was being heard? Of the agencies/people who did support you, how helpful were they?						
Response percent	1. Very Helpful	2. Helpful	3. Neutral	4. Unhelpful	5. Very Unhelpful	6. No Support
Witness Assistance Officers (from the ODPP)	30.16%	12.70%	12.70%	4.76%	0.00%	39.68%
ODPP Lawyers	27.27%	18.18%	7.58%	4.55%	4.55%	37.88%
The Police	34.72%	22.22%	12.50%	9.72%	6.94%	13.89%
Legal Aid	2.08%	2.08%	18.75%	2.08%	4.17%	70.83%
Victims Services NSW	21.31%	16.39%	19.67%	6.56%	0.00%	36.07%
Court Officers (including sheriffs and registrars)	20.75%	9.43%	18.87%	0.00%	1.89%	49.06%
Non-Government /organisations	39.66%	6.90%	10.34%	0.00%	0.00%	43.10%

Victims whose court matters were finalised indicated varying levels of satisfaction and dissatisfaction with the way the criminal justice system has dealt with the crime. This is consistent with crime victimisation studies where satisfaction was deemed to hinge upon a number of variables, personal and institutional.

Overall, how satisfied were you with the way that the criminal justice system has dealt with the crime (including the police investigation, prosecution and court etc)?					
Response percent	1. Very Satisfied	2. Satisfied	3. Neutral	4. Dissatisfied	5. Very Dissatisfied
	19.23%	16.67%	17.95%	11.54%	34.62%

Alternatively most victims who understood or knew the sentence of their offender were very dissatisfied with the sentence handed down. This is also consistent with prior research into victim satisfaction in sentences.

Overall, how satisfied were you with the sentence handed down in court?							
Response percent	1. Very Satisfied	2. Satisfied	3. Neutral	4. Dissatisfied	5. Very Dissatisfied	6. Don't know sentence	7. Didn't understand sentence
	7.69%	12.82%	14.10%	16.67%	44.87%	1.28%	2.56%

Victims were also asked about ways in which they may be better supported in court. Victims indicated that they would like:

- More information on counselling;
- Better notification about key dates;
- Trained and developed criminal justice staff;
- Advice on court outcomes;
- Some representation in court;
- Assistance from the same WAS Officer throughout the case;
- Advice on victim rights where the offender is found to be mentally ill;
- Faster resolution of their case;
- Better communication with parties (such as police, ODPP prosecutors, court staff)
- More information about court processes generally;
- However, a significant number of victims also indicated that no more information was required than was currently available.

Attitudes of justice officials interviewed generally supported victim participation through attendance as a witness in court, or via CCTV or out of court testimony where the victim was more vulnerable. The ability to tender a victim impact statement during sentencing was also widely acknowledged as an important means by which victims could participate.

Recommendations

Nine recommendations flowed from the findings of the research. These recommendations encourage the continued development of systems of communication and a knowledge base amongst justice professionals to better accommodate the victim in court:

Communication between Lawyers and Victims: Encourage better communication between victims and justice officials (specifically prosecutors and other lawyers engaging victims directly). Consider feasibility of the extension of the Charter of Victims Rights to justice officials currently excluded from charter. This potentially includes judicial officers and/or solicitors representing victims.

Provision of Information for Victims on Court Processes: Provide information on the Charter of Victims Rights, including how the charter impacts upon role and service delivery in the criminal justice system to better manage victim expectations of the system. Connect the charter to the justice journey to establish how the charter impacts upon service delivery at key points in the criminal justice process.

Therapeutic Processes: There was general support for therapeutic processes for victims although not all justice officials understood of the importance of such processes for victims of

crime. Provide information and training to the justice professions, including judicial officers, on the significance of therapeutic interventions for victims.

Charter of Victims Rights: The Charter of Victims Rights is instrumental but not well understood by justice officials in particular. Enhance the profile of the charter to better reflect its significance in service delivery for victims of crime.

Victim Lawyers: Other than a continuation of current arrangements (challenge of subpoena), there is no tangible support amongst justice officials for the provision of private counsel for victims of crime.

Victim Advocates: Further research is warranted on the potential role of victim advocates as a professional role expressing victim interests at key points in the justice journey. Justice officials were generally supportive and victims continually identified the need for consistent advice and representation throughout the justice journey.

Continuing Legal Education: The significant and diverse ways in which victims are integrated into criminal processes was poorly understood by justice officials/professionals in particular. Develop a range of continuing legal education packages to facilitate a better understanding of the procedural basis of victim participation in NSW. This could be offered to judicial officers, lawyers, and law students.

Victims Services and the Criminal Justice Professions: Victims Services is in the unique position of offering leadership on victim rights and interests in NSW. This leadership may be expressed to victims of crime but justice officials may also benefit. There is a role for Victims Services to extend its service delivery to justice officials by way of continuing legal education and other educative programs for justice officials. This will locate Victims Services more centrally within the NSW criminal justice system which will enhance the standing of victims generally.

Further Research: That Victims Services, NSW consider the usefulness of the areas of future research in accordance with its legislative and policy remit.

Further Information

Further information on this research is available from:

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