

Smart Justice

“Smart action for a safer community”

Better support for victims of crime

We can better support victims without jeopardising a fair trial

Crime impacts heavily on victims, their families and witnesses. It also has a more widespread effect with serious social, economic and health consequences for our community.¹

The criminal justice system can increase the trauma a victim may have already experienced - causing ‘secondary victimisation’.² Supporting victims through the criminal justice system can therefore reduce the impact of crime. We need a responsive criminal justice system that supports victims and helps them recover from the physical, emotional and financial impact of crime. By increasing victims’ confidence in the criminal justice system, we can increase the rate at which victims report crime, which can help to prevent further crime.

There have been steps in the right direction

Over the last few years there have been many positive changes to the criminal justice system. For example, the *Victims’ Charter Act 2006* (Vic) establishes principles on how the criminal justice system should respond to victims. These principles focus on respect for victims, informing them about the court case and accessing entitlements such as compensation. There have also been improvements to sexual assault law,³ increased crimes compensation⁴ and changes to improve police responses to family violence and sexual assault.⁵ New legislation will allow victims to read their victim impact statement to the sentencing court and there is also more support and counselling under the Victims Assistance and Counselling Program.⁶

We need to do more

There are still gaps in the way the criminal justice system responds to victims. Many victims do not report crimes. For example, only around 13% of sexual assault cases are reported to police due to a range of factors including fear of retribution, fear of giving evidence, fear of not being believed and lack of knowledge and access to help.⁷ The Victims’ Charter has been operating for nearly four years now, yet Victoria Police’s own estimated compliance rate for police responding to victims under the Charter is only 75%.⁸ The Aboriginal Family Violence Prevention and Legal Service Victoria (FVPLS) found that police do not follow up adequately with victims and that it is difficult

for victims to get information about the progress of a case.⁹ There are no penalties for not complying with the Victims’ Charter.¹⁰

An independent victims advocate

In contrast to Victoria, in South Australia there is an independent, statutory Commissioner for Victims’ Rights. The Commissioner reviews the effect of the law on victims, monitors agencies’ compliance and reports annually to Parliament.¹¹ The Commissioner can also recommend that an agency or official make a written apology to a victim where there has been a breach of victims’ rights.

Better access to support services

Victims need to be aware of support services so that they can access them. Under the UK system, police must provide the local Victim Support Group with a victim’s contact details soon after an offence is reported, unless the victim asks the police not to.¹²

Increased crimes compensation and easier access to compensation

Only a small percentage of victims of violent crime apply for crimes compensation, despite being entitled to compensation under the state-funded scheme.¹³ Some victims do not even bother making a claim because the average amount awarded in the state funded scheme is quite low.¹⁴ Other victims face barriers in accessing legal assistance with their compensation application.¹⁵

Some Koori victims face further barriers in accessing compensation. Some of these victims have been victims of family violence

or sexual assault as children which has led to drug use and a criminal record. However, the current law requires the Victims of Crime Assistance Tribunal (VOCAT) to have regard to a victim's past criminal activity when making an award or when assessing the amount of the award.¹⁶

Smart Justice solutions

- *A stronger, independent advocate for victims*
To build an effective and responsive system for all victims, we need an independent statutory victims advocate similar to South Australia's Commissioner for Victims' Rights.
- *A direct pathway to victim support*
Victims need a direct link to support services. We should consider a more proactive referral system like the one introduced in the UK in 2006.
- *A more effective and fairer compensation system*
We need to increase the compensation paid to victims and we also need to reduce the barriers in accessing compensation. We need to make sure that irrelevant and unrelated personal information about victims is not used when assessing a claim for compensation.¹⁷

This factsheet was produced on 22 September 2010

- 1 Mayhew, 'Counting the costs of crime in Australia', *Trends and Issues in Crime*, (2003) Australian Institute of Criminology.
- 2 Walklate, *Victimology: The victim and the criminal justice process*, (1989).
- 3 Part 8.2 of the *Criminal Procedure Act 2009* (Vic).
- 4 On 1 July 2007, the amount of special financial assistance available to victims was increased by 30% while on 1 July 2010, a new category of financial assistance for safety related expenses for primary victims became available.
- 5 Victoria Police Family Violence Code of Practice and Code of Practice for the Investigation of Sexual Assault.
- 6 In Victoria, eligible victims are able to access free crisis and short term counselling services see: www.justice.vic.gov.au.
- 7 Sentencing Advisory Council, *Recidivism of Sex Offenders Research Paper*, (2007), 4 and 7.
- 8 Victoria Police, Annual Report 2008/2009, 18.
- 9 FVPLS, *Improving accessibility of the legal system for Aboriginal and Torres Strait Islander victims/survivors of family violence and sexual assault*, (2010) Policy Paper Series, Paper 3, 139-141.
- 10 The Victims Support Agency (VSA), a business area in the Department of Justice, is responsible for monitoring compliance with the Victims' Charter and is currently conducting an internal evaluation.
- 11 See the *Victims of Crime Act 2001* (SA).
- 12 *Code of Practice for Victims of Crime 2006* (UK), para 5.4 -5.6. There is an exception for some victims.
- 13 In 2007/08, 42,947 crimes against the person were reported to police, yet only 5,067 crimes compensation applications were made to VOCAT in 2008/09: Victoria Police Crime Statistics 2007/08, 5 and VOCAT Annual Report 2008-09, 41.
- 14 See *Improving Access to Justice for Victims of Crime*; (2010) Law Institute of Victoria, 1. The average amount of financial assistance awarded by VOCAT in 2008-2009 was \$7,960: VOCAT Annual Report 2008-09, 44.
- 15 Federation of Community Legal Centres, *Reviewing Victims of Crime Compensation: Sentencing Orders and State-Funded Awards* (2010); 8; Law Institute of Victoria, above n 14, 2.
- 16 s 54(a); *Victims of Crime Assistance Act 1996* (Vic).
- 17 FVPLS, above n 6, 110-111. Federation of Community Legal Centres, above n 15, 6.