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Signed

Christine Griffiths

Dated 6 August 2012
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Many people who become victims of crime experience trauma and injury as a result of the criminal offences committed against them. Many also report that the experience of reporting the crime, accessing services and progressing through the criminal justice system is also traumatic and frustrating.

At the same time as dealing with the impact of crime, victims may be immersed into the criminal justice system, which is responsible for bringing the offenders to justice. This system, set up to serve the community to protect and support it, is largely unknown or misunderstood by most people until they encounter it, and they can find it bewildering and complex. Victims’ experience of it, can impact on their recovery and their confidence in it. Whilst unable to reverse what has happened to them, the criminal justice system should ensure that the experience of a victim, at a minimum, does not exacerbate their trauma.

The **Charter of Victims Rights** *(Appendix 1)* in New South Wales aims to protect and promote victims rights and describes what victims can expect from agencies and how they should be treated in the criminal justice system. The Charter is based on the United Nations Declaration of the Rights of Victims of crime and the abuse of power, which Australia and the countries I visited, support.

In 2010, New South Wales strengthened the **Victims Rights Act 1996** and the Charter of Victims Rights*. Appendix 1. The Act requires that practical guidelines are developed to explain how the Charter Rights can be implemented. Research from the Fellowship will inform work in developing these guidelines.

Both in my direct work with clients as a social worker in the community and as Charter Coordinator at Victims Services, Department of Attorney General and Justice, I have been concerned about the treatment of victims of crime in the criminal justice system. I am concerned about the difficulty that service providers have in interpreting and implementing victims rights described in the Charter, and how compliance with the Charter is enforced, as well as the lack of awareness in the community of victims’ rights.

The Winston Churchill Fellowship provided me with the opportunity to research successful models of practice which have been developed to improve the implementation of the Charter and to learn about practical approaches which support victims of crime.

Monitoring and implementing victims’ rights is a relatively new area of practice in Australia, and an issue identified as problematic internationally. I sought to learn from and meet with policy makers and service providers in government and non-government funded services in the United States of America (USA), England and Wales, as well as international organizations such as the United Nations and the Office on Drugs and Crime, and International Criminal Court in the Netherlands.

I sincerely thank the Winston Churchill Trust for the opportunity to visit and meet with experts in the USA, England, Wales and The Netherlands. The experience was both invaluable and inspiring and an opportunity for which I will be always grateful.

I would particularly like to thank all the people whom I met for their time and generosity in sharing their experiences and knowledge with me. I appreciate their contact and assistance, and only wish that I could have included all the information and advice provided by them to me in this report. The learnings I have gained will influence many initiatives to come!

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1 *Victims Rights Act 1996*
I would like to thank Mandy Young, Director Victims Services for her support and encouragement of me in pursuing a Churchill Fellowship, as well as my referees who acted for me in the application process—Mr Brendan Thomas, and Mr Howard Brown,. In addition, I would like to thank the Department of Attorney General and Justice for supporting me to pursue this research.

And finally, I would like to thank my family, friends and colleagues for their suggestions and ideas, both practical and professional, and the contacts they helped me to make whilst I was overseas.

I especially thank my husband Ken, for his patience, his flexibility and support during my travels. He needed all these attributes!
Executive Summary

Christine Griffiths, Charter Coordinator Phone: 02 8688 6791 or 1800 633 063

Project Objectives: To research best practice models developed by government and non-government organizations which implement the rights of victims of crime in the US and United Kingdom and the International Court in the Netherlands.

With the increasing voice of victims seeking improved communication with service providers and greater participation in the criminal justice process, implementation and compliance with victims rights has become a priority around the world.

My research found a relationship between upholding victims’ rights and improving the efficiency of the criminal justice system as well as public confidence in it. A victim who has had a positive experience of this system is more likely to report a crime, and more likely to participate in it again, should another crime be committed against them. In addition, a victim of a crime also enjoys an improved recovery from the crime.

Leadership at a federal level is required to develop a National Charter of Victims Rights. Agencies who work together, and whose staff are trained and understand their responsibilities to victims and who systems which utilize technology have the greatest success in implementing victims’ rights.

Highlights.
- Meeting with senior representative of government and not for profit organizations in Denver, New York and Washington in the USA.
- Attending the US Congressional Victims Rights Caucus Meeting and the Office for Victims of Crime NCVRW Awards in Washington
- Two and a half weeks meeting with government and non government policy makers and service providers in England
- Going to The International Criminal Court and its Victim and Witness Unit.

Recommendations
1. That the Standing Committee of Attorneys General re-commence work developing a National Charter of Victims Rights.
2. The NSW government progress its work in developing practical guidelines, which describe the minimum standards of service provision required by agencies to uphold victims rights, and apply some of these standards to personal violence offences.
3. Develop performance measures, reportable to government, to track implementation of victims rights.
4. Establish regional interagency Criminal Justice Committees, which discuss strategies to improve the performance and cooperation between criminal justice agencies.
5. Include training on victims rights and victimisation in courses for police, lawyers, social welfare and promote and educate the community about victims rights through events such as a Crime Victims Week and Victims Rights Awards
6. Link funding to non government agencies and service providers funded by the State with an obligation to meet standards of compliance with victims’ rights.
7. Explore the development of integrated computer based systems which support service providers and victims.
8. Develop a formal and transparent complaint management system which investigates alleged breaches of victims rights, and supports system change if a breach is upheld.
9. Explore the use of specialist victim workers, who would work to support the Police and Courts.
10. Explore the expansion of the one-stop shop model to respond to child, domestic violence and sexual assault victims of crime.
Dissemination and Implementation.

- Lead the development of practical guidelines which describe minimum standards in NSW
- Contribute towards a discussion on the development of a National Charter of Victims Rights.
- Develop training packages for service providers which explain victims rights and victimisation
- Present my findings at Regional, State and National Forums and Conferences
The Program

United States of America

Denver 2nd - 9 April

- Kelly Kissell, Victims Rights Act Specialist; Office for Victims Programs, Division of Criminal Justice
- Krista Flannigan, Director of Public Information and Community Partnerships; 17th Judicial District, Adams/Broomfield Counties
- Kate Horn-Murphy, Director, Victim Witness Services Unit; 17th Judicial District, Adams/Broomfield Counties
- Anne Darr, Victim Specialist; Federal Bureau of Investigation (FBI) Denver Division
- Andi Martin, Victim Services Coordinator; Jefferson County Sheriff’s Office
- Allison Boyd, Director Victim/Witness Unit; 1st Judicial District Attorney’s Office
- Nancy Lewis, Executive Director; Colorado Organisation for Victim Assistance
- Victims Organised in Correctional Exchange (VOICES) meeting
- Lisa Tech-Maguire, Victims Rights Director; Rocky Mountain Victim Law Centre.

New York 13-16 April

- Visit and Tour of the United Nations
- Alexandra Patino, Executive Director; The New York City Family Justice Centre
- Paula Calby, Program Office Director; Safehorizon
- Carolyn Coneybear, Program Administration, Safehorizon
- Tanya Hill, Training and Compliance Officer; US Attorney’s Office Eastern District
- Lisa Foster, Manager; US Attorney’s Office, Eastern District
- Kate Manning, Restitution Officer, US Attorney’s Office, Eastern District

Washington 19-23 April

- Steve Durane, Executive Director; National Association of Victims of Crime Assistance Administrators (VOCA)
- Dan Eddy, Executive Director, National Association of Crime Victims Compensation Boards
- U.S. Congressional Victims’ Rights Caucus Annual Awards Ceremony
- U.S. Congressional Victims’ Rights Caucus Annual Policy Forum
- Office for Victims of Crime NCVRW Awards Ceremony
Nicole Borrello, Victim Services Director; Safe Shores DC Children’s Advocacy Centre

United Kingdom: England 27 April-11 May

- Kathryn Stone OBE, Voice UK Derby
- Amy Burton, Lesley Brewer-Senior Projects Manager Voice, UK Derby
- Linda Harlow, Coordinator, The Havens Sexual Assault Referral Centre, Paddington
- Liz Willows and Sukhmeet Sawhey, Independent Advocates, The Havens Sexual Assault Referral Centre, Paddington
- Richard Mason, Deputy Director, Victim and Witness Unit; Ministry of Justice
- Lissa Matthews, Policy Manager Victim and Witness Unit; Ministry of Justice
- Anne Coughlin, Senior Manager, Project Development Victims Support, National Centre
- Hazel Rowe, Manager; Manager, Policy Advisor, Crown Prosecution Service
- Caron Lee-Robinson, Victim Witness Support Manager for Her Majesty’s Court and Tribunal Services
- Commander Simon Foy, Homicide and Serious Crime Sapphire and Child Abuse Investigation Command; New Scotland Yard
- Clare Williamson, Senior Service Delivery Manager Witness Support Service, Westminster & City of London
- Mahesh Patel, Team Leader; Court Service, Central Criminal Court London
- Bruce Tippen, Business Manager; Sussex Criminal Justice Board, Chichester
- Sue Janman, Witness Care Unit, Sussex Criminal Justice Board, Chichester
- David Colchester Business, Manager; Thames Valley Criminal Justice Board, Oxfordshire

The Netherlands

The Hague. 16-18 May

- Tour: International Criminal Court
- Anna Giudice Saget, Drug Control and Crime Prevention Officer, United Nations Office on Drugs and Crime
- Victim and Witnesses Unit; International Criminal Court
Main Body.

Context.

Australia supports the United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power. The USA and United Kingdom also supports the Declaration and have developed legislation to reflect these principles. Victims’ rights documents are generally seen as aspirational and there is a lot of work being done in jurisdictions across the world, to translate these aspirations into enforceable, workable rights which support victims of crime.

New South Wales operates under the Victims Rights Act 1996, which includes the Charter of Victims Rights (the Charter). The Charter is a document of principles, expressed as a practical guide to describe how victims should be treated in the criminal justice system. In other States of Australia, similar Charters or Declarations also exist.

The Charter has 18 Rights which govern the treatment of victims of crime in the criminal justice system. The Charter aims to protect and promote the rights of victims of crime and describes how victims should expect to be treated by agencies. The following points are a brief summary of the Charter rights:

- be treated with courtesy, compassion and respect;
- information about, and access to, welfare, health, counselling and legal services, where available;
- information about the investigation and prosecution of the offender; and
- protection from the offender and protection of privacy.

As in the countries I visited, the Charter of Victims Rights does not create enforceable legal rights for the victim and there are no sanctions for failure to comply. Non-compliance does not lead to criminal or civil legal action against an individual agency or public official. In NSW, a public official can be disciplined as a result of failure to comply with the Act.

Recent reforms to legislation in New South Wales has strengthened crime victim rights. It has increased agency accountability to the Charter, and expanded those responsible to it to include not only government agencies, but also non government agencies and private contractors (excluding medical practitioners and private lawyers) funded by the state to provide services to victims of crime.

Who is a victim of crime?

The NSW Victims Rights Act 1996 defines a victim of crime as a person who suffers harm as a direct result of an act committed or apparently committed, by another person in the course of a criminal offence.

A person suffers harm if, as a result of such an act:

- the person suffers actual physical bodily harm, mental illness or nervous shock, or
- the person’s property is deliberately taken, destroyed or damaged.

If the person dies as a result of the act concerned, a person's immediate family is also a victim of crime for the purposes of this Act.

This definition includes most criminal offences where there is a victim, and includes crimes such as robbery, car theft, sexual assault, assault and domestic violence and homicide.
The impact of crime

No-one chooses to be a victim of crime. Crime is an action of choice for which the offender holds responsibility.\(^2\) In 2010-2011, police recorded approximately 364,000 recorded criminal incidents in NSW. There were 87,029 recorded (or reported) victims of identified offences\(^3\) (this figure excludes at least 30% of people who do not report certain offences). These victims come from all walks of life and include children, men and women; they may be people who are indigenous, come from culturally and linguistically diverse communities, be elderly, gay or lesbian or have mental or intellectual disability.

There are a number of ways that people can be affected by crime. It can impact on their emotional, psychological and physical wellbeing, and their financial and/or social, employment status. Each person has their own reaction, depending upon their situation, but we know that becoming a victim of a crime will alter a person’s sense of security and increase their sense of vulnerability. Whilst most people overcome the impact of crime, their journey can be slow and can impact on relationships with their family, friends and community.

What do victims want? What do they need?

There has been extensive research conducted about victims’ needs, both within Australia and internationally which I will not discuss in any detail, in this report. However, I refer the reader to a very useful book “Rights for Victims of Crime” by Irvine Waller\(^4\), whom I had the privilege of meeting whilst travelling on my Churchill Fellowship. Waller summarises the research on victims’ needs and proposes system responses to them in this book.

There are common themes which emerge in research, which highlight the importance of upholding victims’ rights and ensuring that the obligations of service providers meet the needs of victims of crime. The results of my research, through the Churchill Fellowship were similar.

Consistently, I was told that victims of crime wanted (and needed):

- to be informed about their case, and
- how the criminal justice system was going to respond to their matter,
- to be heard and involved
- to feel safe from the accused/offender
- to be able to be prepared so they could make informed decisions about their lives.

The experience of crime can be traumatic and a victims’ reaction to it is unique and personal. Whilst the needs of someone whose experience is new will be different from someone who has experienced repeated victimisation, the need for information and safety does not change. It is in these areas that jurisdictions have given the greatest attention in attempting to apply victims’ rights.

The benefits of receiving information were demonstrated by Australian Institute of Criminology Research,\(^5\) which found that providing more information has positive benefits for victims of crime. Information about the court process, the role of the prosecution, explanations of legal requirements such as reasonable doubt, and the role the victim plays in the court, assisted victims of crime to make their own choices and to regain some control over their lives. Getting

\(^2\) Colorado Organisation of Victim Assistance Handbook
\(^3\) NSW Bureau of Crime Statistics and Research. Quarterly update. Assault, domestic violence related, assault non domestic violence related, robbery and steal from a person.
\(^5\) Cook B, David F & Grant A. “Victims needs, victims rights: policies and programs for victims of crime in Australia” Australian Research and Public Policy Series No 19. Australian Institute of Criminology, Canberra.1999
this information earlier and automatically, rather than finding out by accident, or at court, promoted recovery and rehabilitation.

A very real issue for victims of crime is seeking safety from the offender. Crime, and particularly personal violence crimes can shatter the sense of security and trust one has in others and in the community. Some victims experience on-going violence or threats of further violence by an offender/s. Knowing where a victim or their family lives and possibly having ongoing contact with the offender are issues faced by victims on a regular basis. Whilst being informed about court cases, bail conditions and about the status of an offenders custody or getting assistance with protection orders, does not always protect the victim, it does assist victims of crime to be prepared and make informed decisions about their lives.

Note:

The following observations were made in my first hand experiences that were gained by many interviews I had with policy makers and service providers as a result of the Winston Churchill Fellowship. From this research, common themes emerged which I believe support the successful implementation of victims' rights.

I have formatted this report describing these themes as I encountered them in each of the countries I visited. I have also summarised some of the challenges encountered by service providers and policy makers in successfully implementing victims rights.

My discussion does not extend to the issue of compensation or reparation. I acknowledge that these are critical aspects of supporting victims and that the right to apply for compensation is included in the Charter.

United States of America

The USA is a signatory to the UN Declaration and has incorporated these rights into Federal law. The first Victims of Crime legislation was enacted in 1984 and in October 2004, the Justice for all Act was signed, which established eight rights for victims of crime. The law requires that public officials involved in providing services to victims and witnesses, use their best efforts to notify them and advise them of their rights and ensure that they receive certain information and assistance.

Thirty-three states have incorporated victims rights into their State Constitutions and all fifty states have some form of legislation which gives rights to victims. The States are responsible for dealing with most crimes committed across the country. However, there is variation in how each state interprets the legislation and implements victims rights. There is an emphasis in the US on procedural rights for victims.

Strategies which support the implementation of Victims’ Rights

Colorado State.

I visited the state of Colorado, which is hailed as having a progressive system which is implementing victims rights successfully. It differs from other States in many ways, for example, how it administers federal funding and its decentralisation of allocation of victims compensation, as well as how it manages compliance with victims rights legislation.
The State of Colorado guarantees certain rights to victims of certain criminal acts. These acts are generally acts of personal violence. A key element of the Victims Rights Act in Colorado is the right of a victim to be informed, and to be present and heard during the criminal justice process. Critical stages of the criminal justice process are identified clearly and criminal justice agencies have clearly identified responsibilities to victims of crime at each stage of the process.

i) Roles and responsibilities

Victims' rights are defined in the Victims Rights Act and the Colorado State Constitution has been amended to include these rights. Service providers have a number of responsibilities, according to their roles, and are aware of the consequences of not complying with these responsibilities. Particular emphasis is in informing victims of their rights, and providing them with information about their case at each stage of the criminal justice process. Publications are readily available to the community and are given to victims of crime, clearly outlining their rights and entitlements.

A feature of the Colorado criminal justice system is the use of victim advocates (liaison officers who are paid or volunteers in some cases). Victim advocates work alongside Sheriffs and other law enforcement agencies, as well as in non profit organizations.

Of particular interest is the use of victim advocates, who work closely with law enforcement officers. Victim advocates assist the officers by providing crisis intervention, explaining processes, and keeping victims informed. Law enforcement officers told me of the value of this role. They assisted them in meeting their obligations under the Victims Rights Act, by offering victims’ stability and support and helped law enforcers perform their role as investigators.

ii) A culture of interagency collaboration

There is a strong emphasis on interagency collaboration in Colorado and a culture that believes that services to victims is a shared responsibility. Service providers’ skills are valued and procedures are established to ensure that victims are referred to them.

Many service providers spoke about the role of the Colorado Organization for Victim Assistance (COVA). This organisation is a state-wide, non profit organization which acts as a coalition group for the many non profit victim groups in Colorado. It provides support to service providers through training, advocacy and organises an Annual Conference and other stakeholder forums. Nancy Lewis, Executive Director of COVA emphasised the importance of collaboration, respect and relationship building with agencies in their work, and this stance was reflected in many other meetings I had with other service providers.

iii) Computer technology

A computer-based notification system which integrates data from Law Enforcement, Office of the Attorney General Office and Courts, as well as Department of Corrections and Probation Department, (if the victim requests it), ensures that victims of crime are provided with information about their case.

The use of computer technology ensures that agencies were able to fulfil their obligations of informing victims at critical stages of the criminal justice process. Allison Boyd, Manager of the Victim Witness Unit advised me that the unit sent out 45,000 notices to victims about their cases in 2011, through an automated computer system whereby the Courts transfer information into their data base daily and notices are then formatted and mailed.

Similarly, the Victim Information Notification System (VINE) is able to advise victims who have registered with it, certain information regarding convicted offenders in state prisons or the release of inmates in local jails prior to their case disposition.
iv) Management of complaints.

Colorado has a subcommittee of the Crime Victim Services Advisory Board, called the Victims Rights Act Sub-Committee, which was established in 1993. It is made up of seven members from the community, law enforcement and judiciary, nominated by the Director of Public Safety. The Committee's role is to review complaints about non-compliance with the Victims Rights Act and make findings and determinations in relation to these complaints.

The committee has transparent processes (for example they are open meetings), is non-adversarial, emphasizes co-operation and deals with complaints from a victims’ perspective. It does not focus on shaming or blaming, rather looks to system improvement. For example, the sub-committee can recommend that agencies develop policy or make procedural changes, or require that agencies participate in training about victims' rights, if a complaint is upheld.

Many service providers I spoke with valued this approach, and its broad representation of Committee membership, which gave its complaint management credibility due to the different perspectives committee representation offered. It was also widely considered that the formal process worked as a deterrent to non compliance by employees, as a manager of an agency was required to provide a formal response to the Committee to a complaint received.

In addition, the consequences for non-compliance often resulted in directions for the whole agency to receive training about victims’ rights. It was reported to me that this model has improved agency compliance and awareness of victims’ rights, which resulted in improving responses by service providers to victims of crime.

v) Funding is linked to compliance with the Victims Rights Act and training

The Office for Victims of Crime (OVC), through the US Office of Justice Programs, funds programmes and projects across the USA. Most agencies I spoke with had a substantial part of their funding granted through OVC. Agencies are required to demonstrate their compliance with the Victims Rights Act in order to receive funding, such as requiring staff to attend training about Victims Rights and victimization, and to demonstrate that the information provided to victims includes information on victims rights. They have to report on this performance to the OVC annually.

There are many non profit organizations in Colorado, funded by the Office for Victims Programs and staff and volunteers who worked for these organisations are required to attend compulsory training (for a total of 40 hours) about Victims Rights and responses to victims. Linking funding to
compliance with *Victims Rights Act* ensures that staff have an awareness of victims rights and issues relating to victimisation.

**vi) Communication with victims of crime.**

As previously noted, services provide information about victims rights at each stage of the criminal justice process. It was considered ok to provide the same information about rights and entitlements to victims of crime by different service providers, as this ensured that victims of crime understood their rights and gave them the opportunity to ask questions at different stages of their case and supported victims in accessing and asserting their rights.

Public Forums were held where victims of crime had the opportunity to learn more about their rights and the institutions which support them. I attended a quarterly meeting of VOICES⁶, sponsored by The Colorado Department of Corrections, Voices for Victims and COVA. Over 100 people attended this meeting where there were presentations given about the Parole Board and the processes involved in determining Parole, information about Correctional Facilities and a question and answer session, where victims could voice their concerns, and challenge officials. Whilst at times the forum became quite emotional, participants clearly appreciated the dialogue between themselves and officials.

![Denver Police station, where the VOICES meeting was held](image)

**vii) Strong training focus.**

Most agencies I spoke with talked about the requirement for staff to attend training about victims rights and victimisation. For example, Jefferson County Sheriff’s were required to attend biannual training, whilst other government and non profit agencies required staff to attend annual training. Volunteers are also used widely in victim services and all are required to attend a minimum number of hours of training.

The Colorado Organization for Victim Assistance (COVA), operates a training Academy, which specialises in providing training to service providers, including volunteers in locations across Colorado on victims issues. Training includes topics such as victim rights, ethics, cultural considerations, victim compensation, sexual abuse and domestic violence and values and boundary setting. Many agencies send their workers to this training, which leads to a greater understanding of victim issues and subsequent improvement in service provision.

In addition to the Academy, an Annual Conference is also facilitated by COVA. The three day Conference is well represented by a large number of agencies, who give presentations and workshops on a wide range of victim issues.

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⁶ Victims Organised in Correctional Exchange
The culture of continuing education and the sharing of knowledge and issues appears to enhance responses to victims and compliance with legislation by service providers.

viii) Victim participation in the court process.

That Judges must comply with the Victims Rights Act also supports the implementation of victims rights. For example, judges have a responsibility to ensure that victims are advised of court hearings and to ask if they are present, have had their cases discussed with the District Attorney, hear Victim Impact Statements and motions for restitution.

There is an ability for victims to be heard in court and to have a lawyer who operates as an independent legal counsel to protect their legal rights. I visited the Rocky Mountains Victim Law Centre, a funded and free service, which was able to represent crime victims in court cases. The Centre works to protect victims rights relating to confidentiality and privacy, defend sequestration orders for the right for victims to be present, discuss pleas bargains etc. The Centre also has a role in providing technical assistance for prosecutors and law enforcement officers.

Although there are only 14 clinics across the US, this model ensured that victims rights are made meaningful, and not subordinate to defendants’ rights. The experience of the centre with victims was that it increased their participation in the court process and improved victim confidence in the criminal justice system.

Challenges in implementing Victims Rights.

- For many people I spoke with, the most common challenge victims faced in asserting their rights was attitudinal. Victim blaming and stereotyping victims of crime by the community resulted in risking insensitive responses to them. Understandably, crime victims can be emotional and distressed and this dynamic can be challenging for service providers, who need support, education and supervision to respond appropriately to them. Colorado appears to work hard to respond to this challenge through training.

- Many law schools and social welfare institutions do not include training about victims rights and issues in their curriculum, so that training occurs in the field. In addition, a lack of education about the dynamics of abuse, and preconceived ideas about the causes of victimisation challenge compliance with victims’ rights.

- Many service providers, including lawyers and law enforcement officers are concerned that by upholding victims rights, the rights of the accused may be diminished. They can also be conflicted about their role, for example, law enforcement officers are trained to investigate a crime and catch the offender, not work with victims, which they can see as a distraction. Service providers spoke about ensuring that crime victims are informed and participate in the process, but not take over the criminal justice process. Whilst many gains have been made in Colorado, this remains a challenge.

- The volume of work faced by service providers in the criminal justice system and the reduced levels of funding to services means that services are stretched and they have difficulty in meeting the expectations of the community and their obligations to victims rights.
The Federal System.

As previously noted, the Presidents Taskforce on Victims of Crime held in 1982 (following the attempted assassination of President Reagan) made recommendations which led to significant reform of victims rights in the US, with the adoption of the Victims of Crime Act in 1984.

The Justice for all Act 2004 (Crime Victims Rights Act 2006 and Victims Rights and Restitution Act 2006) builds on this Act and modified some of the existing rights. It includes the right of victims to be reasonably heard at any public proceeding involving release, plea, or sentencing. The Act requires compliance of victims rights by Federal officers to Federal crimes.

Strategies which support the implementation of Victims’ Rights


The Federal legislation applies to Federal crimes, which include crimes such as human trafficking, bank robberies, counterfeiting, crime which occurs on federal property or on Indian territory and kidnapping. Federal legislation differs from many State Laws. It sets a high standard for victims rights and support and appears to have influenced the standard set in a number of States.

However, there is concern in the US about the disparity in the implementation of rights and treatment of crime victims in the various States across the country. Victim groups are advocating for an amendment to the Constitution to include victims’ rights in Federal law to ensure consistency in laws across the USA and to give victims the same constitutional rights as offenders.

ii) Roles and Responsibilities: supporting law enforcement officers and victims.

Federal employees are required to advise crime victims of their rights, and provide them information about their rights. The Attorney General Guidelines for Victim and Witness Assistance 2011 outlines the obligations and responsibilities of officers, and this includes mandatory training on victims’ rights and issues. This serves as a practical guide to inform staff about what the expected standards of services are required to be provided for victims for federal crimes.

The Federal Bureau of investigation (FBI) has a Victim Specialist team which works with FBI agents. Agents are mandated to identify victims and are required to refer them to these Specialists, who liaise and support them, while the crime is being investigated and taken to court. The role of the Victim Specialist is as valued as it is in the state system. Anne Darr, Victim Specialist with the Federal Bureau of Investigation (FBI) in Colorado, told me that she developed close relationships with victims, often victims of human trafficking, and linked them with services, gave practical assistance and informed them of ways of ensuring their safety.

Law enforcement agencies acknowledged that with greater support, victims are more able and willing to cooperate with their officers, (because they are given assistance which aids their recovery from the crime). In addition, as a result of this, community relationships with the FBI and their confidence in the criminal justice system is enhanced.

iii) Victims Rights Ombudsman

The Department of Justice appoints the Victims Rights Ombudsman to receive and investigate complaints relating to the provision or violation of crime victims rights. Consequences for breaching rights includes a requirement to provide for additional training regarding crime victims rights; and/or creating disciplinary sanctions for Department of Justice employees who

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"wilfully or wantonly" fail to meet their obligations to crime victims. The focus on complaint resolution is on the staff member, not remedial action for the victim.

The Complaints process requires completion of a Complaint form by the victim and will go through District US Attorney \textquotesingle Offices to deal with and, if unable to be resolved, the complaint will be filed with the Ombudsman based in Washington, who then assumes responsibility for the investigation.

iv) \textit{Victim Information Notification System (VINE)}

Where the matter is going to court, identified victims of crime are issued with log-in codes to access the VINE computer system. By logging onto their computer, they are able to see the progress of their case whenever they wish. This system makes information and notification to victims seamless and addresses their needs (and rights) by providing them with information about their matter. This data system also saves agencies' time in locating and contacting victims and gives the victim some control in finding information about their case.

v) \textit{Congressional Victims Rights Caucus}

The Caucus is a bipartisan group formed in 2006. Its mission is to elevate crime victim issues in Congress, and does this though bipartisan introduction of legislation, providing an ongoing dialog between Congress and National Victim Advocacy groups and developing public education initiatives to educate the public about crime victim issues.

I attended a meeting of the Caucus in Washington and found that participants appreciated the opportunity to meet fellow experts in the field and advocate about issues directly to US Congressmen.

The Caucus had been instrumental in the enactment of several pieces of legislation, such as the Adam Walsh Child Protection Act, and holds briefings on domestic violence, elder abuse and other victim issues. The Caucus holds a Congressional Victims Rights Awards Ceremony during National Crime Victims Week, which celebrates excellence in victim service provision, initiatives and advocacy. It has also helped to protect programs which were threatened to be axed by government.

The Caucus is an effective way to build resources in the field and develop an active collaborative network of people at the same time raising the profile of victims issues on the political arena without being partisan. The Caucus recognises that victim issues are of concern whatever the political persuasion.
vi) National Crime Victims Rights Week

Since 1982, there has been an Annual Crime Victims Week. The week aims to promote victims rights and services, as well as honouring crime victims and survivors. The week starts with a national ceremony in Washington and there are hundreds of ceremonies in communities across the US supported by the US Department of Justice. Each year has a theme and in 2012 the theme was *Extending the Vision: reaching every victim.*

I attended the Awards Ceremony which had awards for Public Awareness programs, Outstanding Victims Advocacy, Excellence and Innovation and Allied Professional Awards. The Week and Awards ceremony showcased innovative programs and awarded service providers, advocates and victims of crime. It is an effective strategy which attracts considerable media attention, acknowledging those who work in the field of victimology as well as educating the community and service providers about victims rights and victim issues.

**Challenges in implementing Victims Rights.**

- An ongoing challenge for the implementation of Federal victims rights is the lack of resources allocated to services. The global financial crisis and its impact on the US economy and decreasing revenue collected from offenders (who are required to pay a levy when they have charges laid against them and they go to court)) has seen limited increases in funding for victims programs in recent years. This has an impact on the ability to provide services to victims, and meet demand, as well as train service providers.

- Resistance to extending victims rights to the US Constitution are met by proponents who are fearful that offenders rights will be diminished if victims rights are strengthened. This appears to be an ongoing issue yet to be resolved.

- Having victims rights as part of a Statute rather than part of the Constitution means that States can apply the Statute in their own way. This means that there is inconsistency across the states of the US in the interpretation and implementation of victims rights across the US. Making amendments to the Constitution would require all states to meet the standards set under federal law.
England and Wales

There have been a number of reforms to the criminal justice system to improve the experience for victims and witnesses in England and Wales in the past 12 years. Amongst these reforms, was the Victims' Code of Practice[^1] which replaced the Victims Charter in April 2006. This Statutory Code was built on the commitments laid out in the Charter, and sets minimum standards of service that victims and their families can expect from the criminal justice system agencies. The Code is embedded in the Domestic Violence, Crime and Victims Act 2004. The Code applies to anyone who has made an allegation (or had an allegation made on their behalf) that they have been the direct victim of criminal conduct across the country.

I was particularly interested in learning about the application of the Code of Practice in the United Kingdom, because NSW has followed many of its guiding principles and practices. On my arrival to London, I discovered that a change of government had led to a review of the Code of Practice, and responses from the review were being evaluated and a report required for Parliament in June. The new UK government, wanted to build on the success of the Code and refine some of its elements, as many service providers and victim advocates considered that the Code was too process-driven and complex and the standards too difficult to implement and monitor and that it needed simplification and be more outcome driven.

The new government has made some significant decisions about the management of victims services. It announced that Police and Crime Commissioners would be responsible for commissioning all police and victims services as well as crime prevention programs needed in local areas. (Some specialist services would be commissioned nationally, including services which provide support for those bereaved by homicide, victims of trafficking and rape support centres). The Commissioners would be elected and elections for these positions are to be held in November of this year. The Government also merged the Office for Criminal Justice Reform into the Ministry of Justice, which is now responsible for the victims and witness portfolio. Additionally, at the time of my visit, the Ministry of Justice was working with other European Union countries on developing agreements describing the minimum rights for victims of crime based on the European directive.

Despite these proposed changes and considerable discussion about them, the Code remains current and my visit to the UK gave me a great opportunity to learn more about its implementation and the ramifications for both service providers and victims of crime. There are many similarities between Australia and the UK legal system, the Police and Courts and I was interested to speak with these and other organisations, which have implemented the Code and the Ministry of Justice who has oversight of it.

**Strategies which support the implementation of Victims' Rights**

1) The Code of Practice. Clarifying roles and responsibilities

Many service providers spoke positively about the Code of Practice. It is viewed as a working document, which clarifies what service providers roles are and is used as a reference point to describe their responsibilities. The Code describes what standards of service are expected by services in the criminal justice system and raised the awareness of victim issues. It largely defines timeframes for services to respond to victims at different points along the criminal justice journey. There are approximately 99 standards which service providers must meet.

The Code makes it clear who had responsibility for what at different stages of the criminal justice process, and service providers told me that this assisted them in understanding what was expected of them and the outcomes they were expected to deliver. It also assisted them in better understanding what to expect of other service providers and encouraged better

collaboration between agencies, which resulted in improved relationships. The Code works towards achieving consistency in providing services (and rights) to victims across England and Wales.

ii) Victims Commissioner

I was unable to speak with the Victims Commissioner, as the new government is considering its position about this role, following Louise Casey’s resignation in late 2011. However, I did speak with the Ministry of Justice and other agencies about this role. The Commissioner had wide and flexible advisory powers. The main functions of the Commissioner was to promote the interests of victims and witnesses, encourage good practice in their treatment and keep under review the operation of the statutory victims code. Her role was to report her findings to government, who then considered her recommendations.

A Commissioner provided the opportunity for the community to raise issues they had and she spent considerable time in dialogue with victims and witnesses.

iii) Criminal Justice Boards.

These Boards were established across the country in 2003. The Boards are comprised of executive level representatives from the criminal justice agencies including Police, Her Majesty’s Court Services, the Crown Prosecution service, Probation as well as victim stakeholders such as Victim Support/Witness service, Community Safety Managers, Council (which in the UK provides many social services), defence practitioners and Youth offending Managers.

The purpose of the Boards is to coordinate activity in the area and to share the responsibility for delivering criminal justice in their areas. The Board’s role is to monitor performance and programme management, promote best practice and act as a forum to resolve multi agency issues. The Boards are often structured so they have three working sub-committees who report to them, called Integrated Offender Management, Efficiency and Effectiveness, and Victims and Witnesses Committees.

The Boards had been established by the previous Labour government and were used as vehicles for rolling-out programs and sometimes granting money to services. The Boards reported to government on their progress by adopting reforms to the criminal justice system, including the Code of Practice. Now no longer required by the new Cameron government, many remain. They set their own agenda, as they are seen as valuable for improving performance, building collaborative relationships between agencies and assisting with rolling out new programs.

Working alongside these Boards are Local Criminal Justice Groups, who bring together local senior management to co-ordinate activity and share responsibility for criminal justice in their local areas. They do this by working to achieve performance targets, ensure compliance with protocols and facilitate the implementation of change programmes.

The common sense of purpose of the Board members was evident and I was fortunate to attend a meeting of the Thames Valley Criminal Justice Board, located near Oxford. The Board discussed their Performance in relation to data collected against the indicators which they identified as being useful, (these included indicators developed when reporting was required to the Office of Criminal Justice Reform) as well as other issues which arise.

The members of the Board spoke about having a common goal to achieve quality improvement and to develop a more professional criminal justice system in which ultimately the public would have greater confidence. Agencies could see that their performance was not exclusively their responsibility, but each had an impact on each other’s performance and work.
iv) **Monitored Performance standards.**

Whilst no longer required to report performance to the central government, the Criminal Justice Boards which I researched, retain some key performance measures used previously to monitor their performance and ensure that they are achieving their objectives.

These measures included data on the number of referrals by Witness Care Units, Witness attendance at court, wait times for court hearings, the number of Apprehended Violence Orders taken, the number of serious violence offences detected, numbers of cracked trials due to witness non attendance, as well as witness satisfaction. The Boards monitor performance on a regular basis and benchmark against other Criminal Justice Board results. Monitoring performance not only has relevance for the agencies’ core work, it also measures improved efficiency and addresses some victims rights and needs. Linked to the footnote below is the London Criminal Justice Partnership Performance Report, which is an example of the indicators discussed in the London boroughs.  

Positive outcomes were observed as a result of reforms to the criminal justice system. Measuring and monitoring performance showed progress and improvements in victim/witness satisfaction with the criminal justice system in England and Wales. For example, 84% of respondents to the WAVES survey in 2010 said that they were satisfied with their treatment compared with 60% in March 2007. It also found that 90% of victims in 2010 said that they would be willing to engage with the system again if another incident occurred.

v) **A culture which sees the victim as integral to the criminal justice system.**

The UK agencies I met with consistently told me that upholding victims rights not only addresses agency performance, it also supports the criminal justice process. For example, Commander Simon Foy of the Homicide and Serious Crime Squad, New Scotland Yard, expressed the view that victim care supports and assists the police investigation; Courts told me that meeting the requirements of the Code was integral to running the Courts efficiently and effectively.

There was a general consensus that meeting victims’ needs and providing professional customer services to victims led to the common goal for the community to have greater confidence in the criminal justice system. This culture recognises the role of the victim of crime within the criminal justice system, without infringing on the rights of the offender.

Many people talked about the support of victims and witnesses as a crime prevention strategy. By supporting people to report crime and bringing offenders to justice, more people are protected and more people are willing to report crime if their experience has been a satisfactory one.

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9 [http://www.londoncjp.gov.uk/Performance%20in%20your%20area/](http://www.londoncjp.gov.uk/Performance%20in%20your%20area/)
10 Witness and Victim Experience Survey (WAVES) 2010 and 2007
vi) What do Victims think?

For 10 years, the then Office for Criminal Justice Reform commissioned the WAVES survey, which has now been discontinued. The WAVES survey monitored victims and witnesses (over 17 years of age) about their experiences and satisfaction of the Criminal Justice System. Each quarter 25,000 people who were victims and witnesses of crimes where cases resulted in criminal charge, (apart from child victims and victims of sexual assault, domestic violence) were telephoned and asked about their experiences.

Data from the WAVES survey was used to drive forward improvements to victims and witnesses. Data was collected centrally and then made available to Criminal Justice Boards who used the data to assess and review.

The last survey was conducted July – September 2010 with the results published in February 2012. The WAVES survey was cancelled due to the key measures being stable over a period of time. These results were taken to the Criminal Justice Boards for review.

WAVES measured performance in various categories, including the provision of information to victims and witnesses, their treatment by criminal justice staff and the criminal justice system. People I spoke with talked about the usefulness of this survey to their work as a way of measuring the level of services they provided.

vii) Using information technology

The Police Force developed a computer Case Management system, which automatically transfers data to Victim Support, a nation wide charity which provides a first response to victims following a crime. The Service, which uses volunteers, as well as paid staff, contacts the victim to discuss their needs, offer emotional support and information.

Similarly, information technology has been used to transfer data to Witness Care Units, after charges are laid, to start the work in supporting victims and witnesses who have to go to court. At the completion of court proceedings, courts provide outcomes to the witness care units, which then convey the information to the victims.

Utilising computer technology and sharing data between agencies provides the opportunity to keep victims informed and supported through the criminal justice process.

Challenges in implementing Victims Rights.

- With cut backs to funding and reductions of 20-25% of the public service in England and Wales, and the United Kingdoms’ current weak economic condition, as well as the
demand on services, many agencies have had difficulty meeting expectations and the performance outcomes required of the Code.

- The code requires that services are provided to all victims of crime. There was a lot of discussion from people I interviewed about whether the code should target victims of certain offences. Some services have already prioritised which crime victims they will respond to - i.e. those with the most serious personal violence offences, such as domestic violence, assault, homicide etc. Concern was expressed by the former Commissioner for Victims’ Rights, Louise Casey, that 80% of the victims who accessed the Code did not want any information or support, whilst other victims did not get the assistance they needed. (This data excludes victims of serious personal violence and children)

However, there are also service providers who express concern that services should be prioritised based on need, not the crime type. For example, the needs of an elderly person who is a victim of robbery may not be identified if only responses under the code were for personal crime offences. Not responding to this person may have far reaching implications for them. Whilst the Code is valued, there was a lot of discussion about its usefulness in being applied to victims of all types of crimes. The current review of the code considers whether its obligations should be targeted to the most serious crimes, arguing that by doing this, it ensures that those who need it the most get support.

- Many people I interviewed told me that they thought that the code was not well communicated to service providers and the community. Training to service providers about the code was limited and there were no public awareness campaigns explaining the code. They were critical that many people were unaware of the code and the entitlements afforded to victims through it. In fact, many service providers I spoke to did not know about the code of practice. This impacted on the code’s successful implementation.

- There was criticism of the process to make a complaint if a victim of crime felt that the code had been breached. The process was considered too bureaucratic, and many people were unclear how to make a complaint, with 13 routes to complain before going to the Parliamentary Ombudsman. In its Consultation Paper, the Ministry of Justice noted that only 52 complaints had been made to the Ombudsman since the Code was introduced in 2006. Most people thought that this process was too complex and lacked transparency. They sought a complaints process where complaints could be managed in a more accessible and transparent way, with clearly articulated consequences for upholding complaints.

- The conflict between the need to investigate and catch the offender, or have an impartial court system, as well as meet the needs of the victim is an ongoing issue, particularly for some service providers. That agencies have different agendas and different focus means that considerable work continues to be done to address this conflict. Providing support to service providers to manage the needs of victims and rebalance the prevailing culture to include victims of crime will be an ongoing challenge.

Whilst the role of the Commissioner was seen as a step to bring closer to government the issues of victims, this role worked on principles and consultation. It is important to be clear about the role and functions of this position, and to ensure that it has concrete work with clear outcomes.

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12 Getting it Right for victims and witnesses. Ministry of Justice. UK. January 2012
International Context

To gain an International perspective on victims' rights I went to the United Nations and the International Criminal court.

I visited the United Nations, which, briefly, is an international organisation established in 1945. The Website\(^\text{13}\) describes the UN as having 4 main purposes:

- To keep peace throughout the world;
- To develop friendly relations among nations;
- To help nations work together to improve the lives of poor people, to conquer hunger, disease and illiteracy, and to encourage respect for each other’s rights and freedoms;
- To be a centre for harmonizing the actions of nations to achieve these goals.

The UN has 193 Member states and works on a wide range of issues, some of which include Security issues, Health, Environment, Human Rights, Economic Development. Despite its limitations, by seeking co-operation and agreement by Member states on issues much has been done to making the world a safer and better place.

I went on a tour of the United Nations headquarters, and learnt of the UN’s many achievements, including the reduction of nuclear weapons through the non-proliferation treaty, the reduction in the use of land mines, the Kyoto agreement and the many rescue efforts that the UN conducts.

Some achievements are hampered by the need for majority agreement on decisions from the Member States, lack of enforceable sanctions for decision made, limited resources, and the politics between countries. Despite these obstacles, it was encouraging to see what progress could be made on international issues and the important influence the UN has on programs and policy across the world.

The United Nations Office on Drugs and Crime (UNODC) is responsible for policy development and projects in relation to victims’ rights. I held a teleconference with Anna Giudice Saget from Vienna, who works for the Drug and Control and Crime Prevention Officer in the Justice Section of UNODC, to discuss best practice models in implementing victims rights from an United Nations perspective.

Outside the United Nations Building in New York

Strategies and challenges implementing Victims’ Rights

i) Guiding Principles and Practical Guidelines

The UN Declaration on the Basic Principles of Justice for Victims of Crime and Abuse of Power describes the guiding principles and standards of practice expected by Member States to victims

of crime. The Declaration is considered quite general, and being a Declaration, there is no obligation for Member States to uphold or report on its implementation. Despite this, the UNODC does have an implementation table, which is circulated to Member States, the last being in 2009, and a report is published on the results.\textsuperscript{14}

For a number of years there has been advocacy by organisations to strengthen the Declaration to a Convention, giving greater recognition to victims and a stronger requirement by Member States to adhere to them. At this stage, there is insufficient backing by Member States to progress towards a Convention.

A Handbook and a Policy Guide explaining how these standards should be achieved was produced in 1999. Acknowledged as needing updating, work is commencing to update the document. I was pleased to be invited to provide input into this document. The provision of guidelines of what is expected by Member States provides useful strategies to adopt and makes it clear how compliance could be achieved.

\hspace{1cm} ii) Coordinating services and advocacy

The challenges of dealing with multiple agencies, and multiple advocacy groups can lead to a lack of coordination and a disbursement of victim interests. Having a coordinated and National plan on victims rights and a national coordinating body is seen as an important strategy to ensure victims rights.

The UN works with victim issues in a number of different areas such as human trafficking, organised crime and prevention of terrorism, and child victims and witnesses. It was considered that there is a need for mapping and coordinating these different areas of activities, in order to have a unified approach which would achieve the best outcomes for victims.

\hspace{1cm} iii) Data Collection

Developing and strengthening the collection of data on crime victimisation is also considered essential. Data collection helps policy makers understand the emerging issues for victims, which can lead to increasing their protection, and to develop policy in response to crime victims.

The UNODC is also considering including in its next Crime Trends Survey\textsuperscript{15}, questions about victim satisfaction surveys developed by Member States. Ms Giudice Saget also talked about the possible development of a standard crime victims satisfaction survey to be used with all member states in its next survey.

\hspace{1cm} iv) Recognising that victims are integral to the criminal justice system

Ms Giudice Saget talked about the important place of victims of crime in the criminal justice system, saying that justice cannot proceed without victims being part of the process. She spoke about the rights for victims of crime being human rights and that these rights should be respected as they are human rights.

At the same time, the benefits of adhering to victim rights can also be linked to crime prevention and prevent re-victimization.

\textsuperscript{14} \url{www.unodc.org/documents/data-and-analysis}
The International Criminal Court.

Formed in 2002, the International Criminal Court (ICC) is a separate organ of the United Nations. It has 121 members, of which Australia is one, however USA, Russia and China are not members and do not contribute toward it.

The International Criminal Court (ICC) is an independent, permanent court that tries persons accused of the most serious crimes of international concern, namely genocide, crimes against humanity and war crimes.¹⁶

Matters can be referred by prosecutors or can be referred by Member states. It is considered a court of last resort and will only intervene where there is inaction by the State (if they are either unwilling or unable).

There have been 15 cases in seven situations bought before the Court involving the Member States of Uganda, the Democratic Republic of the Congo and the Central African Republic. While I was in the Hague, the first successful prosecution of the court was made, when Thomas Lubanga was found guilty of war crimes.

This court is unique on many levels and provides an example of best practice in adhering to victims rights. I visited this Court for a number of reasons. It is governed by the Rome Statute of the International Criminal Court which is considered the gold standard for victims and witnesses. Article 43.6 defines the responsibilities and outlines the establishment of the Victim Witness Unit, a unique unit because of its special role in assessing an supporting witnesses who give evidence in trials.

A unique aspect of the court is that there are statutory provisions in the Rome Statute which allow for the victims voice to be heard at all stages of proceedings. The assignment of legal counsel to a witness ensures that the victims rights are addressed and their viewpoints heard. Once accepted by the judge to participate, victims can present their views, usually through a lawyer. "in a manner which is not prejudicial or inconsistent with the rights of the accused and a fair and impartial trial."¹⁷

¹⁶ www.icc-cpi.int/Menus/ICC/Home
¹⁷ http://www.icc-cpi.int/Menus/ICC/Structure+of+the+Court/Victims/
A strategy which supports the implementation of Victims’ Rights at the ICC

a. The Victim Witness Unit.

This Unit was established for the sole purpose of the protection and support of victims and witnesses. The unit is a neutral service provider which provides services to both the Prosecution and Defence. Witnesses are not compelled to attend the ICC, and are selected to attend based on their willingness to travel to the Hague and give evidence and their psychological and physical health (which is assessed by the Unit prior to being involved in the trial).

The aim of the unit is to minimize the trauma of victims and witnesses, and staff use a number of strategies to achieve this:

• Working to ensure the victim’s safety. Due to the nature of the crimes before the court, it can be very dangerous for victims/witnesses to give evidence and be identified, as informants and perpetrators of their abuse may still be living in the community where the victim lives. The Unit has in place a number of strategies which work to protect victim/witnesses who attend the court. They can arrange safe locations and identify intermediaries where prosecutors can meet them to talk about the case and their evidence. They arrange alibis for people to explain their absence from the community when they travel to give evidence. They also have the capacity to support the victim if their situation is threatened by arranging to change locks or remove them from their situation etc.

• They conduct a vulnerability assessment with a victim/witness and determine their needs before giving their testimony. As previously discussed, victims/witness’ needs vary. For example a victim/witness may need a relative to support them, or they may need to get assistance with housing and required measures to be put in place to ensure their safety.

• The unit is able to recommend special measures to the judge to assist the victim/witness. For example, measures such as having no visual contact with the accused, removing robes worn by the court officers and officials, having a psychologist present when giving their testimony, closed sessions.

• They monitor the witness when they give evidence and can recommend to the judge if the witness needs a break. The spirit of support and respect for victims/witnesses emanates from the Judge to all those involved in the case.

• As the court is located in the Hague, logistics, such as transport and food which victims/witnesses are familiar with are arranged.

• Court orientation and familiarisation is conducted prior to giving evidence.

• Recreational activities are arranged whilst victims/witnesses stay in the Hague.

• Physical and psychological needs are also addressed through referrals for counselling and medical appointments.

• Training to ICC staff on the impact of trauma, cultural issues.

• They consult with prosecutors to assist them in better understanding the victim, to ensure that they minimise the trauma which they have already suffered.

b. Information provided to the Witness

Once a witness is identified, a lawyer is assigned to their case and regular communication about the progress of the matter is provided to the witness.
Best practice models of service delivery to victims of crime

The following are a few examples of services I visited which I think use best practice approaches implementing victims rights to victims of crime:

i) One-stop shops
A one stop shop is a service which co-locates a number of services under one roof. I visited three one-stop shops. I was impressed by their approach in dealing with a victim of a crime in a holistic way. Improved outcomes for victims are achieved by attending to their multiple needs and eliminating the need to tell their story over and over again, reducing duplication of services, working to provide a safe environment for victims. They can provide information which assists decision making and eliminating the cost and effort for victims travelling to different agencies.

Safe shores. Children’s Advocacy Centre, Washington, USA

This centre is one of 750 child focused centres in the US. These centres are set up to respond to children and adolescents who have been subjects of reports of child abuse and maltreatment. They have multi-disciplinary teams and are located in one facility. The team is comprised of law enforcement officers, child protection officers, prosecutors, victim advocates, medical providers and mental health professionals who work together to investigate, prosecute and treat child abuse.

The centre’s core services include forensic interviews of victims and witnesses, forensic medical examinations, victim advocacy and court support, trauma focused mental health services and community education and outreach.

Safe Shores was a bright, fresh and appealing place to go. It was located in an old school in a suburban part of Washington. What struck me was how the centre was so child focussed and child friendly. They had a kitchen and prepared food for the children when they came to the centre, if they needed it, they had child sized furniture, including toilets, therapy rooms where children could express themselves through sand play, art therapy, with games and toys.

Processes were child-focused too. If a child was to be interviewed by police and child protection authorities, they were shown the interview room, with a one way window, where they could be observed while being interviewed, and they were given the choice to be introduced to those people observing them.

Children who came to the Centre were given two sets of new clothes and pyjamas and a book of their choice, and those children going into State care were also given a teddy bear. There were rooms for teenagers, televisions and other entertainments available. The centre received assistance from local businesses and charity groups to provide the clothing and food.

Children and their families did not have to travel to the myriad of agencies responsible to them and have to deal with different environments and procedures. The agencies were located there! The service providers held weekly case management meetings to keep abreast of cases and this ensured that children were not subjected to misunderstandings, duplicated services and had a more seamless and efficient service delivery.

This is a great example of how victims’ rights can be implemented to meet the needs of the victim and also supported the criminal justice process. Children were treated respectfully and staff at the centre attended to their needs, ensuring their understanding and consent to do most things. They reduced the risk of secondary trauma that a child experiences by limiting their exposure to numerous people and reducing the need to retell their story.

There is a similar centre in Australia, called the George Jones Child Advocacy Centre in Armadale, which was established in Western Australia in 2011, and I think there is a lot to learn
from this type of service provision. NSW has highly urbanized environments where there would be sufficient numbers of people to justify the establishment of such a centre. I think that utilizing the generosity of the community to provide "the extras", is also a model Australia could use more of these.

Safe shores. Children’s Advocacy Centre, Washington, USA

The Haven Sexual Assault Referral Centre, London

Is one of 3 Sexual Assault Referral Centres (SARC’s) in London. SARCS are jointly funded by the Metropolitan Police Service, Home Office and London’s National Health Primary Care Trust. SARC’s aim to provide holistic service to survivors of sexual assault, by addressing their immediate and longer-term needs. They provide medical help and advice, counselling, practical and emotional help, collection of forensic evidence, and can hold informal discussions between police and victims. The centre is open 7 days per week, 24 hours per day. People can contact the Haven directly, or referred by police (its is mandatory for police to refer victims of sexual assault to SARC’s) or a third party.

The Haven was established 8 years ago. There are 42 (full and part-time) members of staff including specially trained doctors, nurses, a psychologist, counsellor and Independent Sexual Assault Advisors.

The Haven is a very small facility, with a calmness not found in a Emergency Department in a Hospital or in Police Stations where victims of sexual assault usually go in NSW. The Haven creates a comfortable atmosphere which is supportive and respectful of the victim’s dignity and privacy. They take a holistic approach to the victim and respect the victim’s right to make a decision and give consent throughout the process.

When someone comes to the Haven, they will speak with someone about their situation, and in some cases, will decide to have a forensic medical examination. The forensic results do not have to be released to the police, and will only be released with consent. If the client self-refers, they have the option to have the results stored there for 3 months, and to anonymously send the results for forensic testing. They can decide whether to proceed, if there is a match, or not to make a report to police at all. (50% of clients report the matter to police)

Independent Sexual Violence Advisors: There are two independent advocates at the Haven. One position helps anyone over 18 years of age who has mental health problems and has been a victim of sexual violence over the previous 12 months and the other advocate works with young people.

Their role is to provide independent advice and talk realistically about the police investigation and court processes, to case manage and advocate (especially important for young people and people with serious mental health problems) on the clients behalf, accompany the client to police meetings and provide emotional support at court.

At the Haven, the advisors organize informal police meetings with clients to discuss their case to assist in deciding whether they would make a report about their sexual assault. They will liaise
with police to aid their understanding of the client to help get the best from the client. The aim of their role is to improve outcomes for clients, to assist in improving their self esteem and to reduce re-victimisation for this very vulnerable group of clients, whether their case goes to court or not.

**Police:** Police have a secure desk at the Haven. Police who come to the Centre are specialized officers who come from specialized directorates. Being at the Haven means that the client doesn’t have to go to the police station immediately. The police role is client focused, and not investigative. They discuss their situation with the client and this assists the client how to proceed. Once a matter is formally reported to police, they keep the victim informed of the progress of the investigation. By doing this, they have also found that victims are more able to aid police investigations.

Commander Foy advised that Police recognize the complexity of sexual assault and value the SARC’s as they address the victims needs, even if cannot progress an investigation. He stated that the police acknowledge that victims want to be believed, to know that everything is being done that could be done and to know the outcome, and is satisfied that this service addresses these needs.

**New York City Family Justice Centre**

I visited the Queens centre, a walk-in centre designed for all victims of domestic violence and their children. Established 4 years ago, it is one of a small network of Centres in the US. It is based on the San Diego Family Justice Centre, established in 2002.

The Centre is managed by the New York City Mayors office, but is also funded by OVC, and a number of charities. The centre has a number of partners, including non-funded agencies, as well as police and the District Attorney’s office located there. The Centre services a diverse population of two million people and its focus is to ensure a safe and caring enviroment for its clients. Referrals are taken from across the community, including police, but people can also come to the centre, without an appointment or referral.

The service is free, and the benefits for victims of crime are that they can access a number of services at the same time.

The Centre feels safe and has a warm atmosphere. People have to go through strict security screening at the door and an initial intake assessment with a client specialist who helps to determine a person’s needs. Referrals will be made, only with the clients consent, however, confidentiality and consent is over-ridden where it is necessary to make mandatory child protection notifications, or where clients are at risk to themselves or the community. Case meetings are held with service providers only with the clients consent and access to different sections around the building is restricted to service providers to ensure confidentiality and privacy.

Police are located in the building and they reported to me that they have seen an increase in the number of domestic related orders and arrests, because of the Centre. The police located at the Centre liaise with the Borough police, and they do home visits, along with a Centre case worker, which both police and clients find helpful. The dynamic of domestic violence, being so fraught with conflicting emotions and practical realities and driven by the control and power of the perpetrator, means that the client benefits from the opportunity of receiving intervention from law enforcement and caseworkers, who attend to the variety of needs which the client may have.

In addition, the Centre also has a District Attorney’s Office, where prosecutors can discuss and prepare cases going through the criminal justice system. They also provide court support. Being located in the same Centre, clients benefit from not having to travel and feel they are in a safe place. The Centre also has lawyers who assist with civil cases ie immigration, child custody, divorce etc.
The Centre has a child care room, a kitchen where meals are prepared and it offers workshops such as teaching English, computer skills and other workplace skills as clients prepare to live independent of their perpetrator.

I was told by service providers that this service transformed services for victims of domestic violence. It was easier to refer clients to the service, particularly those who are unsafe and it aided interagency collaboration so that ultimately victims and their families felt safer and received more support than they would if these Centres did not exist.

New York Family Justice Centre

ii) Witness Care Units (England and Wales)

In England and Wales, victims and witnesses are initially identified by police. They do a short needs assessment when they have contact with them and they advise the victim about Victim Support and refer them with their consent. Victim Support is a National Charity which provides support and practical assistance to victims of crime.

If a charge is laid, Witness Care Units take on the role of supporting the victims and witnesses in most cases. The Units were rolled out in the United Kingdom in 2005. There are currently 80 located across the country, and are staffed by the crown prosecution service and police who work alongside each other with the aim to support people to get them to court. The No Witness No Justice framework set the units in place and with the code they became established. The aim of the units is to improve liaison with victims and witnesses and to provide greater information and support from the beginning to the end of the court case (particularly where a ‘not guilty’ plea is entered).

The Witness Care Unit’s role is to communicate with victims and witnesses, to liaise with them about court hearing dates and address any needs they have. The system is based on client needs and not on the type of charge laid.

Witness Care Officers conduct a detailed needs assessment, (which can take up to 40 minutes) with the victim/witness. Witness care staff will then signpost issues like safety concerns, court preparation and familiarisation, crime prevention issues, the need for counseling or the need for special measures. Units also have a role in liaising, consulting with the criminal justice agencies.
If police identify vulnerable and intimidated victims, they flag them on the system. The data is electronically transferred from the police to the units. This saves time and prevents double-keying by the Witness Care Unit. It also reduces the chance of people missing out on services they are entitled to.

The Code of Practice imposes strict time frames on Witness Care Units. Victims who are identified as vulnerable or intimidated are entitled to an enhanced service and therefore to be given information within one working day.

This initiative has resulted in greater participation in the court process (court attendance for witnesses/victims have improved since this scheme started) and victims improved satisfaction with the criminal justice process. With the introduction of the Witness Care Units alongside other initiatives to improve effective case management, court cases are now completed more quickly, with less need for adjournments etc.

iii) Witness Support Service for Her Majesty’s Court and Tribunal Services (England and Wales)

The Witness Service is funded by the UK charity, Victim Support. The service recognizes that most people don’t want to go to court and that they are unfamiliar with the environment and are scared of giving evidence because they feel unsafe. Services for witnesses in court are guided by The Witness Charter\(^\text{18}\) and the Prosecutors Pledge, which is applied to the Crown Prosecution Service\(^\text{19}\).

These services are based at courts (both Crown and Magistrate) across the country and are staffed by trained volunteers, who are managed by a paid manager. Their role is to provide practical information about court and emotional support to victims of most crimes, (other than sexual assault). They get referrals from the Witness Care Units, as well as from Police, Victim support and people also refer themselves.

This Service can provide pre-trial visits, can organize witness videolink with the courts and facilitate liaison with prosecutors and court staff. The service works closely with the Courts, who liaise with them to get the witness when they are called whilst they are at court.

Many Support Services provide a comfortable and safe room to wait, with TV, magazines and tea and coffee making facilities. In addition to these facilities, the unit also had a special lockable section for protected witnesses with direct access from the underground carpark and lifts. These witnesses could give evidence via videolink having their faces pixilated and voices distorted etc.

\(^\text{19}\) http://www.cps.gov.uk/publications/prosecution/prosecutor_pledge.html
iv) Her Majesty’s Courts and Tribunal Service. (England and Wales)

Court staff demonstrated a strong commitment to victims and witnesses of crime. They saw the value of the witness in being able to finalise cases. I was impressed by their collaboration with other agencies and level of customer service, which I experience when I went to visit the Central Criminal court (the Old Bailey).

In my meetings with them, they discussed the importance of providing a professional service to them and spoke about the relationship between providing a good service in the court setting and community confidence in the criminal justice system. Court staff also have obligations under the Code of Practice such as having benchmarks for waiting times witnesses should wait at court, timeframes to report the decision of the court to the Witness Care Unit, and providing a contact point for the public to access information about what is happening in their case.

Each court has a Witness Liaison Officer, a named individual in every court to act as a contact for victims and witnesses. They will answer questions, and can be involved in arrangements for the appropriate oath book, organising accommodation at court, seating in the public gallery for victims, or could be involved in organising videolinks (to almost any destination) with support from the Witness Support Service.

To support the Witness Liaison Officers and promote a change in culture in courts to refocus on victims and witnesses, Area Witness Champions were appointed across England and Wales. Their role is to support staff in improving services to victims and witnesses in courts. They circulate a quarterly newsletter that showcases best practice from the top performers and help to promote initiatives, such as the use of pagers which may be given to witnesses, so that they can leave the court and be paged when they are called to give evidence. Staff usually are given training about customer service annually and this includes training about victims within this context.

In relation to performance monitoring, twice a year, a two-week snapshot is taken of the time victims/witnesses have to wait at court. The results of the surveys are shared with the Area Witness Champions. Results of the WAVES survey also assisted Courts to monitor their performance.

v) Family Liaison Officers (England and Wales)

In England and Wales, Family Liaison Officers (FLO) are accredited and trained police officers, who are also investigating police officers. They perform a difficult, complex role, dealing with family members after a homicide.
In the Metropolitan Police Force, there are 300-400 of these positions. They are seen as vital to support the police and the victim and are integral part of the Homicide team. They work under a Senior Investigating Officer. The FLO liaises with victim about the investigation and they assist with identifying needs, such as the need for interpreters, safety issues etc, and they offer services to victims. They help to manage media and liaise with the family regarding the investigation.

They work closely with VictimSupport, which manages the National Homicide Service. This service provides specialised services for bereaved relatives of homicide victims. They provide case management and can read out the Victim Statement at court, if a victim wishes. A major part of their work is practical support, as victims are in shock and often need this practical support in helping with accessing bank accounts and getting their emergency needs met. Emotional support and counselling is also offered.

Police advise that by assisting the victim, this can help with their investigation and prosecution, as the liaison officer helps facilitate a dialogue between the victim and police and can deal with issues as they arise.

**vi) Special measures (England and Wales)**

In England and Wales, Special Measures help victims and witnesses identified as being vulnerable or intimidated give their best evidence. They are designed for people with learning problems, mental health issues, physical disabilities, communication difficulties and children. Special measures were introduced in 2004 and since then 5,300 people have been assisted to give evidence in trials. Due to their success, there has been an increase in the use of intermediaries with children as young as two years old, being able to give evidence in court.

The police will commission the services of an intermediary if it is appropriate at the investigation stage. If the prosecution wish to use an intermediary for the trial, then the prosecutor will need to make a special measures application to the court.

The Witness Intermediary Scheme is a program of specialists who are able to help with communication issues. The intermediary is usually someone who is self employed people with specialist skills in communication eg speech therapists etc. who can be called at investigation stage and through to the court process.

**vii) Voice UK.**

Voice UK is a National Charity, based in Derby. It is a small service which supports people with a disability who have experienced crime or abuse. Due to cuts to budget, at the time of writing, the service has been reduced to 2 full-time and 5 part-time staff and 20 volunteers who help out. Volunteers are integral to the service, which has limited funding. It is Grant funded by the National Lottery, Trusts etc. The main regions the service focuses on are Devon, Cornwall, Birmingham, greater Manchester.

It has 3 major areas of focus:
- A helpline which runs from 9-5pm weekdays and supports victims of crime and their supporters with specialist advice, information about the criminal justice system.
- Training to service providers about disability issues and training to people with disability about Keeping Safe, Abuse and bullying and disability hate crime. Voice UK does a lot of disability awareness training with agencies such as police.
- Advocacy, promoting policy change and raising issues relating to disability. It has been doing a lot of work about Hate Crime, which is a major crime for people with a disability.
Conclusions.

Application to New South Wales. Australia.

An important element of implementing victims’ rights is a culture, which acknowledges that victims are an integral part of the criminal justice system, and that they have a right to be included, acknowledged and respected. The benefits of complying with and supporting victims rights are not only for the benefit of the victim, but can also improve the efficiency and effectiveness of criminal justice and enhance community perception of and confidence in it.

Successful implementation requires that there are clear guidelines to describe how victims’ rights should be provided. Establishing minimum standards of service and outlining the responsibilities of service providers will make it clearer to the community what they can expect from them and assist service providers by making it clear to them their responsibilities.

The Charter of Victims of Rights applies to victims of all crimes in NSW. Whilst many rights in the Charter should apply to all victims, in developing practical guidelines and performance standards which service providers must comply with, it may be unsustainable to provide a universal response to all the rights to all crime victims. In an era of limited resources, it may be worthwhile for NSW to consider prioritizing victims of personal violence offences in receiving specific services when developing its minimum standards document.

Managing implementation of rights through a transparent complaints management process can be an effective strategy that supports complaint with victims rights and highlights system issues. The Victims Rights Act in NSW requires that Victims Services must “use its best endeavours to resolve the complaint”. Clearer and more transparent mechanisms to investigate complaints and respond to them using an interagency committee, may assist in achieving greater compliance. In addition the consequences of breaching Charter rights should also be expanded to encompass system change, using strategies such as training and developing policy and procedure.

New South Wales has developed sophisticated computer systems which record data reflecting the activity of help service providers. However, there are insufficient rigorous integrated systems between agencies which can provide service providers with information about cases along the criminal justice process. Whilst there are costs in establishing these systems, these costs may be outweighed by saving labour time for service providers in searching for information, and avoid duplication of services. It may also ensure that victims get the information that they need,

NSW should take the opportunity to investigate developing systems where victims of crime can access information about their case at critical stages of the process. This can assist them in making informed decisions, reducing their anxiety and increasing their willingness to continue to participate in the criminal justice process as well as assisting them in making arrangements for their safety. We have the ability to see where a parcel is located towards it destination for example at the post office, on a truck, out of the depot. If we can do this for parcels, then it must be possible for victims!

There is a need to train service providers about victimisation, and about strategies to respond to victims of crime and to allocate resources to support agencies to do this. Training and about victims issues, needs and victims rights is essential to enable victims to assert their rights and for service providers to respond appropriately to them. Training is an issue for all services, and, whilst in Colorado and in the Federal system in US there were gaps for those who receive training, there is an acknowledgement of the need to build training about victims rights and issues as a mandatory component of professional development.

Whilst NSW benefits from having distinguished State–wide training organisations such as the Education Centre against Violence, which focuses on victim issues, such as domestic violence and sexual assault there are currently limited requirements for service providers to attend
training, and no structured system of ensuring that service providers have had training on victims rights or issues relating to victimization and responding to victims or trauma related to other criminal offences. Ensuring that service providers have this training and identifying the appropriate organisation to conduct it, is an area which needs further work in New South Wales.

The countries I visited allocated resources which support service providers to uphold victims rights. For example, supporting police officers by employing support workers or using volunteers at the first point of contact with a victim or developing units which keep victims informed and assessing their needs, if their matter goes to court, has improved services to victims and contributed towards upholding victims’ rights.

Interagency collaboration is essential to support victims and to meet agency goals. New South Wales has a robust system for exchanging ideas with a number of victim advocacy groups, through the Victims Advisory Board and quarterly Victims of Crime Interagency Meetings. As in the countries I visited, NSW has many non-government and volunteer service providers, which share a similar direction but have different priorities and agendas. This can result in an inability to mobilize a unified voice for victims.Uniting these voices under one umbrella may be effective way to coordinate services and develop combined responses to policy and to advocacy on issues. The appointment of a Victims Commissioner could have a role in coalescing the views of victims and witnesses, as well as having a role in ensuring compliance with victims rights.

National leadership, which guides legislative reform and promotes victim issues and best practice in service provision, progresses the implementation of victims’ rights. This includes having a National Charter of Victims Rights, which embeds victims rights and responsibilities in Federal legislation, would support consistency in the implementation of rights across jurisdictions.

**Recommendations.**

1. That the Standing Committee of Attorneys General re-commence work on developing a National Charter of Victims Rights.

2. The NSW government continue to progress its work in developing practical guidelines, which describe the minimum standards of service provision required by agencies to uphold victims rights, and apply these standards to personal violence offences.

3. Develop performance measures, reportable to government, to track implementation of victims rights. For example, using victim satisfaction surveys, witness attendance at court, the number of aborted trials, victim participation at trial and wait times for court hearings.

4. Establish regional interagency Criminal Justice Committees, which discuss strategies to improve the performance and cooperation between criminal justice agencies.

5. Include training on victims rights and victimisation for police, lawyers, social welfare workers working with victims of crime, and promote and educate the community about victims rights, through such events as Victims Rights Week and Victims Rights awards.

6. Link funding to non government agencies and service providers funded by the State with an obligation to meet standards of compliance with victims’ rights.

7. Explore the development of integrated computer based systems, which can support service providers and victims.

8. Develop a formal and transparent complaint management system, which investigates alleged breaches of victims rights and supports systems change if a breach is upheld.
9. Explore the use of specialist victim workers, who would work to support the Police and Courts.

10. Explore the expansion of the one-stop shop model to respond to child, domestic violence and sexual assault victims of crime.
Charter of Victims Rights
Victims Rights Act 1996 (NSW)

1. Courtesy, compassion and respect
   A victim will be treated with courtesy, compassion, cultural sensitivity and respect for the victim’s rights and dignity.

2. Information about services and remedies
   A victim will be informed at the earliest practical opportunity, by relevant agencies and officials, of the services and remedies available to the victim.

3. Access to services
   A victim will have access where necessary to available welfare, health, counselling and legal assistance responsive to the victim’s needs.

4. Information about investigation of the crime
   A victim will, on request, be informed of the progress of the investigation of the crime, unless the disclosure might jeopardise the investigation. In that case, the victim will be informed accordingly.

5. Information about prosecution of accused
   (1) A victim will be informed in a timely manner of the following:
       (a) the charges laid against the accused or the reasons for not laying charges,
       (b) any decision of the prosecution to modify or not to proceed with charges laid against the accused, including any decision to accept a plea of guilty by the accused to a less serious charge in return for a full discharge with respect to the other charges,
       (c) the date and place of hearing of any charge laid against the accused,
       (d) the outcome of the criminal proceedings against the accused (including proceedings on appeal) and the sentence (if any) imposed.
   (2) A victim will be consulted before a decision referred to in paragraph (b) above is taken if the accused has been charged with a serious crime that involves sexual violence or that results in actual bodily harm or psychological or psychiatric harm to the victim, unless:
       (a) the victim has indicated that he or she does not wish to be so consulted, or
       (b) the whereabouts of the victim cannot be ascertained after reasonable inquiry.

6. Information about trial process and role as witness
   A victim who is a witness in the trial for the crime will be informed about the trial process and the role of the victim as a witness in the prosecution of the accused.

7. Protection from contact with accused
   A victim will be protected from unnecessary contact with the accused and defence witnesses during the course of court proceedings.

8. Protection of identity of victim
   A victim’s residential address and telephone number will not be disclosed unless a court otherwise directs.

9. Attendance at preliminary hearings
   A victim will be relieved from appearing at preliminary hearings or committal hearings unless the court otherwise directs.

10. Return of property of victim held by State
    If any property of a victim is held by the State for the purpose of investigation or evidence, the inconvenience to the victim will be minimised and the property returned promptly.

11. Protection from accused
    A victim’s need or perceived need for protection will be put before a bail authority by the prosecutor in any bail application by the accused.

12. Information about special bail conditions
    A victim will be informed about any special bail conditions imposed on the accused that are designed to protect the victim or the victim’s family.

13. Information about outcome of bail application
    A victim will be informed of the outcome of a bail application if the accused has been charged with sexual assault or other serious personal violence.

14. Victim impact statement
    A relevant victim will have access to information and assistance for the preparation of any victim impact statement authorised by law to ensure that the full effect of the crime on the victim is placed before the court.

15. Information about impending release, escape or eligibility for absence from custody
    A victim will, on request, be kept informed of the offender’s impending release or escape from custody, or of any change in security classification that results in the offender being eligible for unescorted absence from custody.

16. Submissions on parole and eligibility for absence from custody of serious offenders
    A victim will, on request, be provided with the opportunity to make submissions concerning the granting of parole to a serious offender or any change in security classification that would result in a serious offender being eligible for unescorted absence from custody.

17. Compensation for victims of personal violence
    A victim of a crime involving sexual or other serious personal violence is entitled to make a claim under a statutory scheme for victims compensation.

18. Information about complaint procedure where Charter is breached
    A victim may make a complaint about a breach of the Charter and will, on request, be provided with information on the procedure for making such a complaint.