



Victims Of Crime Assistance League Inc NSW

The Hon J Wood AO QC
Chairperson
New South Wales Sentencing Council
GPO Box 31
Sydney NSW 2001

26 July 2017

Dear Chairperson,

Re: Preliminary Submission – Victims’ Involvement in Sentencing

Victims of Crime Assistance League Inc. NSW (VOCAL) is writing in response to the NSW Sentencing Council’s invitation for preliminary submissions regarding the above review.

Who can make a Victim Impact Statement

The process of submitting a Victim Impact Statement (VIS) is an invaluable aspect of a victim’s recovery, as it is the only time during the legal process that the victim may express the level of trauma they have experienced. Often, the impact of crime is life-changing and ongoing, and the majority of VOCAL clients express the desire to have this placed on record before the court.

Where a victim of crime has died as a result of an offence, a family member is eligible to submit a VIS. Section 26 of the *Crimes (Sentencing Procedure) Act 1999* (the Act) defines a family member as:

“Member of the primary victim’s immediate family’ means:

- (a) the victim's spouse, or
- (b) the victim's de facto partner, or
- (b1) a person to whom the victim is engaged to be married, or
- (c) parent, grandparent, guardian or step-parent of the victim, or
- (d) a child, grandchild or step-child of the victim or some other child for whom the victim is the guardian, or
- (e) a brother, sister, half-brother, half-sister, step-brother or step-sister of the victim.”



We request that consideration be given to a broader range of family members in cases involving members of Indigenous and culturally and linguistically diverse (CALD) communities. Family structures within Indigenous and CALD communities differ significantly to those defined by the traditional Western nuclear family. In these groups, extended family ties can be equally as strong as those to immediate family members. Alternatively, in some instances, relatives other than those currently listed in the Act may be the only relatives available to provide a VIS, for example, where family resides overseas.

Furthermore, the number of VISs permitted in any one case is at present at the discretion of the Prosecutor. At times, VOCAL has seen great variation in the numbers allowed in homicide cases. For example, on occasion some families are instructed to submit one collective 'family' statement whereas other families are invited to submit a VIS from each family member. As this is an extremely important part of the healing process for families who have lost a family member to crime, VOCAL would welcome the delivery of more consistent information.

Local Court

VOCAL requests that clearer information be provided in the VIS Information Package as to the use of VISs in Local Court for matters. In the Hunter Region, the only time we are aware that VISs are accepted in the Local Court are in driving matters that have resulted in death. Our clients with matters in the Local Court have, on occasion, expressed their desire to submit a VIS. Clients make reference to text in the booklet which states, "A VIS may be received by the court in relation to an offence that involves actual or threatened violence," however on further consultation with Prosecution, their requests are denied.

VOCAL understands that this issue has implications for an already back-logged court system. However, broadly stating that VISs can be received and considered in certain cases involving actual or threatened violence in the Local Court is misleading for many victims of crime.

The level of support and assistance available to victims of crime

The NSW Government's VIS Information Package details the process of making a VIS. VOCAL regularly receives feedback from victims that they have received this information package via the DPP/WAS, however they find it to be "complicated", "intimidating" and "sterile".

We encourage the NSW Government and stakeholders to be mindful that the VIS is being prepared by a victim who is often still traumatised as a direct result of the crime they are required to write about. One family member of a deceased victim states, "*I received the information booklet and found the idea of writing a VIS very daunting and became apprehensive about submitting one. I struggled with piecing together my experiences and the impact the assault had on me.*"

Some trauma reactions can be felt for years after an event, and may have considerable impact on an individual's functioning. As such, it is extremely difficult for someone experiencing these physical, psychological, and behavioural traumatic reactions to prepare a VIS without support. Repeated feedback from VOCAL clients is that professional support is essential: "*The advantage of having a professional to speak to, to have an explanation of what a VIS is, how to begin writing it, and what not to include is something I would recommend to anyone unfortunate enough to have experience writing a VIS*".

VOCAL is regularly contacted by people throughout NSW for not only practical assistance in structuring the statement, but also emotional support in the attendant 'reliving' of trauma. The following sentiment from another victim of crime is indicative: *"The emotions are so raw...; having a guiding professional is incredibly helpful to document the pain and emotion in a way that is beneficial to the grieving process"*.

That support is individualized, rather than generic appears significant: *"VOCAL provided much more personal support than the appointed WAS officer was able to do."* This relates in part to the deeply personal nature of being a victim of crime: *"Taking the time to pen your deepest thoughts and feelings about the impact a criminal action has had on your health, wellbeing and mental health is incredibly personal. It's extremely difficult to actually document such intensely personal and private thoughts"*.

VOCAL recommends a slight re-structure of the VIS information booklet. We believe that agencies that can assist with writing a VIS may be better listed on the first rather than last page of the booklet. VOCAL would also recommend adding Victims Services Approved Counsellors to the list of support agencies that may be available to assist and offer guidance with the process.

We thank the NSW Sentencing Council for their consideration of VOCAL's feedback regarding the review of victims' involvement in sentencing

Yours sincerely,

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