



Aotearoa New Zealand Association of Social Workers Inc

Submission on the Ministry of Justice's Public Consultation Document – A focus on Victims of Crime: A Review of Victims' rights. (December 2009)

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The Aotearoa New Zealand Association of Social Workers (ANZASW) is the professional body for Social Workers in Aotearoa New Zealand. It was formed in 1964 and currently has approximately 4000 members. Its members work across the spectrum of social work workplaces.

The ANZASW operates under a bicultural model in accordance with Te Tiriti o Waitangi. Some components of this include: the Tangata Whenua Takawaenga o Aotearoa (Māori caucus), a parallel Niho Taniwha (kaupapa Māori model) competency assessment tool and process, and principles of partnership, participation and protection of rights woven into and throughout the organisational structure. Through this, ANZASW is unique amongst professional bodies in its ability to provide specialist support to Māori members.

Please find below the Aotearoa New Zealand Association of Social Workers comments on the public consultation – a Review of Victims' rights.

Establish a Victims' Services Centre in the Ministry of Justice (proposal 1)

The proposed creation of a Victims' Service Centre is a welcomed initiative. As identified, victims do indeed require a central source of reference to signpost them to appropriate services available to them, such as counseling and compensation. It is important to recognize that the victims of crime also include the offenders family/whanua who experience the negative impacts in relation to economic, health, education and social needs (Pillars, March 2010). It would be appropriate then that the Centre provide appropriate 'victim' information to support this group.

In its creation, the Centre's structure and organization must be simple and transparent, well coordinated and efficient.

The proposal states that that in coordinating the contracting of victims' services and support, the Centre could take a proactive role in identifying service gaps, identify different models of delivery required and ensuring effective delivery of services. In undertaking this role, it is paramount that evaluation of the effectiveness of such services ensure that the services are centred on 'building the resilience' of the victim, providing them with the behavioural and cognitive techniques to cope with the trauma they have experienced – effectively assisting them to move towards 'survivor' mode, particularly children (Van Heugten & Wilson (2008) & Graham-Bermann et al (2009)).

In terms of meeting a service gap, consideration must be given to providing appropriate advice to how victims may handle approaches from the media. Regularly, high profile criminal cases find the media seeking immediate comment from the victim/victim's family at the conclusion of a trial, at sentencing and subsequent occasions, such as prisoner release. In doing this, the media continues to perpetuate the victim status, whilst the victim themselves may be seeking to move forward.

Victim Impact Statements (proposals 13, 15 & 16)

The widening of the rights of victims to attend court, with support, is welcomed.

It is encouraging that there is recognition that the current guidelines for Victim Impact Statements do require review. Revised guidelines should be presented in a clear and simple format; allow the victim greater scope as what they can include – i.e. what the victim feels is important. One important issue to include within the victim impact statement is the impact on children and whanau.

It is important that the victim receives appropriate advice when completing the victim impact statement from trained personnel, therefore we support the provision of training in this area.

Restorative Justice proposals (proposals 10, 11 and 12)

Models of restorative justice, as an appropriate non-adversarial approach, contributing to helping victims feel empowered and for them to receive acknowledgement and recognition of the impact of the crime by the offender, are also developing internationally. The aim of the Ministry of Justice to promote the use of the restorative justice system locally is welcomed, but as the report highlights this may increase up-take and will require additional resourcing and appropriately trained facilitators. Importantly, it must be recognised that this process will not be applicable to all victims, therefore should not be automatically offered in all cases.

Research exists as to the question of whether restorative justice is appropriate to domestic violence cases. Examination of the limitations of the various restorative justice models and the considerations to be taken into account are examined (Martin (1996), Hooper and Busch (1996)). A primary consideration is to be the safety of the victim and that it is imperative to select appropriate cases if this avenue is to be pursued through such options. This is an area for further detailed consideration.

Victims of Children and Youth who offend (proposal 24)

It is agreed that victims' rights should be applied both to adults and youth and Children who offend.

However, as the Association has promoted recently in its submission to the Social Service Select Committee on children who offend (ANZASW 2010), that firstly, any approach dealing with youth and children that offend must ensure that they are age appropriate to the offender. And that approaches to dealing with a youth or a child requires multi-disciplinary/sector approaches rather than simply a judicial approach.

Further comment

Whilst the scope of this review focuses on the criminal justice system we welcome any feedback from you on proposals that would specifically assist victims of both domestic and sexual violence.

Historical offending

Consideration be given to creating a specific Police unit to investigate historic abuse cases. These are often complex cases – particularly where familial members offending

(direct or indirect) are part of the corollary, and personal and legal frameworks get played off against each other, effectively perverting the course of justice. Appropriately trained and experienced officers would help in overcoming these barriers.

Domestic violence

The feasibility of using restorative justice model for domestic violence cases is discussed above. Research findings indicate that there may be some instances where this is appropriate. However various considerations would need to be in place for it to be effective.

The need for greater collaboration between domestic violence and child protection services is required. Suggestions as to greater collaboration can be achieved is discussed by Potito et al (2009).

The effectiveness of the approaches/services used for dealing with domestic violence needs to be further researched and evaluated in terms of long term effects upon the individual and the wellbeing of family life. Alternatives to the traditional approach of individual counselling/therapies, are being established such as the use of relationship therapies. Evidence highlights (Brute and Connolly(2003)) such therapies are a precursor to family therapies, which in the long term may change children's beliefs and behaviors that have been set by previous exposure to domestic violence. However, there are limitations as to which cases that such would be applicable to.

Victim Reparation

Currently, if the reparation amount is significant and the reparation order stipulates a small amount being paid back weekly, the victim remains is out of pocket for a long time, which can cause hardships (and therefore re-victimisation). Consideration should be given to the issue of settling reparation orders to the victims immediately the order is made. This should be funded from a central public budget. The offender could then be pursued to refund that amount to the central fund.

References

ANZASW. Submission to the Inquiry in to the identification, rehabilitation and care and protection of child offenders. March 2010 - <http://www.anzasw.org.nz/resources.html>

Gorden, L . 'Invisible children – First year research report 'a study of the children of prisoners' , *Pillars Inc.* 2009

Graham-Bermann, SA et al. *Factors discriminating among profiles of resilience and psychopathology in children exposed to intimate partner violence.* Child Abuse & Neglect, Vol 33, 2009 pp 648-660

Hooper S, Bush R. Domestic violence and restorative justice initiatives: the risk of a new panacea. *Waikato Law Review*, Vol 4 1996 - University of Waikato - https://www.waikato.ac.nz/law/wlr/special_1996/4_hooperbusch.html

Martin P. Restorative Justice – A family violence perspective. *Social Policy Journal of New Zealand Te Puna Whakaaro.* Issue 06, July 1996 – <http://www.msd.govt.nz/about-msd-and-our-work/publications-resources/journals-and-magazines/social-policy-journal/spj06/06-family-violence.html>

Piotito A, Day A, Carson E & O'leary,P . 'Domestic Violence and child protection: partnerships and collaboration' . *Australian Social Work* Vol. 62, No. 3, September 2009, pp 369-387

Trute B & Connelly M. Couples therapy in conjugal violence – assessing safety and readiness for conjoint treatment. Chapter 7 of *innovative approaches to stopping family violence* (2003) McMasters and Well (eds). MHA. Lyttleton. <http://hma.co.nz/publications-and-resources/publications/stopping-family-violence.asp>

Van Heugten K, WilsonE. *Witnessing intimate partner violence: review of the literature on coping in young persons.* *Aotearoa Social Work Review* Vol 20, Number 3 September 2008