



**VICTIMS OF CRIME
RESEARCH SERIES**

**Summary Report
on Victim Impact
Statement
Focus Groups**

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Summary Report on Victim Impact Statement Focus Groups

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for Victims Issues



Research and
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The views expressed in this report are those of the authors and do not necessarily represent the views of the Department of Justice Canada.

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1.0 INTRODUCTION

This report describes the conduct and findings of six focus groups with crime victims who have completed Victim Impact Statements. This research was conducted on behalf of the Department of Justice Canada, Policy Centre for Victim Issues, as part of an ongoing examination of how Victim Impact Statements are meeting their intended purposes and how they might be improved in the future.

Victim Impact Statements are written accounts prepared by crime victims detailing the impact that a crime had on their lives. These effects, or impacts, may be any or all of physical, financial, emotional, or psychological. The Criminal Code broadly defines who a victim is for the purposes of a victim impact statement (e.g., in cases of homicide). Completed statements are presented to the court following conviction, but prior to sentencing. In effect, they enable crime victims to say, in their own words, how their lives were affected by the convicted criminal's acts.

In Canada, the federal Department of Justice began testing various models of Victim Impact Statements in the mid-1980s. This effort culminated in the proclamation in 1988 of legislation under which a Victim Impact Statement (VIS) could be considered by the court when determining sentence (under the current s.722 of the Criminal Code, the wording is "shall be considered"). In 1995, amendments were made to the Criminal Code which require the court to consider a victim impact statement where one has been submitted. The procedures related to the preparation and submission of these statements vary by province/territory.

In October 1998, the House of Commons Standing Committee on Justice and Human Rights tabled their 14th Report, *Victims' Rights – A Voice Not A Veto*. The Report followed from the Committee's comprehensive review of the victim's role in the criminal justice system which included Town Hall meetings, written and oral submissions and a national consultation. The Committee's Report included seventeen recommendations designed to improve the experience of the victim in the criminal justice system. The recommendations calling for amendments to the Criminal Code included several focusing on victim impact statements:

- that victims be permitted to read their impact statement aloud, either personally or by other means;
- that victim impact statements be provided to the offender/accused and Crown only after a determination of guilt; and
- that before sentencing, the judge be required to inquire whether the victim has been given the opportunity to prepare and submit a victim impact statement.

Criminal Code amendments designed to enhance the safety, security and privacy of victims and to enhance their participation in the criminal justice system were introduced by the Minister of Justice in April 1999 and were proclaimed into force on December 1, 1999.

The amendments responded to the Recommendations of the Standing Committee. The victim impact statement provisions of the Criminal Code were amended to:

- provide that the court **shall**, on the request of a victim, permit the victim to read their victim impact statement or to present it in any other manner that the court considers appropriate;
- clarify the definition of “victim” for the purpose of preparing a victim impact statement;
- clarify that the Clerk of the Court is required to provide a copy of the victim impact statement to the Crown and accused as soon as practicable after a finding of guilt;
- require that after a finding of guilt and before sentencing, the court shall inquire whether the victim(s) have been advised of the opportunity to prepare a statement;
- permit the court to adjourn the sentencing proceedings to permit the victim to prepare a victim impact statement;
- provide for victim impact statements to be considered at disposition hearings for persons found not criminally responsible on account of mental disorder; and
- clarify that information provided by the victim at s. 745.6 hearings (early review of parole eligibility) may be provided orally or in writing.

The Government’s Response to the Report of the Standing Committee, tabled in December 1998 outlines the federal strategy to address the concerns of victims of crime. In addition to the *Criminal Code* amendments, the federal strategy includes the establishment of the Policy Centre for Victim Issues to develop and coordinate federal victim related policy and legislation, to consult with victim advocates and service providers to ensure their perspective is considered in the development of policy and legislation, and to conduct research to determine the effectiveness of existing programs and legislation to address victim needs.

Against this backdrop, the Department of Justice is embarking on a program of research on issues related to victims’ experiences with the criminal justice system. The current requirement was for the conduct and reporting of six focus groups with victims who have had experience with the preparation of a Victim Impact Statement. The groups were conducted in two phases. The first three groups were held in Vancouver, Regina and Toronto in March of 2000. The second three groups were held in Halifax, Charlottetown and St. John’s in September of 2000. The aim of this exploratory research was to identify and understand victims’ issues and concerns with Victim Impact Statements. In the remainder of this introduction, we outline the approach followed to conduct these focus groups.

Preparing the moderator’s guide. In developing our proposal for this project, we conducted an Internet search for literature on Victim Impact Statements. This search identified a number of documents that were of assistance in drafting the moderator’s guide for the proposed groups. Based on these background materials, and consultations with officials in the Department of Justice working on victims’ issues, we prepared our draft moderator’s guide. Following a review of this draft by Justice officials and the receipt of comments from

provincial officials in B.C., Ontario and Saskatchewan, final revisions were made to the guide. A copy of this document is appended to this report.

Recruiting participants. We relied on the assistance of Provincial Victim Services in the six sites to identify willing participants for the groups. As a result, the groups were attended only by individuals chosen by the programs, and should not be assumed to be generally representative of all victims who complete VISs. This process was followed in order to address concerns about the use of confidential agency records to recruit participants. Brief profiles of the participants in the six groups are as follows:

- The Vancouver group was attended by five women and three men. All of the crimes of which these people were victims were violent and/or sexual in nature.
- The Regina group was attended by seven women. The participants were at different stages in the process of completing/submitting their Victim Impact Statements. Three had completed a statement but had not handed it in (for one reason or another). Four had completed and submitted a statement that had been considered by the court in sentencing.
- The Toronto group was attended by four women and one man (including one married couple). All had been victims of violent and/or sexual crimes, or the parents of victims of such crimes.
- The Charlottetown group was attended by eight women. Most had been victims of offences involving individuals with whom they had had an ongoing relationship.
- The St. John's group was attended by four women and one man. Most had been victims of a violent crime.
- The Halifax group was attended by two women and three men. All had been victims of serious, violent crimes, including two who were family members of individuals who had been killed.

More detailed profiles of the participants are provided in the individual group reports appended to this document.

Conducting the groups. All of the groups except the one held in Regina were conducted by the same male moderator. All groups were audio-recorded. A Justice official viewed all six groups, along with representatives of the provincial governments and/or local victim service agencies. Some of the groups were also observed by a qualified counsellor in case one or more of the participants became upset during the discussion. (No intervention by a counsellor was required during a group.)

Reporting the findings. Individual reports were prepared to summarize the findings for each group. The six individual group reports are appended to the end of this document. The following section of this report provides an overview of the general findings from the six groups.

2.0 SUMMARY OF FINDINGS

This section summarizes the findings of the six focus groups. It is organized according to the general issues raised in the moderator's guide.

2.1 How Participants First Became Aware of Victim Impact Statements

The great majority of the participants in the six focus groups first learned about Victim Impact Statements from the local Victim Assistance Program with which they had contact. Occasional mention was also made of the police, social service workers, Crown Prosecutors and women's shelters as sources of information about Victim Impact Statements.

2.2 Time Available to Complete Victim Impact Statements

The majority of the participants in the focus groups completed their Victim Impact Statements well in advance of the imposition of sentence in their cases. Some indicated having delayed submitting their statements on the advice of a Victim Services worker so that access to the statement by the Defence would be postponed until it was needed prior to sentencing. *(Editor's Note: This advice was offered because the victim impact statement is only for the purposes of sentencing and once submitted to the court or crown, the crown would be required to disclose the statement to the Defence immediately.)*

The only concern related to the time available to complete the Victim Impact Statements arose in the context of cases in which a guilty plea was unexpectedly entered either prior to, or during a trial. In these cases, some participants were given only a few hours by the court to prepare and submit their statements before sentence was rendered. In one case, sentencing was delayed for several days in order for the victim to complete a VIS.

Generally, participants indicated concern that any time pressure should be imposed on crime victims to complete their statements. They see any such pressure as particularly incongruous compared to the perceived latitude given to the accused to delay and postpone portions of the trial process.

Some participants stated that a more complete and comprehensive Victim Impact Statement is likely to result when victims are given ample time to thoroughly consider all of the impacts that the crime may have had on them, and to monitor their emotions and circumstances for such impacts as the trial proceeds. Participants suggested that if victims are informed of the possibility of completing a VIS at the outset (i.e., immediately following their victimization), then they have the opportunity to accumulate a more complete listing of the impacts as they experience them before submitting their statements.

2.3 Encouragement Provided to Complete Victim Impact Statements

Most participants reported that preparation of the Victim Impact Statement was presented to them as an option. Several, however, also reported being actively encouraged by their Victim Assistance workers to complete a statement. Participants in two groups noted the importance of encouraging victims whose poverty or poor literacy (or other demographic characteristics) might make them less inclined to complete a VIS without such support. Participants

suggested that the experience of preparing a Victim Impact Statement can be particularly empowering for those whose circumstances may tend to marginalize them.

2.4 Perceptions of what Victim Impact Statements are Supposed to do

The participants' perceptions of what Victim Impact Statements are supposed to accomplish were twofold. The first perceived goal was that the statements should allow victims to have a say in the sentencing process by presenting to the court how the crime has affected their lives. Some indicated that they see these statements as, in fact, the only means available to victims to tell their stories to the court. Without such statements, these participants suggested that the full effects of the crime on victims, as well as on their families, neighbours and acquaintances, will go unreported within the trial process. They believe that to some degree, the statements reduce the perceived anonymity of the victim in the trial process.

With respect to the second perceived aim of the victim impact statement, most victims indicated that they expected that their statements would have an effect on the sentence actually imposed in their cases. At the same time, they stated that they recognized that judges must take into account a number of factors in reaching their decisions on sentencing. Many of the participants said that in retrospect, they were skeptical that their statement had had any such effect.

Some participants reported a cathartic effect from preparing their statements. In having to thoroughly review and list the impacts of the crime, they felt that they were better able to put some issues behind them and get on with their lives.

Some participants also expressed the view that the statement enables victims to tell the perpetrator how the crime affected them (without fear of immediate retaliation). Not all participants saw this as a desirable outcome. Some thought that this would simply provide the offender with information that he could use in the future against the victim.

2.5 Clarity and Completeness of Information Provided to Victims about Completion and use of their Statements

Most participants reported having received generally adequate information about how to complete a Victim Impact Statement and the uses to which it would be put. Reference was often made to the forms used, and to pamphlets accompanying the forms, which described how a statement should be prepared. In some cases, these materials were received in the mail from Provincial Victim Services or the Crown Prosecutor. Participants in some groups suggested that these mailed materials could more adequately situate the VIS in the larger context of the trial process, i.e., identifying the various stages of the trial and where the VIS fits in this process.

Participants in the Toronto group reported that the form that they were given was difficult to use and did not allow enough space to say all they wanted to say. In one case, the victims said that their statement was "thrown out" because it was not presented on the prescribed form. Another victim said that she refused to use the printed form because she felt strongly about telling her story in her own words and in her own way.

Participants in the Regina group reported some lack of clarity in terms of where to send their statements once they had completed them. They also suggested that the police officers who

inform victims about VISs and assist in their completion could themselves be more knowledgeable and informative about these statements and their use.

In general, a strongly supportive role was described for Provincial Victim Services in assisting victims to draft and review their statements.

2.6 Information Which Participants Were Not Permitted to Include in Their Statements

The types of information which participants indicated they would have liked to include in their statements, but were generally not permitted to do so, included:

- reference to the offender's previous criminal record, or previous criminal behaviour for which charges were either not laid or not pursued (e.g., in cases of chronic spouse abuse);
- information on the case that might be regarded as evidence (e.g., statements made by the accused at a bail hearing);
- responses to statements made by the Defence during the trial which the victim regards as inaccurate and/or offensive; and,
- suggestions for specific conditions of sentence (e.g., participation in substance abuse treatment).

2.7 Privacy or Safety Concerns Related to Completing the Victim Impact Statements

Some participants in almost all groups expressed safety concerns arising from the Defence's and the accused's access to completed victim impact statements. The general nature of these concerns was that the accused's friends and family might be provoked to commit some kind of vengeful act towards the victim as a result of the statement. Related to this was a concern that the perpetrators might seek vengeance against the victims for their statements, either during the trial (if they were not in custody) or after they had completed their prison sentences, if any. Some participants recognized that access to their statement by Defence could be delayed if the statement was not submitted until shortly before sentencing was to take place.

Overall, not a great deal of concern was expressed by participants about the privacy aspects of the statements, although one participant asked whether or not the press had access to these statements once they had been submitted. Another participant said that she would prefer that her statement not be read out in court, because there are spectators in the room who have no connection to the case and the details of the statement are none of their business.

Finally, some participants noted that any privacy or (especially) safety-related impacts of completing a VIS would likely be modest in cases where the victim had already testified during the trial.

2.8 Knowledge of What Happens to Statements Once they are Completed

Participants in the groups in Vancouver, Regina and Toronto generally indicated that they were not aware specifically of what happened to their statements once they were completed. Participants in the three Atlantic groups generally indicated that they believed that once their statements had been submitted to victim services, they were retained by victim services until a guilty plea or verdict was entered, at which time the statements were provided to the judge.

With respect to participants' understanding of what happens to statements once the trial is concluded, some indicated that they believed that their statements would remain in the court file and could be re-used in the event of a breach of probation or at a parole hearing. Other participants indicated concern regarding the possibility that the information in their statement would become publicly accessible, which might be embarrassing or otherwise damaging to them in the future.

2.9 Changes Made to Victim Impact Statements Following Submission

With rare exceptions, participants in all six focus groups reported that no changes of any substance were made to their statements by anyone else once the statements had been submitted. Where such changes had been made (at the insistence of Defence counsel), the participants reacted very negatively to this since, in their view, no one knows better than they do what the impacts of the crime have been on them and their families.

2.10 Knowledge of Whether the Judge Received their Statements

With the exception of those participants who presented their statements orally in court, participant knowledge was mixed as to whether or not the judges in their cases had received their statements. Some participants who were in court during sentencing said that they saw their statements being physically handed to the judge. From the information provided by the participants, it appears as though only in rare instances did judges make explicit reference to having received a statement; one judge read the statement aloud in court. Some participants were unclear as to whether or not judges are required to actually read the statements that they had prepared at all.

2.11 Access by the Accused to Completed Victim Impact Statements

Not all participants were aware that the Defence and the accused would have access to a copy of their Victim Impact Statements once they had been submitted. Nevertheless, most participants indicated that they believed it to be proper that the Defence and accused have access to this information. Of those who did not know before they submitted their statements that this access would be granted, most reported that they would not have been deterred from completing their statements had they known this ahead of time.

Participants had differing opinions regarding the general idea of the accused having access to their statements. On the one hand, some participants wanted the accused to understand the extent of the impact of the crime on them ("so they would know"). On the other hand, other participants did not want the accused to know how they had been hurt because they felt that the accused would take some satisfaction from this knowledge.

Overall, participants indicated significant concern with the practice of allowing Defence counsel to challenge and criticize the content of a victim's statement in open court. Participants stated that in their view, no one knows better than they how the crime has affected them. At a minimum, participants suggested that they should have the opportunity in court to respond to any statements made by Defence counsel about the content of their VIS.

2.12 Being Questioned by Defence Counsel on the Contents of Victim Impact Statements

Very few participants in the six groups reported that they had been directly questioned by Defence counsel on the content of their statements. In these rare cases, the participants more often than not felt that they had ‘given better than they got’ in these exchanges.

Participants did raise concerns regarding situations in which Defence counsel was seen to have belittled the impacts of a crime on a victim as described in the victim’s victim impact statement. Participants indicated that they would have welcomed an opportunity to reply to the comments made by the Defence, but were not given an opportunity to do so. Some participants were indignant at this treatment of their statements. They could see no basis for Defence counsel contradicting their accounts of how the crime had affected them.

2.13 Reading Statements Aloud

For the most part, participants in all six focus groups were aware of the possibility of reading their statements aloud. Among those not aware of this option, there was generally strong support for it in principle. In part, this support was based on the view that some judges may not read these statements very carefully. Participants indicated their belief that if victim impact statements are delivered orally by the victim, then this perceived problem may be reduced.

Approximately half of the participants in the Toronto, Regina and Vancouver groups, whose trial had concluded, read their Victim Impact Statements aloud in court. Only two participants in these groups reported that they had wanted to read their statement aloud but were not permitted to do so. Of the participants in the Atlantic groups, fewer than half had presented their statements orally.

Among the reasons cited for not giving an oral statement were the following:

- it would have been too emotional for the victim;
- some who had served as witnesses in their trials did not want to repeat that experience with their statements; and,
- the restrictions on the contents of the statements reduced some participants’ interest in presenting them orally.

One participant who had wanted to be present to deliver his statement orally at sentencing was prevented from doing so when an unexpected guilty plea was entered. He explained that he had only found out after the fact that the guilty plea had been entered and that his statement had been used (as far as he knew).

The participants in all six groups strongly supported the view that all victims should be allowed to present their statements orally, if they so wished.

2.14 Reference to the VIS by the Judge

Explicit reference by the judge to Victim Impact Statements in sentencing was infrequently reported by participants in these groups. In the rare instances where this did happen, this acknowledgement by the judge of the contents of the statements was greatly appreciated by the victims. For many participants, preparing and presenting their statements was very stressful and emotionally-draining. Judicial recognition of this impact on victims was clearly appreciated. Participants indicated that they would encourage this practice. They suggested

that judges clearly acknowledge the effort which victims put into their statements, as well as the contents of their statements.

Some victims described this judicial acknowledgement as a form of validating the experiences and impacts described by them in their Victim Impact Statements. They seemed to take some satisfaction from this, even if they did not believe that the VIS had made any real difference in terms of the sentence imposed.

2.15 General Reactions to the Experience

For the most part, the participants in the Vancouver, Regina and Atlantic groups reported that they would go through the process of completing a Victim Impact Statement again, knowing what they know now. They were generally positive in their assessment of victim impact statements, despite frequent doubt that these statements had had any significant effect on the sentences imposed. Many ascribed a therapeutic value to the experience of completing a victim impact statement. Among the other benefits ascribed to the process of completing and submitting a statement were the following:

- it allowed them to vent their anger;
- it allowed the victim to confront the accused in a safe environment;
- it enabled them to include in their statements information which they were prevented from providing in their testimony;
- it allowed them to bring to the court's attention the total impact of the offence regardless of the specific charges; and,
- some offenders, as a result of hearing the Victim Impact Statement, may come to think more seriously about the harm they had done.

In contrast, the participants in the Toronto group reported that they would not prepare a statement in the future, knowing what they do now about both the process and its effectiveness. For them, the only test of effectiveness of the statements is their impact on sentencing. They also greatly resented the rough treatment they perceived themselves as having experienced at the hands of Defence counsel in response to the contents of their statements.

One source of particular frustration was the perception that “plea-bargained” sentences are agreed to without any reference to the impact of the crime on the victims as expressed in their statements. Some participants found it particularly frustrating that the sentences in their cases had been negotiated between the Crown and the Defence even before their statements had been prepared. In these instances, not only were the victims dissatisfied with the sentence given, but they felt that the process had abused their time and fragile emotional state, knowing that their statements would be given no weight in sentencing.

2.16 Other Comments

One participant in the Vancouver group whose trial was held in Ontario saw merit in a standard format for Victim Impact Statements which would ease their transferability from one province to another.

Some participants indicated their disdain for the use of the term “victim” within Victim Impact Statements, suggesting that a more appropriate name for the statement would be a “Crime Impact Statement.” In part, this reflects their reluctance to think of themselves as

victims. Others saw no shame in being referred to as victims. On a related point, participants in one group objected to the term “Victim Impact Statement” because, as they see it, the statement does not enable them to have an “impact” on sentencing or anything else to do with the trial. They did not recognize that the sense of the term as intended was that it would provide the opportunity to relay the impact of the crime on the victim.

Some participants were unclear as to whether or not their statement would be included in the official Court record and therefore accessible to anyone who wanted to read it. It was also unclear whether or not the Victim Impact Statement would be available to the Parole Board at the time of a parole hearing.

One participant noted that while the legislation pertaining to victim impact statements allows people to have a voice, everything else also has to be in place. The feeling was that if you are going to empower victims, then victims’ rights should be of central consideration: “VIS are powerful, but only if the system enforces what they have created.” One respondent indicated that sometimes it is as if no one cares but Victim Services.

One participant recommended that the accused should be required to stand up and face the victim as the statement is being read.

One victim reported feeling that the person giving the statement should not be required to stand in the witness box. Instead, victims should be made to feel more comfortable and at ease as they give their statements. This participant saw this formal requirement as less desirable than the anonymity given to the accused as he or she sits at their table with their lawyers.

Those who did go to court felt it was critical to have the support of Victim Services to provide assistance/guidance throughout the process and support on the day of sentencing. One participant noted that she would never have gone through the process had it not been for that type of support.

3.0 OVERVIEW AND RECOMMENDATIONS

The aim of the exploratory research conducted for this report was to identify and understand victims' issues and concerns with Victim Impact Statements. As summarized in the preceding section, the participants in these six focus groups were generally very positive in their views regarding most aspects of their experience with VISs. They typically:

- were provided with clear information about VISs by victim service programs;
- were given sufficient time, and any help needed to complete their statements;
- expressed few, if any, concerns about the privacy aspects of completing a VIS;
- reported that their statements were rarely modified by anyone else, once submitted;
- accepted the need for their statements to be provided to defence counsel and, by extension, to the accused;
- supported victims being offered the opportunity to present their statements orally; and,
- were effusive in their praise of the Provincial Victim Services they dealt with in preparing their statements.

Aspects of their experience with VISs with which the focus group participants were less satisfied were:

Restrictions on their latitude to suggest potential conditions of sentence in their Victim Impact Statements. Many participants wanted to include suggestions for specific conditions of sentence as part of their statements. Some were successful in doing so. For the most part, however, suggestions of this nature were not permitted. Some participants who wished to include these types of suggestions, but were prevented from doing so, acknowledged that the Prosecutor had reflected their wishes, to varying degrees, in his or her submissions prior to sentencing. In these circumstances, a more explicit role for the Prosecutor in making these suggestions might reduce victims' frustration with the restrictions they encountered in preparing their statements. On a related note, it may be that victims with some prior connection to the accused (e.g., ex-spouse) may have both a greater interest in specific conditions of sentence (e.g., anger management for reasons of their personal safety) and legitimate knowledge of factors which may contribute to the criminal behaviour of the accused.

Abrupt guilty pleas and early preparation of VIS. Some victims were advised to retain possession of their statements until immediately prior to sentencing. (*Editor's Note: This advice was offered because the victim impact statement is only for the purposes of sentencing and once submitted to the court or crown, the crown would be required to disclose the statement to the Defence immediately*). The downside to this strategy was that when a guilty plea is entered, and sentencing thus follows immediately, the victim has to scramble to submit a statement. In some circumstances, this may be difficult to accomplish. In some locations, it would appear that Provincial Victim Services are able to hold onto statements which have been given to them until sentencing (at which time the statements are also available to the defence).

Plea bargains. Some group participants reported considerable frustration with the court process when sentences were imposed which they perceived to have been negotiated prior to submission of their VISs. In these cases, they were confident that no account had been taken of their experiences as victims, and resented the system's seeming disregard for the effort which went into preparing their VISs.

Acknowledgement by judges of VISs. Given the uncertainty expressed by some participants as to what happens to their statements after they are submitted, it is particularly important to them that the judge, in some way, signal that their statement has been received and read. Some participants described such acknowledgement as 'validating' the effort and emotion which they put into their statements. Furthermore, it is seen as significant, even if the sentence imposed does not obviously reflect the contents of the statements.

Opportunities for victims to respond to comments and questions from defence counsel about their statements. Participants who presented their statements orally reported varying experiences in terms of the defence's response to their statements. Some reported that they "gave as good as they got." Others felt very aggrieved at the treatment given their statements by defence counsel. This was especially true for victims who were not permitted to reply to the defence's comments. They thought that defence should have no right to contradict their statements, because no one knows the effect of the crime better than they do. Some thought that once the accused had been found guilty, such legal manoeuvring should end. Or, at least, the victims should be permitted to respond orally to defence counsel's attacks on their statements.

The general findings from the focus group discussions reported here is that most victims are positive in their assessments of victim impact statements as vehicles for victims to be heard by the court. There was also the thought that victim impact statements may influence sentencing. In reviewing these findings, however, readers should recognize some limitations on their generality. These limitations reflect the following aspects of the way in which group participants were recruited:

- only individuals who actually completed a VIS were candidates for the groups;
- of those who completed statements, only those identified to us by Provincial Victim Services were asked to participate;
- of those asked to participate, not all could be reached or agreed to participate; and,
- of those who agreed to participate, not all attended a group.

In effect, the process to recruit participants excluded victims who:

- did not complete a VIS;
- completed a VIS, but were not willing to participate in a group;
- were willing, but could not attend for some reason; and,
- were not emotionally strong enough to participate.

Perhaps the most notable aspect of the group characteristics was the predominance of women, many of whom were victims of crimes committed by intimates and, to a lesser degree, parents of children either abused or killed by others.

In light of the potential selection bias noted above, the predominance of female victims, especially victims of family violence raises the question of whether or not women are

generally over-represented among victims who complete victim impact statements. Many factors might account for this finding including the possibilities that:

- women may be more likely than men to see some benefit in preparing a VIS;
- female victims of family violence may have a greater interest in the sentence imposed on their ex-spouse than would victims of crimes committed by strangers whom they may never see again; and,
- men may be less likely to want to expose their feelings about their experience as victims than are women.

As a first step in addressing these questions, it would be useful to examine data on the general profile of people who complete Victim Impact Statements in the context of what is known about the characteristics of crime victims more generally. Data profiling victims who complete victim impact statements would have to come from Provincial Victim Services responsible for providing information on VISs to victims, or perhaps more centrally from provincial Ministries of Justice/Attorneys-General. Data on the more general characteristics of crime victims could be acquired from existing or future victimization surveys.

Appendix A

Moderator's Guide for Victim Impact Statement Focus Groups

Introduction

Good evening and thank you for coming here tonight. My name is MODERATOR NAME. I am with a research firm in Ottawa called ARC Applied Research Consultants.

We are under contract to the federal Department of Justice to conduct three focus groups on Victim Impact Statements – one here, and the other two in XXX and XXX.

The purpose of these groups is to provide information to the Department of Justice on how Victim Impact Statements are working for victims. These groups are just the first step in the process of studying current practices, and considering how to improve them in the future.

We have asked you here tonight to discuss your experiences with, and opinions of Victim Impact Statements. We hope that you will feel comfortable talking to me and to each other about these experiences and opinions. The discussion will cover how well Victim Impact Statements work now and how they might be improved.

There are no right or wrong answers here. We welcome your opinions and encourage you to speak freely (but politely).

Before we ask you to briefly introduce yourselves, there are several things I will mention:

Please use first names only. Name tags have been provided for you. This is to protect your privacy.

You will see a one-way mirror behind me. Behind the mirror are representatives of the Department of Justice and XXXX. They can hear the discussion, but will not participate in it.

The discussion will be tape-recorded. This is so that I will not get writer's cramp trying to take notes as you talk. It is very important that only one person speak at a time. Otherwise, I will not be able to follow the discussion on the tape.

We will be providing you with a \$40 honorarium following the discussion.

Please help yourselves to the sandwiches etc. behind me.

Just to get started, let's go quickly around the table. Please tell us your first name and how long it has been since you prepared your Victim Impact Statement. If you wish to briefly say something about the crime of which you were a victim, please feel free to do so. However, the purpose of this group is to discuss Victim Impact Statements. So, if you prefer not to say anything about the crime, that is fine as well.

Topics for discussion

How did you first become aware that you could prepare and submit a VIS? Who told you about this? When did this happen? Was this early enough (to complete statement before sentencing)?

Were you actively encouraged to complete a VIS, or was it presented as more of an option available to you?

What is your understanding of what Victim Impact Statements are supposed to do?

What information were you given about Victim Impact Statements and their use? Was this information clear and complete? Did you have any unanswered questions about VIS at that time?

What problems if any did you have in completing your statement? Did you request anyone's assistance to fill it out? Was this assistance helpful?

Were you told of any restrictions on the types of information which could be included in a VIS?

Would there have been other information that you would have liked to include in your VIS?

Did you have any concerns (e.g., privacy, safety) about completing the VIS?

What happened with your VIS after you completed it? Were you kept up-to-date?

Were any parts of your VIS changed? If yes, by whom? Why did this happen? What was your reaction to this?

Do you know if a judge received your VIS? How do you know this?

Did the offender receive a copy of your completed VIS? Did you know that this would happen? If not, had you known, would you still have decided to complete a VIS?

Were you questioned by the Defence lawyer on your VIS? What were your reactions to this?

Did you know that a Defence lawyer might question you on your VIS? If not, had you known, would this have caused you to change your mind about completing a VIS?

Did you ask if you could read your VIS aloud? Were you permitted to do so? Had you had this opportunity, would you have taken it? Yes/no, why not?

Did the judge refer to your VIS in sentencing?

Would you go through the process of completing a VIS again knowing what you know now?

Did you get anything positive out of the experience?

Did you experience any frustration with the process?

What would have made the process better/easier for you?

Appendix B

Findings of Focus Group on Victim Impact Statements Held in Six Sites

VANCOUVER (MARCH 22, 2000)

Background

The first focus group conducted as part of this project for the Department of Justice took place on Wednesday March 22 in the downtown Vancouver facilities of Canadian Facts. Thirteen names of potential participants were provided to us by victim/witness service programs in the lower mainland. Of the thirteen names, four were members of one family. Only one member of this family was asked to join the group.

Eight of the individuals who expressed interest in the group actually agreed to participate and attended. Of these eight individuals, five were women and three were men. All of the crimes of which these people were victims were violent and/or sexual in nature. Two involved spousal violence, two involved historical child sexual abuse, and two involved sexual assaults. One participant was a member of a murder victim's family. The nature of the eighth participant's victimization was not known.

Questions Posed to the Group and Findings

How did you first become aware that you could prepare and submit a VIS? Was this early enough (to complete statement before sentencing)?

The majority of the focus group participants received information about the Victim Impact Statements from the Victim Assistance worker with whom they had contact. Others received their information in the mail, either from the Victims Assistance Program or from the Crown's office. Some of the mailed information was seen as incomplete and not adequately situating the Victim Impact Statement in the larger context of the trial process.

Adequate time was allowed to victims to complete their statements.

Were you actively encouraged to complete a VIS, or was it presented as more of an option available to you?

The participants were generally encouraged to prepare their statements by the Victim Assistance workers with whom they interacted.

Concern was expressed about accessibility of Victim Impact Statements to people on the margins of society, including those of limited literacy and those who are mistrusting of the police and courts. The experience of preparing a Victim Impact Statement is seen as particularly empowering for those whose circumstances may tend to marginalize them.

What is your understanding of what Victim Impact Statements are supposed to do?

Victim impact statements are to provide an opportunity for victims to have a say in the sentencing process. Without them, the effects of crimes on both the specific victims as well as their families and networks of neighbours and acquaintances go unrecognized within the trial process.

What information were you given about Victim Impact Statements and their use? Was this information clear and complete? Did you have any unanswered questions about VIS at that time?

Greater clarity on the Victim Impact Statement forms in terms of what they should cover would have been helpful to some participants. Others preferred an approach where the victim expresses themselves in their own words and according to the headings which they themselves saw as most important.

What problems if any did you have in completing your statement? Did you request anyone's assistance to fill it out? Was this assistance helpful?

Some who dealt with the Crown's office on their statements reported that the amount and quality of assistance provided varied according to the individual Crown with whom they were dealing. One participant, whose trial was held in Toronto (the location of the crime), reported receiving very positive support from the police in preparing her statement.

Some support was expressed for the notion of having a telephone information service, perhaps with an 800-number, which victims could call for assistance as they prepared their statements. It was recognized that this kind of assistance was often available from and provided by their local Victim Assistance programs.

The participant whose trial was held in Ontario saw merit in a national format for Victim Impact Statements which would ease their transferability from one province to another.

Were you told of any restrictions on the types of information which could be included in a VIS?

The only types of information which participants recognized as not being permissible in the statements referred to the offender's previous criminal record.

Participants believed that, if a victim wishes to prepare a statement that is vindictive in its content and tone, that should be their decision. They recognized, however, that this strategy might backfire in terms of how the statement is received and used by the Court in sentencing.

Would there have been other information that you would have liked to include in your VIS?

Participants mentioned information about the accused's prior criminal record, and the indirect impact of the crime on members of the victim's family (e.g., the emotional turmoil experienced by the spouse of a victim of historical sexual abuse) as types of information they would have liked to include in their statements.

Did you have any concerns (e.g., privacy, safety) about completing the VIS?

With respect to concerns about privacy and safety, some participants' main concern related to the access the offender had to their statement, and the potential for retaliation from the accused or his friends and family. One participant also reported that, after the trial, Social Services came to take custody of her children, presumably because of information in the Victim Impact Statement to which Social Services had access.

What happened with your VIS after you completed it? Were you kept up-to-date?

Participants were not aware of what happened to their statements after they handed them in.

Were any parts of your VIS changed? If yes, by whom? Why did this happen? What was your reaction to this?

None of the participants reported that their statement was changed by anyone else following their drafting of it. They did, however, report that it was valuable to them to have their statements read by other individuals, particularly their Victim Assistance Program workers, to achieve the right balance and tone.

Do you know if a judge received your VIS? How do you know this?

Some participants acknowledged that they did not know for sure whether or not the judge had read their statement. They were also unclear as to whether or not it was mandatory for the judge to read the statements that they had prepared. Some participants repeated the view that it was not mandatory for statements to be given to the judges.

Did the offender receive a copy of your completed VIS? Did you know that this would happen? If not, had you known, would you still have decided to complete a VIS?

Some participants did not know that the offender would have access to their statements. However, most believe it proper that the Defence and accused have access to the information in the statement. They do not, however, think that the Defence should be able to directly challenge them on the content of their statements. The offender should not have the right to question the victim on their feelings because the victim knows these feelings better than anyone else.

Some participants did not want the offender to know how the crime had affected their whole life.

Participants expressed concern that the offender would be able to review their statement prior to sentencing. Some perceived this as an opportunity for the offender to reinforce the harm they had inflicted on the victim. One participant thought that only the judge would have access to her statement. Even this victim, though, acknowledged that she would have completed her statement regardless of the offender's access to it. Other participants valued the fact that the offender would be reminded of the harm he had inflicted upon them. Some participants were also concerned that the information they provided in their statement might provoke the offender to retaliate when they completed their jail sentence.

Were you questioned by the Defence lawyer on your VIS? What were your reactions to this?

None of the participants were addressed directly by the Defence lawyer on the content of their statements. The only exception was one brief clarification of a point of fact. There were, however, some comments addressed to the Court but not directly to the victim, challenging some elements of the statements.

One participant reported that the Defence counsel had belittled the content of her statement. She found this to be extremely upsetting and inappropriate, given that the statement concerned the impacts of the crime on her family and did not address the characteristics or guilt of the accused. In this case, the participant believed that the statements given had a significant impact on the length of the sentence given. The comments of Defence were addressed to the court and not directly to the victim.

Did you know that a Defence lawyer might question you on your VIS? If not, would this have caused you to change your mind about completing a VIS?

Some participants were taken by surprise when they learned that Defence was entitled to challenge the content of the statements. Most would still have completed a VIS had they known beforehand.

Did you ask if you could read your VIS aloud? Were you permitted to do so? Had you had this opportunity, would you have taken it? Yes/no, why not?

Three of the eight group participants read their statements aloud in court. No participant who wanted to read their statement aloud was denied the opportunity to do so. Several participants strongly expressed the

view that it is essential that victims be allowed, if they wish, to present their statements orally. They did not think that this decision should be left to the judges

Did the judge refer to your VIS in sentencing?

Some victims regretted that there was no formal validation of the experiences and impacts they described in their statement from the Court or elsewhere. One described her statement as “simply falling into a black hole.” A simple acknowledgement that the statement had been received by someone in the system would have been appreciated.

Judicial acknowledgement of the effort and emotional cost to victims of preparing their statement would be appreciated by victims. The view is expressed that some judges may in fact not want to use or acknowledge Victim Impact Statements in sentencing.

Opinions varied strongly among participants in terms of whether or not they believed that their statement had an impact on sentencing. Some participants felt strongly supported by the judge when they read their statement aloud.

Would you go through the process of completing a VIS again knowing what you know now?

Knowing what they know now, the only thing the participants would do differently would be to provide more complete information on the impacts on themselves, their families, friends and other acquaintances. One participant especially appreciated the fact that the judge had quoted his statements in sentence without giving a specific citation for it.

Did you get anything positive out of the experience?

Some see the overall objectives of the statements as giving the victims a voice at sentencing. If it is not mandatory that the judges see the statements, then any value in the statements comes purely from their therapeutic aspect. Participants attached considerable value to the therapeutic worth of the statements, although the actual preparation and delivery of them was very emotional and difficult.

A valuable contribution of the opportunity to prepare a statement for victims who testified in their trials was the ability to include in their statements information which they were prevented from providing in their testimony. Where a guilty plea is entered suddenly, the presence of a Victim Impact Statement enables the victim's perspective to be presented even though they do not testify and they may not be present at that time.

The statement allowed some victims to bring to the court's attention the impacts of some specific charges which were bargained out of the final sentence.

Several victims brought their statements with them to the focus group. These were described as “important documents in their lives.”

The most important validation of these statements would come from the victim's belief that the punishment fit the crime. However, there are too many other factors which influence sentencing beyond the statement that must be acknowledged.

One participant had also found her Victim Impact Statement useful for the process of applying for criminal injuries compensation.

One participant expressed the view that some offenders may come to think more seriously about the harm they had done as a result of hearing the Victim Impact Statement. This may be particularly true for young offenders who might not otherwise think of their crime in this way.

Thinking back over their experience with Victim Impact Statements, some participants indicated that, were they to do it again, they would be more complete and detailed in their accounting of the impacts of

the crime on them and their families. Some participants reported that the process of completing the Victim Impact Statement prompted them to thoroughly review the effects on them of the crime and to identify impacts which they otherwise would not have.

Other Comments

Some participants resisted the use of the term “victim” within Victim Impact Statements, suggesting that a more appropriate name would be a Crime Impact Statement. In part this reflects their reluctance to think of themselves as victims. Others saw no shame in being referred to as victims.

Participants were unclear as to whether or not their statement would be included in the official Court record and therefore accessible to anyone who wanted to read it. It was also unclear whether or not the Victim Impact Statement would be available to the Parole Board at the time of a parole hearing.

REGINA (MARCH 23, 2000)

Background

The Regina Focus Group on Victim Impact Statements was conducted in the offices of CANWEST OPINION on March 23, 2000. A total of seven women participated in the focus group. The group was quite diverse. All were at different stages in the process of completing/submitting their Victim Impact Statements. Three had completed a statement but had not handed it in (for one reason or another). Four had completed and submitted a statement that had been considered by the court in sentencing.

Questions Posed to the Group and Findings

How did you first become aware that you could prepare and submit a VIS?

All but one participant had been informed of the VIS through Victim Services. One participant indicated having been informed about the VIS by the Police. This participant had written many statements throughout the year but never a VIS. She reported being woken by the police late at night and told she had to complete a VIS before the accused's next court date. She was obviously upset that she had not been informed of this possibility earlier. She indicated to the group that the police told her this was a new program.

Another respondent indicated that she had not had the chance to give her statement to the court and was unsure about what had happened to her statement. She reported that the court date had been set for March, but that it had been moved up to January. She was not informed of the change and therefore did not attend court.

The four participants who had submitted their statements did so either one or two weeks prior to sentencing or the day of the trial. Many reported their case had been ongoing for a year or more.

One respondent indicated that she first become aware of VIS through Victim Services, but had held off on completing her VIS because she wasn't sure how she felt at that time. She reported that the police had provided her with the VIS materials.

Some participants in the group felt that some time needs to pass before you complete a VIS in order to better assess how the crime has impacted on your life. Others suggested that perhaps it depends on the crime. For break-and-enters, for instance, it was felt that a VIS could be prepared shortly after the crime, but for the death of a child by a drunk driver (or other crimes of a more serious nature) some time needs to be allowed. Two participants indicated it might be best to allow victims the possibility of completing several VIS, "...because you go through different stages."

One respondent indicated people need to be advised of the possibility of completing a VIS right after the crime so that they can monitor what's happening in their lives and don't overlook impacts of the crime. If victims are given access to the form immediately after the crime, the time between then and their trial allows some time to think about the effects of the crime.

Were you actively encouraged to complete a VIS or was it presented as more of an option?

Respondents reported that the VIS was presented to them as more of an option; they were not actively encouraged to complete a VIS. One remarked that it was very much encouraged. Only one respondent indicated she was actively encouraged to complete and submit her VIS by the Police-but she understood that it was voluntary.

What is your understanding of what VIS are supposed to do?

Most participants understood the purpose of a VIS. They explained that a VIS is a statement that describes how the crime has affected your life. Several noted that there is a big difference between a statement of the facts of crime and the VIS. Several participants felt that VIS are important because they give the victim a voice—they are the only means available to victims to tell their stories to the court.

What information were you given about Victim Impact Statements and their use?

Participants had different understandings of where/when to send their statements, how these would be used, and what to include (or not) in their VIS. It would appear that the completeness of the information provided may vary depending on the source (e.g., Victims Services, the police or the Crown Attorney).

There was obvious confusion around the question of where to send the VIS. One participant who had not yet sent in her VIS indicated she thought her statement was to be sent to the RCMP and that only the prosecutor and the judge would see the document. Others reported VIS should be given to the court; some felt they should return it to Victim Services.

One participant reported she had been instructed to bring her statement to the Police. She explained that her statement never made it to court. It was left in the police files. The day of sentencing she asked her lawyer about the VIS, at which point she realized no one had received or read her statement. At her insistence, the judge called a recess so that they could locate her VIS and have it faxed to the court for consideration in sentencing. Before this, however, the judge asked her if she could “sum it up in a couple of words” and she said no. She would have wanted to read it aloud but was not given the opportunity to do so.

There were also some questions/discussion around whether the victim has the right to read the VIS in court. Some were obviously well informed, others less so (see discussion below).

What problems, if any, did you have in completing the VIS/Were you told of restrictions on type of information?

Participants reported no difficulties in completing their VIS; none requested assistance filling it out. All recognized that Victim Services would have provided the assistance had it been required. Most indicated assistance had been offered.

The one participant who had experience with both the police and Victim Services indicated that Victim Services was much better at explaining the use of the statements. She recommended that if the police are to be handing them out, then they should be more informative. Others agreed and mentioned there could be a better link to services that can provide assistance in this area.

One participant reported asking the Crown Attorney: “what exactly do you want in this, what kinds of things am I suppose to put in this, what is the purpose of it?” She was told not to recount the crime because this information was already available. He also suggested she not include anything that the Defence lawyer “could make a big deal out of too.” He explained that if the VIS is entered into the Crown’s files before the trial, then he is obligated to disclose this statement to the Defence: “and then they can pick (it) apart and are allowed to ask you questions also.” Another participant indicated she had received similar instructions from the Crown.

A few participants in the group reported receiving an outline from Victim Services. This, they felt, had been helpful: the information was clear and that there were no unanswered questions. One person mentioned that the outline recommended not to include anything about income.

Generally speaking, participants were very supportive of Victims Services and were pleased with the services they had received. One participant indicated she was glad that such a program exists, that there is

somebody to get in touch with the victim, and that you can vent your anger somewhere. Another commented she was happy to be living in town because these services are not available in the country.

One respondent questioned the accessibility of Victim Impact Statements to people whose literacy is poor. She mentioned that there was no indication on the form of the availability of assistance to complete the VIS, or reference to an organization that could provide that help. Others mentioned that this information is also not provided orally when victims are given the form.

Would there have been other information you would have liked to include?

Respondents had almost no response to this question. As indicated above, some had been advised by the Crown not to recount the crime, but to speak about how it had impacted on their lives.

Respondents commented that their statements were about three or four pages long. One participant indicated that she didn't think she would have said anything differently. Others around the table agreed.

Did you have concerns (e.g., privacy, security) about completing the VIS?

Several in the group were not in agreement with the Defence getting a copy of the VIS. One participant reported she experienced fear when she found out he would get a copy; she felt he could use the statement against her.

Generally, participants were unsure why the Defence should receive copies of VIS. Some remarked that as victims they are given very little information on the defendant's case. Most felt the Defence should not have the right to see their statements. One indicated that victims do have some choice in the matter in that they can submit their VIS at the last minute.

What happened with your VIS after you completed it? Were you kept up-to-date?

Only one participant indicated that she was unsure about what had happened to her VIS. The date of her trial had been changed, and no one had informed her of the new date. She could not say why this happened--all she knew was that the accused was now incarcerated and that she had not had the opportunity to read her statement in court.

Most were unaware of what happens to the statement after it is read in court. One participant informed the group that it is placed on file and that should there be a breach of probation, it may be considered again.

Were any parts of your VIS changed?

All participants responded "no" to this question.

Do you know if the judge received your VIS?

Of the four participants who had completed and submitted a VIS, only one person reported the judge never received her VIS (that the VIS had to be faxed to the judge the day of sentencing from the police station). All others reported their VIS had been read aloud in court the day of sentencing (by either themselves or Victim Services).

Were you questioned by the Defence/Did you know the Defence lawyer might question you?

Not all participants were aware that the Defence/offender would get a copy of the statement once it is handed in. About half of the participants indicated they knew; the others reported they had not been told. Many agreed this should be made clear to victims.

No one indicated being questioned by the Defence on their VIS. Although participants had strong objections to this, they indicated they would not have been deterred from completing their form had they known the offender would get a copy and/or that they could be questioned on their VIS.

In discussing this question, one respondent indicated that her understanding was that the VIS might also (once again) be considered at parole. Aside from one other participant, no one else knew of this possibility.

Reading the VIS aloud

Of the four participants who had submitted a VIS, two read their statements aloud in court. A third chose not to read her statement aloud (because of her emotional state) but a Victim Services person had read it on her behalf.

Only one respondent indicated she wanted to read her statement aloud, but was not permitted to do so. She indicated that the VIS was faxed over from the police station and read by the judge. She said that by then, the judge already had his mind made up as to what the sentence was going to be so it was “just a waste of time.” This respondent felt that her VIS had had little impact. The explanation provided by Victim Services for this error was that the program is new and the courts were not prepared, but that victims now have a right to read their statements in court.

In response to this, another participant indicated that she was told that she had a legal right to have her say, and that the choice of passing the statement to the judge or reading it herself was up to her.

Did the judge refer to your VIS in sentencing?

None of the participants indicated that the judge had referred to their VIS in sentencing. Opinions were mixed as to whether their VIS had had any impact on sentencing. Two felt that their VIS had made a difference. Two felt their statements had had little impact on sentencing.

Of those who reported an impact on sentencing, one participant (whose ex-husband had pleaded guilty and had plea-bargained his sentence prior the court date) indicated she had been asked by the prosecutor if she wanted to read the VIS or have it filed. She asked whether this would make a difference, and was told that a deal had already been “cut” but if she thought it would help her then to go ahead and do it. She did, and reported that the judge added extra conditions to the sentence as a result.

One respondent (who had not yet submitted her VIS) indicated she felt the idea of a VIS is wonderful. She just hoped that the judges and the lawyers will actually take it into consideration when sentencing.

Would you go through the process of completing a VIS again/Did you get anything positive out of the experience/Did you experience any frustrations?

All but one participant indicated they would go through the process again. This respondent (whose VIS was temporarily ‘lost’) indicated she had completely lost confidence in the system. She was obviously very frustrated by her experience and felt that her VIS had had little (if any) impact on sentencing. And, although she reported some benefits from writing it, she felt that the way it had been handled had taken way from anything positive she might have felt.

Most others, however, were quite positive about the process. Many agreed that it had served a therapeutic purpose. Several participants mentioned that it had allowed them to vent their anger. One participant reported it had allowed her to confront the accused in a safe environment.

What would have made the process better/easier for you?

One respondent mentioned the VIS was not enough; that she needed to meet with the offender face to face. Others in the group indicated this could be offered as an option to victims; that there is a need on the victims’ part to understand why this person did what he/she did.

Another in the group had lost faith in the police, the courts, 911, everything. This respondent felt completely wronged by the system: “....to top it all off you write a VIS and it gets filed and no one reads

it... you know what that made me feel like, not very good.” This respondent was so disillusioned she had nothing to say about what could have made the process easier.

One respondent noted that the legislation is in place to allow people to have a voice, but everything else also has to be in place. The feeling was that if you are going to empower victims then victims’ rights should be of central consideration: “VIS are powerful, but only if the system enforces what they have created.” Those who felt let down by the system (in general) agreed.

One respondent indicated that sometimes it is as if no one cares but Victim Services. The system has to work together to take a closer look at the victim. She recommended better integration of services.

A guarantee that the statement is going to be used was perceived as important, as well as being kept informed of new developments and exactly how the VIS is to be used (e.g., in sentencing or when a breach of probation occurs or at parole). One respondent indicated she would like to know whether the judges take the statements seriously (as seriously as the victims who write them).

Those who did go to court felt it was critical to have the support of Victim Services to provide assistance/guidance throughout the process and support on the day of sentencing. One participant noted she would never have gone through the process had it not been for that type of support. Another felt that these services should be more actively promoted in the community.

TORONTO (MARCH 28, 2000)

Background

The Toronto Victim Impact Statement Focus Group was conducted in the downtown offices of Canadian Facts on the 28th of March, 2000. Of the eleven potential participants whose names were provided to us by victim/witness assistance programs in the area, seven agreed to attend. Of these, five did, in fact, attend the group. Of these five, four were women. The sole man in the group was married to one of the women participants. All had been victims of violent and/or sexual crimes. One was the parent of a murder victim. One of the couple's children had been abused by another, older child. Only one of the participants had testified during their trial. All but one of the cases concluded in a guilty plea.

Questions Posed to the Group and Findings

How did you first become aware that you could prepare and submit a VIS?

All of the participants completed their Victim Impact Statements following a referral to the local Victim Assistance program. With one exception, the participants reported that they had a reasonable period of time in which to prepare their statement. The exception was the married couple who were given only two hours to prepare their statement. In this case, there was a two-hour adjournment prior to sentencing to allow for the preparation of the statement. In this case, the participants were particularly dissatisfied because they believed that a plea was negotiated between Defence and the Crown prior to their completing their statement. As a result, they have no confidence that any weight was given to their statement in sentencing.

The participants had difficulty understanding why there would be any time pressure imposed on them by the court to consider and complete their statements given the extent of the delays that are otherwise characteristic of the criminal trial process. This contributed to a general feeling on their part that the concerns and rights of the accused were given disproportionate weight in the trial process compared to their own.

Some participants were told by the Crown that it is best to delay completion and submission of the Victim Impact Statement until as late as possible in the trial process (*Editor's Note: This advice was offered because the victim impact statement is only for the purposes of sentencing and once submitted to the court or crown, the crown would be required to disclose the statement to the Defence immediately*). In one case where an abrupt guilty plea was entered, the victim's spouse was not able to prepare his own statement of the effect of the crime on him because he was at work that day and could not be brought to court in time.

Were you actively encouraged to complete a VIS, or was it presented as more of an option available to you?

For most participants, preparation of a statement was presented to them as an option. However, some were determined to complete the statement regardless, while one other had the statement presented to her as essential and she was encouraged strongly to complete it. This pressure came from the Victim Assistance Program with which the participant had contact.

What is your understanding of what Victim Impact Statements are supposed to do?

When the concept of Victim Impact Statements was first presented to the participants, they all believed that it would affect the sentence given in their cases. This belief was embedded in the larger context of confidence that the system would, in fact, achieve justice for them in their cases.

However, the strong feeling among the group was that the statements that they had prepared did not significantly affect the sentences given to the accused in their cases. The modest exception to this general finding is one participant who indicated that a couple of specific things that she requested in her statement were included in the sentence.

In terms of their understanding of the overall objectives of Victim Impact Statements, the participants did not identify any objectives for these statements beyond the impact anticipated on sentencing. No mention was made of any therapeutic value associated with statements or even the general concept of providing a means to present the victim's perspective in their own words.

One participant indicated that a goal of Victim Impact Statements is to ensure that the perpetrator hears from the victim what the effects of the crime were on the victim.

What information were you given about Victim Impact Statements and their use? Was this information clear and complete? Did you have any unanswered questions about VIS at that time?

General guidance on what should be included in a Victim Impact Statement was provided to the participants through the materials given to them by Victim Assistance programs. Their understanding was that no 'evidence' should be included, and that the statement should be limited to discussion of the impacts of the crime on the victim.

What problems if any did you have in completing your statement? Did you request anyone's assistance to fill it to fill it out? Was this assistance helpful?

Staff of the Victim Assistance programs were described as very helpful and supportive to participants as they completed their statements. Guidance was provided on what could and could not be included in the statements.

Those participants who used a form to prepare their statements reported it as difficult to use and cramped. In one case, the statement prepared by the victims was thrown out because it was not presented on the prescribed form. These victims added material because they found the space available on the form to be inadequate. In this particular case, the judge read the form and then told the victims that it could not be accepted. One participant indicated that, had she been given a form, she would not have used it. She strongly wished to tell the story in her own words and in her own way. The guidelines and form presented to some of the participants was characterized as telling them only what they couldn't include in their statement, without being helpful as to what they could include.

An important role was described for Victim Assistance Programs in helping victims to draft and review their statements.

Were you told of any restrictions on the types of information which could be included in a VIS?

The group's general understanding was that information which could be regarded as evidence was not permissible in Victim Impact Statements.

Would there have been other information that you would have liked to include in your VIS?

The type of material edited from one statement was intended to respond to comments made about the victim's family by the accused's lawyer during the trial. In this instance, the victim wanted to refute these statements in her Victim Impact Statement for the record. This material was deleted from the statement.

In another statement, reference was made to the need for the sibling of an assault victim to attend counselling, and to the reduced school performance of these individuals following the crime. These types of information were not permitted in their statements. The rationale for this deletion was that it could not be proved that there was a relationship between the crime and these behavioural changes on the part of the victims and their siblings.

Some material was deleted from another statement on the apparent grounds that it was simply objectionable to the accused and his lawyer. The participant could perceive no other rationale for these deletions beyond that.

Did you have any concerns (e.g., privacy, safety) about completing the VIS?

Some concern was expressed that the content of the Victim Impact Statement might provoke some kind of vengeful approach by the accused's friends and family to the victim and her family. This risk was of particular concern to one participant whose assaultive spouse was in and out of custody prior to and during the trial period.

What happened with your VIS after you completed it? Were you kept up-to-date?

Participants did not know what happened to their statements once they were completed.

Were any parts of your VIS changed? If yes, by whom? Why did this happen? What was your reaction to this?

As noted above, one statement was edited at the request of the Defence lawyer on the grounds that the content would be offensive to his client. The participants found this offensive to themselves.

Do you know if a judge received your VIS? How do you know this?

Of all the participants, one gave her statement orally, the couple had their statement rejected because it was not on the approved form, and two were submitted in writing.

Did the offender receive a copy of your completed VIS Did you know that this would happen? If not, had you known, would you still have decided to complete a VIS?

Most participants indicated that they were aware that Defence would have access to their statement.

Were you questioned by the Defence lawyer on your VIS? What were your reactions to this?

The participants did not know that the content of their statements could be challenged in the courtroom by the accused and his lawyer.

Did you know that a Defence lawyer might question you on your VIS? If not, would this have caused you to change your mind about completing a VIS?

The participants found it quite offensive that the Defence lawyers are able to challenge and contradict in the courtroom the statements they have prepared, when they are unable to respond to these comments and criticisms themselves. This was particularly troublesome in relation to the content of the statement regarding the victims' feelings about their experiences as victims.

Some participants were uncomfortable with the idea that if Defence were to be prevented from challenging and criticizing the content of the statements they had prepared, then they would themselves be limited in their statements to content which referred to them. Rather, they held to the notion that they should be allowed to refute claims made by the Defence in the course of the trial about the victim and the circumstances of the crime. One of the purposes of this content would be to communicate to the accused that statements made by the Defence that the victims regarded as misleading or untruthful were not to go unchallenged by the victims.

The participants were troubled by the fact that during the course of the trial, they were obligated to sit quietly and listen to statements from the Defence which they regard as untruthful. Yet, when their turn came to present their view of the impacts of the crime, these statements were subject to challenge by the Defence, and they were not allowed to respond to these challenges. The participants perceive a stark

imbalance between the ability to defend themselves that the trial process affords accused persons, and the severe limitations placed on the victim's ability to express, in their own words and without challenge, the affects of the crime on them and their families.

Did you ask if you could read your VIS aloud? Were you permitted to do so? Had you had this opportunity, would you have taken it? Yes/no, why not?

One participant was denied the opportunity to read her statement aloud. The Crown read portions of it in her place.

Did the judge refer to your VIS in sentencing?

One participant greatly appreciated the fact that the judge explicitly acknowledged the content of her statement when handing down his sentence. The participants generally expressed the view that the justice system is still tilted strongly towards the accused rather than the victims. Their opportunity to prepare and submit a Victim Impact Statement did not change this perception. In fact, it may have aggravated it, since the victims have no confidence that any account was taken of their statements by the court.

Would you go through the process of completing a VIS again knowing what you know now?

Given their view that the statements they prepared had no affect on sentencing, none of the participants in this group would prepare a statement in the future, knowing what they do now about the process and its effectiveness. A minority of participants indicated having obtained any benefit from completing their statements, limited to those who were able to make an oral presentation of their statement in court. Some participants believed that lawyers do not support the use of the Victim Impact Statements, simply because they slow down the process.

Participants recognize that they don't really know what the appropriate sentence should be in an individual case. As a result, it is not obvious how they would assess whether or not their statement had an impact on the length of the sentence given. However, where they believe that the sentence was negotiated earlier between the Crown and the Defence, it is clear to them that the statement had no opportunity to have an impact. They would, however, appreciate some explicit recognition by the judge that the statement had been read. For the participants, the only test of effectiveness of the Victim Impact Statements is their effect on sentencing. The participants regard the perceived reliance on precedent in terms of sentence length as so accepted and powerful that little room is left for Victim Impact Statements to be taken into account in sentencing.

Did you get anything positive out of the experience?

The parent whose son was murdered reported that the only positive thing about the VIS process was the chance it provided her to "speak" for him at the trial and remind the court that he was more than just another file.

Did you experience any frustration with the process?

In the case of a murder trial, the participant's perception was that the justice system perceived that nothing could be done for the victim of the crime since he was dead. The participant's view was that the trial was conducted in a legalistic, dispassionate manner where the only issue at stake was the fact that the state's laws had been violated. She perceived little concern in the process for the impact on the victim or on the victim's family as expressed in her statement.

In the case of the participants whose statement was not admitted because it was on the wrong form, this was a decision of the Crown, not the judge. The opportunity to present a Victim Impact Statement was described by this couple as "the one thing that the system allowed them to do to participate in the trial," and even this was denied them because they had not used the proper form.

Some participants expressed concern that the sentences were largely predetermined through negotiation between Crown and Defence even before their Victim Impact Statements were prepared. The participants believed that no consideration should be given to sentencing until the Victim Impact Statements have been read.

The strongest conclusion reached at the end of the group is that either the Defence should not be able to criticize and attack the statement or, at a minimum, the victim should be able to respond to these attacks at the time. Some members of one participant's family declined to submit Victim Impact Statements which they had already completed when they learned that Defence would have access to them.

What would have made the process better/easier for you?

The group concluded that no consideration should be given to sentencing until the statement has been prepared, submitted and read. This includes cases in which plea negotiations between Crown and Defence occur.

The group also strongly supports the right of victims to give their statements orally, so everyone in the court can hear them speak in their own words, including the accused.

Other Comments

The participants in this group objected to the term "Victim Impact Statement" because, as they see it, the statement does not enable them to have an "impact" on sentencing or anything else to do with the trial. They did not recognize that the sense of the term as intended was that it would discuss the impact of the crime on the victim.

ST. JOHN'S, NEWFOUNDLAND (SEPTEMBER 18, 2000)

Background

This focus group conducted by ARC Applied Research Consultants for the Department of Justice Canada took place on Monday September 18 in the downtown St. John's facilities of Market Insights Inc. Seven names of potential participants were provided to us by victim service programs in the area. Of these seven individuals, five attended the group. The background characteristics of the participants relevant to the topic of the discussion were as follows:

- a female victim of stalking who had completed her victim impact statement the previous year;
- a male who had completed his victim impact statement about six months prior to the group. He was a victim of a crime which had occurred in his workplace. It was described as a minor assault;
- a female whose most recent victim impact statement had been filled out about three months prior to the group. She had filled out other victim impact statements prior to that time. She declined to identify the nature of the crime of which she was a victim;
- a female who had been a victim of a violent assault by her ex-spouse; and,
- a female who had just completed her victim impact statement approximately three months prior to the focus group. This participant declined to identify the nature of the crime of which she was a victim.

Questions Posed to the Group and Findings

How did you first become aware that you could prepare and submit a VIS? Was this early enough (to complete statement before sentencing)?

One participant had been generally aware of victim impact statements going back seven years. She had a long history of harassment or stalking from that period of time to the present. Another participant had received a call from victim services shortly after the crime and was asked if he wanted to submit a VIS. He subsequently did so by fax. All of the other participants were also contacted by victim services who met with them personally to provide information on victim impact statements and help in their completion.

Some of the participants were contacted by victim services shortly after the crime. Others were contacted as the trial date approached. None of the participants reported feeling that they were under any real time pressure to complete their statements. The exception to this was a circumstance in which a charge which had initially been laid was dropped in favour of another so that a second statement had to be prepared in a fairly short period of time. In this latter case, the victim was informed that a guilty plea was imminent. She then quickly prepared and submitted her statement.

One participant recalled being warned that she should not submit her statement until as close to the sentencing date as possible. This was to avoid giving access to defence counsel before it was absolutely necessary in order to prevent defence counsel from using information in the statement against the Crown's case. No other participants were given this kind of advice on the timing of the submission of their statements.

Were you actively encouraged to complete a VIS, or was it presented as more of an option available to you?

The unanimous view was that the decision on whether or not to prepare a statement was left to the victim. They felt that their victim assistance workers had presented both sides of the choice, and left it to them to decide.

What is your understanding of what victim impact statements are supposed to do?

One participant said, “It was your voice in the courtroom”. In this light, it was seen as important for the victim to complete a statement; it had nothing to do with the offender. Another said, “You’re not just a number; it gives you a voice and a chance to speak out in court”. This same participant thought that the preparation of the statement itself was a cathartic experience for her. Some saw the statement as preventing them from becoming anonymous in the system.

What information were you given about victim impact statements and their use? Was this information clear and complete? Did you have any unanswered questions about VIS at that time?

In terms of the specific content of the statements, the participants indicated that they had either directly or over the phone received a list of sixteen elements which should be included in a statement. All reported that the information provided to them was well explained and did not leave them with unanswered questions about their statements.

What problems if any did you have in completing your statement? Did you request anyone’s assistance to fill it out? Was this assistance helpful?

There was no printed form. Instead, they were provided with a checklist of things which could or could not be included. Examples of impacts which could be included were financial impacts and emotional impacts. Most found the instructions clear enough that little assistance was needed to complete the statements.

Where uncertainties arose, the participants noted the ready availability of help from the victim assistance program. In one case, the victim assistance worker wrote down the statement as it was dictated to her by the victim. In this case, the victim would not have been able to prepare the statement on her own. No other assistance was required or provided to the victims as they prepared their statements.

Were you told of any restrictions on the types of information which could be included in a VIS?

One participant said that she was not allowed to refer to the accused at all. She said that she was allowed to say how she felt but could not refer to the accused directly. She said that she was provided with a list of what she could and could not say and found that quite constraining.

Would there have been other information that you would have liked to include in your VIS?

Some of the types of information which were not allowed to be included in the VIS but which the victims thought should be allowed included specific suggestions on sentencing (e.g., prohibitions from drinking alcohol or requirements to adhere to medical/drug prescriptions). In one case, the victim said that she had requested that the Crown ask the judge for some conditions to be included in the sentence. However, these requests were not acted upon. The victim said that she was told that the judge decreed that the victim was not allowed to have specific input on what should happen to the offender on conviction. This came as a surprise to the victim.

There was general, but not unanimous agreement that the participants would have liked to have had an opportunity to identify conditions of sentence which would be appropriate for them.

No types of information beyond references to specific elements of sentencing were identified as things that the participants would have liked to include in their statements but were not allowed.

While the participants could not recall being given any specific guidelines on the length of their statements, most recognized the benefit of keeping the statement as short as possible.

Did you have any concerns (e.g., privacy, safety) about completing the VIS?

Several of the female participants were concerned that their preparation of a statement would make the accused 'even madder than he already was'. There was a related concern that if the accused were not subsequently found guilty, then the accused would be at large and would know that the victim had made an effort through his or her statement to present their views to the court and influence the sentence. One of the participants was, in fact, threatened by the family members of the accused following the submission of her statement. In this case, the statement was read aloud in court.

No particular concerns were expressed about the privacy aspects of the statements, although one participant asked whether or not the press had access to these statements once they had been submitted.

On the privacy issue, one of the participants said that she would prefer that her statement not be read out in court, because there are spectators in the room who have no connection to the case and the details of the statement are none of their business.

What happened with your VIS after you completed it? Were you kept up-to-date?

In all cases, the statements were turned into victim services. Most were handed in personally to a representative of victim services. Once the statement had been reviewed by the assistance workers, participants were not aware specifically of what happened to the statements after that. They were also not clear on who would have access to their statements either before or after the conclusion of their trial.

No one had given any thought to whether or not the statement might be available for a future parole hearing. They were however generally open to this as a reasonable use of these documents. There was some concern that the contents of the statement might have changed since it was initially prepared with long time lapses between the sentencing and a parole period. In this circumstance, perhaps a revised statement could be prepared.

Were any parts of your VIS changed? If yes, by whom? Why did this happen? What was your reaction to this?

The participants reported that the victim assistance worker reviewed their draft statement and identified to them some minor revisions. In no case were major changes made to the statements by the victim assistance worker. With these minor revisions, all statements were submitted as prepared by the victims.

Do you know if a judge received your VIS? How do you know this?

Most of the participants reported seeing the judge physically receive their statement. Others simply faxed their statement to the court and were not aware of what happened to it after that.

Did the offender receive a copy of your completed VIS? Did you know that this would happen? If not, had you known, would you still have decided to complete a VIS?

All participants were aware that defence counsel would have access to their statements. They were also aware that the accused would likely also have access to the statement. Most of the participants were not aware specifically of whether or not the accused saw their statement. None of the victims indicated that knowing what they know now, they would not prepare a statement in the future given that the defence and the accused person would likely see it.

One participant expressed the view that some accused would be positively receptive to the information in the statement, while others would, to the contrary enjoy hearing about the pain they had inflicted on the victim another time. One of the participants reported that he did not want to reveal to the accused any further detail on how the accused's behaviour had been harmful or hurtful. A second participant confirmed that she saw this issue the same way.

Were you questioned by the defence lawyer on your VIS? What were your reactions to this?

Two of the participants were questioned on the stand about the contents of their statements. Both felt that they gave as good as they got from the defence lawyer, and were generally supported in this by the judge. No active role in this phase of the trial was reported for the prosecutors. Both of these participants reported that they felt free to answer back when the defence lawyer said something they thought was off base.

Did you know that a defence lawyer might question you on your VIS? If not, would this have caused you to change your mind about completing a VIS?

The participants reported that they were generally informed by the victim assistance program that they might be called to answer questions from the defence on the contents of their statement.

Did you ask if you could read your VIS aloud? Were you permitted to do so? Had you had this opportunity, would you have taken it? Yes/no, why not?

Only one of the participants was asked if she wanted to read her statement aloud in court, but she declined. She thought it would be too emotional. Another reported that he was given the option of presenting it himself. Of the remainder that did not know that oral presentation was an option, opinion was mixed as to whether or not they would like to do this. In part, this reluctance stemmed from the perceived restrictions on what was permissible in these statements.

There was strong support for victims, in principal, being given the option of reading their statements aloud. In part, this support arose from the view that some judges may not read these statements very completely or carefully. If the statement were presented orally, this problem could be reduced.

Did the judge refer to your VIS in sentencing?

None of the participants reported having heard the judge in their case make any specific reference to their statement. Nevertheless, most expressed the confidence that the judge had in fact read their statement. In some cases, the statement was before the judge in court, and he appeared to read it.

(Note that in one case the victim impact statement was read out in court after the sentence was given. This individual thought that the judge should have read the statement before the sentence was given, but was not clear about when it was, in fact, read.)

Would you go through the process of completing a VIS again knowing what you know now?

On balance, the participants in this group indicated that they would, given the circumstances, complete a VIS in the future.

Did you get anything positive out of the experience?

The participants were generally of the opinion that they did derive some benefit from completing the statement. In some cases this had to do with an impact on sentence, while in others it enabled them to express in their own words how the crime had affected them and to put this information before the court.

The participant who had been the victim of the stalking was confident that her statement had made a difference to the sentence imposed. Others were not so sure. In one case, the victim's statement was read after the sentence was imposed rather than before. In this case, the victim was not aware of whether or not the judge had seen the statement before the sentence was imposed.

Other Comments

There was some support for the idea of a second statement which would be for the judges eyes only. This statement might include specific suggestions on conditions of sentence for example banning from the use of alcohol or compliance with medication. On this topic it was acknowledged that these types of discussion were held with the Crown. In some cases, they were brought forward to the judge by the Crown and in others they were not.

One participant recommended that the accused should be required to stand up and face the victim as the statement is being read.

One victim reported feeling that the person giving the statement should not be required to stand in the witness box. Instead, they should be made to feel more comfortable and at ease as they give their statement. She saw this formal requirement as less desirable than the anonymity given to the accused as he or she sits at their table with their lawyers.

HALIFAX (SEPTEMBER 20, 2000)

Background

This focus group conducted for the Department of Justice Canada took place on Wednesday September 20 in the downtown Halifax focus group facilities of Corporate Research Associates. Sixteen names of potential participants were provided to us by victim service programs in the area. Of these sixteen individuals, five attended the group. We believe that the surprisingly low turnout may have been caused in part by traffic congestion resulting from several traffic accidents which occurred during the evening rush hour. The background characteristics of the participants relevant to the topic of the discussion were as follows:

- there were three men and two women in the group;
- all had been victims of serious offences, including sexual assault, assault with a weapon and child sexual abuse;
- some participants had experience with more than one statement; and,
- the other two participants were family members of individuals who had been murdered, in one case by an impaired driver.

Questions Posed to the Group and Findings

How did you first become aware that you could prepare and submit a VIS? Was this early enough (to complete statement before sentencing)?

The participants in this group reported several sources of initial information on victim impact statements. Included here were social service workers, Crown Prosecutors, and (most often) victim service workers.

Participants in this group reported different experiences in terms of when they were told to submit their statements. One was told to submit her statement before the trial started. Others were told to hold on to their statements until a verdict had been reached. The group participants were not aware of any reasons given to them to hold onto their statements (such as the access that early preparation would provide to the defence counsel).

One participant had prepared the first draft of his statement on the assumption that the accused was going to enter a guilty plea. The accused subsequently changed his mind on this, resulting in the need for the victim to edit from his statement a variety of information which would be brought forward as evidence in the trial.

With respect to time pressure, one participant had received the victim impact statement form by fax, had completed it that evening and returned it by fax the next morning. This seemed like a rushed experience.

Another participant reported that sentencing was delayed following an unexpected guilty plea in order to bring the statement before the court.

Were you actively encouraged to complete a VIS, or was it presented as more of an option available to you?

The participants in this group described their experience as having been presented a choice. Any encouragement given was mild at best. In one case, the participant was encouraged by the police to complete a statement.

What is your understanding of what victim impact statements are supposed to do?

The main purpose perceived for victim impact statements was to tell the judge the victim's story, including how his or her life had changed as a result of the crime. The primary effect expected, however, was to see some impact on the sentence imposed, to reflect the impact of the crime on the victim. Some participants also wanted the accused to hear directly from them, including through oral presentation of their statements, how their actions had affected them.

Another expectation was that the statement would allow the victim to provide information beyond answers to the questions posed by the lawyers during the trial.

However, many participants in the group were not convinced that their statements had had any real affect on the sentences imposed.

What information were you given about victim impact statements and their use? Was this information clear and complete? Did you have any unanswered questions about VIS at that time?

Most of the participants received written descriptions from victim services of what victim impact statements are to include and what purposes they are to serve. With the exception of one participant who is unable to read or write, most of the other participants wrote their statements out long hand. One was typed and faxed in by the participant. None of the other statements provided by the victims were subsequently typed by anyone at victim services or anywhere else.

What problems if any did you have in completing your statement? Did you request anyone's assistance to fill it out? Was this assistance helpful?

The participants worked their way through the form provided by victim services, typically with some assistance from victim services. Some expressed concern about the meaning of the categories used on the form. Some found the format of the form with the specific segments to be difficult for them as they were unable to tell the story in their own words in a narrative form as a result of the headings. Some suggested that different versions of the form might be developed for different types of crimes.

The participants recognized that the victim services workers could only provide guidance on what was permissible or not. They clearly understood that the statement was to reflect their own experiences and words and not those of anyone else.

All participants were satisfied that any assistance they required to complete their statements had been provided to them, typically by victim services.

Some noted being aware that their statement might in the future be used as information in a parole hearing.

Were you told of any restrictions on the types of information which could be included in a VIS?

Among the topics which were not permitted on the forms were information about the facts of the case and about the offender prior to the crime which was the subject of the statement. Other exclusions were negative characteristics of the offender personally, and factual information about the crime itself. In sum, the statement must be "about me", as reported by the participants. Information about the impacts of the crime on friends and family members was also seen as permissible.

All but one of the participants in this group had testified during their trial. Consequently some of the specific things about the offence that they might have wanted to include in their victim impact statements were raised by them during their testimony. They recognized that if a guilty plea is entered, there might be information they would like to include in their statements which would otherwise have come out in their testimony (had it been necessary).

Would there have been other information that you would have liked to include in your VIS?

Some participants indicated that they would have liked to add some new content to their statements following the trial but was not allowed to do so. This new material would have made reference to the experience of being a witness at the trial and responded to some of the points raised by the defence during the trial.

Did you have any concerns (e.g., privacy, safety) about completing the VIS?

Opinion was evenly divided among the group in terms of whether or not they had any concerns regarding safety or privacy. Those who did have privacy concerns were most concerned that the accused would have access to their statement. In part, this concern arose from the recognition that the offender might use the information in the statement to “torment” the victim in the future.

The participant who had been a victim of child sexual abuse was told by the judge in this case that he could not give much weight to the material provided in the statement due to the passage of thirty years since the offence. Despite this, the participant was glad to have had a chance to express in his own words how the crime had affected him. He also took some comfort from the fact that with his statement on record, if any other victims of the same offender come forward, then the information he has provided will be available to the court for trials involving these other victims.

No one expressed any concerns about their safety as a result of completing their statements.

What happened with your VIS after you completed it? Were you kept up-to-date?

Once submitted, the statements were passed on to their victim services workers who filed them with the court where they were held until the accused is found guilty or pleads guilty.

Were any parts of your VIS changed? If yes, by whom? Why did this happen? What was your reaction to this?

Other than minor edits, no one made any changes to the statements prepared by the victims.

Do you know if a judge received your VIS? How do you know this?

All of the participants in this group were confident that the judge had received a copy of their statements. In some cases, the judge made explicit reference to having received a statement.

Did the offender receive a copy of your completed VIS Did you know that this would happen? If not, had you known, would you still have decided to complete a VIS?

All of the participants in this group were aware that the offender might receive a copy of their statement. Most believed that the offender had in fact received a copy but were not always certain that this was so.

Were you questioned by the defence lawyer on your VIS? What were your reactions to this?

In no case did the defence counsel address the victim in court on the contents of their statement.

Did you know that a defence lawyer might question you on your VIS? If not, would this have caused you to change your mind about completing a VIS?

Not all participants were aware that they might be questioned by defence counsel on the content of their statements might happen. None of the participants thought that they would have declined to submit a statement had they expected to be questioned by the defence lawyer in court about it. Some, in fact, would have welcomed an opportunity to discuss the statement directly with defence counsel in court.

Did you ask if you could read your VIS aloud? Were you permitted to do so? Had you had this opportunity, would you have taken it? Yes/no, why not?

The participants were aware of the possibility of oral presentation of victim impact statements. While they recognized that oral presentation of a statement might be stressful, the general view was that compared to the crime itself or the need to give testimony on it, oral presentation of the victim impact statement was seen as relatively easy to do.

One participant who had wanted to be present to orally give his statement at sentencing found that an unexpected guilty plea was entered which meant that he was not able to orally present his statement. He only found out after the fact that the guilty plea had been entered and that his statement had been used (as far as he knew).

Several of the participants in this group did, in fact, present their statements orally, meaning that they knew that the judge heard their statement.

Did the judge refer to your VIS in sentencing?

Only one participant could recall any specific reference by the judge to individual elements in her statement.

Would you go through the process of completing a VIS again knowing what you know now?

All of the participants in this group reported that given the need, they would submit another victim impact statement in the future. This was true both for those participants who perceived an impact of their statements on the sentence imposed and those who did not.

Did you get anything positive out of the experience?

Among the benefits of completing a victim impact statement were the following:

- the availability of the content of the statement for future trials of the same accused in case another victim comes forward;
- the opportunity to orally present a statement, preferably in front of the other people involved in the trial including people from the victim's community;
- the opportunity to present the statement orally, including to the accused; and,
- for some participants, the sentence given by the judge reflected the information provided in the statement.

Other Comments

- The challenge of covering the information in the statement that you wanted within reasonable limits on statement length.
- Concerns about limitations on what could be included in the statement, including responses to what occurred during the trial.
- The restrictions on how the categories on the form were worded and how they had to be answered.
- One participant was frustrated at being unable to read his statement as he wished because of the unexpected guilty plea entered.
- The participants expressed considerable praise for the assistance provided by the victim service workers in their cases.

CHARLOTTETOWN (SEPTEMBER 19, 2000)

Background

This focus group conducted for the Department of Justice Canada took place on Tuesday September 19 in the downtown Charlottetown focus group facilities of Prism Research. Eleven names of potential participants were provided to us by victim service programs in the area. Of these eleven individuals, eight attended the group. The background characteristics of the participants relevant to the topic of the discussion were as follows:

- all eight participants who attended this focus group were women;
- all were victims of offences involving individuals with whom they had had an ongoing relationship;
- most of the participants had only completed one victim impact statement in the past, typically within the past six months;
- two or three, however, had experience with more than one statement; and,
- in all cases, the trials to which the statements referred had concluded prior to the group.

Questions Posed to the Group and Findings

How did you first become aware that you could prepare and submit a VIS? Was this early enough (to complete statement before sentencing)?

The typical point of initial contact for the preparation of the statements was through the provincial victim services program. In some cases, contact with the victim assistance program was preceded by a referral from the police or the Crown prosecutor. One participant was referred from a local battered woman's shelter. In all cases, charges had been laid prior to the statement being completed.

Typically, the participants were encouraged to take their time in preparing their statement so that it could be as complete as possible. The participants recognized that immediately after the crime, they may not be aware of all of the impacts of the crime on them. They may also not be sufficiently composed to prepare a complete and thorough statement. They agreed that the full impact on them of their crimes only became clear to them after some time had passed. No one mentioned feeling rushed to prepare their statements.

No mention was made by the participants at this point of the issue of delaying preparation of the statements so that it could not be used by the defence during the trial.

Were you actively encouraged to complete a VIS, or was it presented as more of an option available to you?

The participants in this group typically reported that they were at least gently encouraged to complete a victim impact statement. At the same time, they did not feel pressured to do so. The choice was left up to them.

What is your understanding of what victim impact statements are supposed to do?

Most participants saw the purpose of the statement as providing them with an opportunity to tell the judge how the crime affected them. The thinking here is that if the judge fully understands the impacts of the crime on the victims, then the seriousness of the crime will be reflected in the sentence given. The 'venting' function of victim impact statements was also valuable for some participants.

An additional effect of the statements reported by some participants was the opportunity it provided them to, in effect, tell the offender in their own words how the crime had affected them.

In contrast to this, another participant reported having no interest in the accused learning any more about how the crime had affected her. This particular individual did not complete the section of the statement which refers to psychological or emotional impacts of the crime. In this case, the accused was a relative stranger to the victim, meaning that she had no interest in the accused learning any more about her than he already knew. She recognized however that this view might be different for those who had an ongoing relationship with the accused.

Another participant reported that the statement provided her with an opportunity to frankly tell the accused (her ex-spouse) how the crime had affected her without any fear of retaliation or other response directed at her or her children.

What information were you given about victim impact statements and their use? Was this information clear and complete? Did you have any unanswered questions about VIS at that time?

In almost all cases, the participants found out about what was involved in preparing a victim impact statement personally from the victim services worker. Typically they wrote them out long hand and reviewed them with the victim assistance worker who then had them typed up for submission. Most had made use of a printed list of the topics which the statements are to cover. They were not however restricted to this form to provide their statements. Rather, they could expand on the listed topics as they wished, and append other relevant documents.

What problems if any did you have in completing your statement? Did you request anyone's assistance to fill it out? Was this assistance helpful?

No problems were reported. All participants received any assistance they needed from the victim services program.

Were you told of any restrictions on the types of information which could be included in a VIS?

Among the restrictions referred to by the participants were prohibitions on including information about events, which occurred prior to the specific crime for which the trial was being held. Of particular concern here were prior incidents of abuse which they saw as relevant but could not be included. Not all participants reported being subject to these restrictions, however.

Would there have been other information that you would have liked to include in your VIS?

Several of the participants reported that they were permitted to include in their statements specific suggestions for conditions of sentence, for example psychiatric assessment, abstinence and participation in addiction programs.

One participant reported that she was not permitted to include discussion of the impacts of the crime upon her young children in her statement. Other participants reported the opposite experience. The previous participant saw the restriction of her statements to only those impacts which directly affected her as a significant gap in her statement.

Did you have any concerns (e.g., privacy, safety) about completing a VIS?

Some participants reported feeling concerned that their statements might provoke an angry reaction from the accused. This could include some kind of retaliation once any prison sentence had been served, e.g., seeking access to their children. Some questioned whether completing a VIS would have any incremental effect beyond that resulting from testifying during the trial.

Another view was that victims of family violence live in fear of their spouses anyway, so that the contents of the statements were unlikely to make any difference to this situation. Others had no concern about the potential response of their accused. Rather they saw the statement as an opportunity for them to express their own anger.

What happened with your VIS after you completed it? Were you kept up-to-date?

The general understanding was that the statement was kept by victim services until the guilty verdict and was then provided to the judge. There was, however, some confusion among the participants as to the exact point of time at which the statement became available to defence counsel. The general view was that defence counsel receives a copy of the statement at the same time as the judge, i.e., just prior to sentencing.

Some participants recognized the importance of having the statement prepared ahead of time in case an abrupt guilty plea is entered. One participant believed that the Crown prosecutor plays a role in ensuring that the statement is provided to the judge. Another participant reported that her statement had been distributed before the conclusion of the trial. The participants had no idea as to what would happen to their statements in the event that the accused is found not guilty.

Were any parts of your VIS changed? If yes, by whom? Why did this happen? What was your reaction to this?

Nothing more than editing was done to the statements once they had been submitted.

Do you know if a judge received your VIS? How do you know this?

Some participants saw the judge read their statements in court. Others were told by the victim assistance workers who attended court on their behalf, that it had been read aloud in some cases. In one case, the statement was read aloud by the judge to the courtroom.

Did the offender receive a copy of your completed VIS? Did you know that this would happen? If not, had you known, would you still have decided to complete a VIS?

With one exception, the participants were aware ahead of time that defence counsel would have access to their statements once they were submitted. They further assumed that the accused would also have this access. While they acknowledged that they knew the accused would have access to their statement, they did not necessarily think that this makes sense.

Almost all of the participants reported that their knowledge that the accused would have access to the statement would not in any way prevent them in the future from completing a statement.

Were you questioned by the defence lawyer on your VIS? What were your reactions to this?

None of the participants reported that they were directly addressed by defence counsel in the courtroom on their statement following the conclusion of the trial. However, in one case where the accused represented himself in court, he was the one who was questioning the victim on the contents of her statement as a witness.

One participant described a somewhat confusing situation in which the defence counsel spoke to her about her statement (perhaps this was the statement of the crime rather than the victim impact statement) in the Crown's office prior to the trial.

Did you know that a defence lawyer might question you on your VIS? If not, would this have caused you to change your mind about completing a VIS?

The participants were generally aware that they might be questioned on their statements.

Did you ask if you could read your VIS aloud? Were you permitted to do so? Had you had this opportunity, would you have taken it? Yes/no, why not?

Some of the participants reported being aware that oral presentation of their statements was a possibility. None took advantage of this offer. In some cases this was because they were not present in the courtroom when the verdict was handed down and the sentence given. In other cases, they would not have been able

to do this given the emotional impact of the statement. Those who had served as witnesses in their trials did not want to repeat that experience with their statements.

In principle, they supported oral presentation of their statements as an option for victims.

Did the judge refer to your VIS in sentencing?

Most of the participants were not present in court during sentencing, and were therefore not able to address this question. Of those who were, most did not recognize any specific reference to their statement in the judge's comments prior to sentencing. An exception to this was the inclusion of requests for specific conditions of sentence made in the statements and included in the sentences.

Would you go through the process of completing a VIS again knowing what you know now?

Most participants expressed some dissatisfaction with the affect of the statement on the sentence itself, but would nonetheless still prepare another statement in the future given the circumstances. The general view was that while the sentences given were not harsh enough, they were still more severe than they would have been without their statements.

Did you get anything positive out of the experience?

Among the benefits of completing victim impact statements identified by the participants were the following:

- The perception that the victim was able to gain some control over the situation. This was in contrast to the crime itself where the accused had been in control.
- Preparation of a statement had prompted one participant to think more completely about how the crime had affected her and to recognize the effect of the crime in other aspects of her life. She saw this as better than simply trying to get over the crime without recognizing its impact.

Other Comments

- One participant reported that she would have liked to have had her statement read to the accused even if a judge found the accused not guilty. The goal here would be to communicate to the accused how his behaviour had affected her.
- One participant reported that the process of preparing a statement forced her to review and re-experience many of the most negative aspects of her victimization. She then wondered why she had bothered to do this when, in her view, the judge gave no weight to her statement.
- A mother should be allowed to refer in her statement to the impact of the crime on her children.
- If an accused person were given access to the statement before entering a plea, some might be more likely to enter a guilty plea because of the contents of the statement.
- Some participants see a potential therapeutic value for the accused in communicating the impact of the crime to them via the statement. Others recognized that not all accused are likely to be susceptible to this kind of impact.