

# ***Assistance for Victims of Crime in the ACT***

**A review of the operation of the *Victims of Crime (Financial Assistance) Act 1983* and the victims services scheme**

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**A review commissioned by the  
ACT Department of Justice and Community Safety  
under Section 72 of the *Victims of Crime (Financial Assistance) Act 1983***

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## **Contents**

Acknowledgements	1
1. Executive summary and findings	2
2. Background	5
3. How the schemes work	14
4. Discussion and findings	33

## **Appendices**

1. People contacted	50
2. Publications consulted	51
3. List of submissions received	53
4. Summary of submissions received	54

## Acknowledgements

The members of the Project Management Group in the Department of Justice and Community Safety, Ms Elizabeth Kelly (Chair), Ms Karen Greenland, Ms Anita Kaney and Ms Bronwyn Leslie, have been most helpful in assisting me to produce this Review. Ms Leslie has greatly assisted me by making appointments, answering my numerous questions and doing factual research. At the same time members of the Group have been scrupulous in avoiding any action or comment that might serve to influence my findings in any way.

I wish also to acknowledge the people whom the assistance reviewed herein is intended to serve – the people who have the misfortune to suffer as a result of crimes committed in the Australian Capital Territory. One can get an impression of the violence that can occur from the summaries of cases in the *Annual Report of the Victims of Crime (Financial Assistance) Act 1983*. It is a confronting experience to read case after case, and to realize that violent crime is a significant part of our community. One can begin to grasp, albeit slightly, the degree of trauma and suffering that some of our fellow citizens have experienced and now have to deal with.

This Review is about arrangements, schemes, services and findings. It makes little reference to the reality of violence and its consequences. Therefore, at least here, I am taking the opportunity to acknowledge the courage that people bring forth, first to survive and then, day by day, to transcend, their experience of violence. I hope that this Review is a positive contribution to the debate about assistance, and turns out to be worthy of the courage that victims of crime have already demonstrated.

# 1. Executive summary and findings

The purpose of this Review is to provide an assessment of two aspects of support for victims of crimes committed in the Australian Capital Territory: a review of the operation of the financial assistance and the victims services schemes, provided for under the *Victims of Crime (Financial Assistance) Act 1983*.

The schemes arose from amendments passed in the Legislative Assembly in December 1999, the main intention of which were to limit the extent of financial assistance that had previously been available, and to establish a new range of services for victims of crime. This Review is to assess the operation of the schemes during the period December 1999 to December 2001, as provided for by Section 72 of the *Act*.

The Department of Justice and Community Safety engaged an independent reviewer, Dr Anthony Dare of Anthony Dare Consulting P/L, a Melbourne-based evaluation consultancy with a background in evaluating human service and crime prevention projects. Stakeholders were alerted and notices inviting submissions were placed in the *Canberra Times*. A total of 27 submissions were received, including 5 from private individuals.

The Terms of Reference for this Review require an assessment of the efficiency of the *Victims of Crime (Financial Assistance) Act 1983* in providing financial assistance to eligible victims of crime, and an assessment of the effectiveness of the victims services scheme. They also request guidance on the future evaluation of the schemes.

Section 2.5 of this report gives details of the process that gave rise to the current schemes. In summary, by 1997 the ACT Government was becoming concerned about aspects of the arrangements for criminal injuries compensation and issued a discussion paper with 22 recommendations for reform. After considerable public debate and discussion, a Bill was passed in the Legislative Assembly in December 1999 amending the arrangements.

The Government said that its package of reforms was intended to:

- contain costs at a level the community could afford;
- be accessible to more victims of crime;
- meet more of the identified needs of victims and actively promote recovery from the effects of victimization;
- continue to deliver substantial financial assistance to the most seriously injured victims and relatives of deceased victims; and
- limit the scope for misuse.

Section 3 of this report describes the financial assistance scheme and the victims services scheme and how they work.

Section 4 gives detailed discussion and findings, summarized as follows:

***With regard to the financial assistance scheme:***

In summary, my opinion is that the current arrangements provide the intended level of financial assistance to victims of crime in an efficient manner. People report favourably on the helpfulness of staff at the Magistrates Court and the attitude of the Government Solicitor's Office. It appears that, in general, applicants receive reimbursement for the expenses incurred as a result of the crime in a way they see as fair and reasonable. The system is, however, not as simple and straightforward as intended, and many applicants feel they need assistance. The main issues with the financial assistance scheme involve eligibility, where awards for pain and suffering are restricted to certain occupational groups or certain crimes. This is seen as unfair. The conditions under which a person becomes eligible for "special assistance" are criticized for being too restrictive.

Specific findings:

- 4.2 Overall, financial assistance is being provided in a timely manner.*
- 4.3 Overall, financial assistance is being provided in a manner that is consistent, within the intention of the Act.*
- 4.4 Apart from the fact that expenditure has fallen dramatically, it is not possible to determine in any meaningful way whether financial assistance is being provided in a manner that is cost-effective.*
- 4.5 The materials given to applicants for financial assistance should be re-designed so that they are more "user-friendly".*
- 4.6 Processes of applying for and being granted financial assistance should be made less confronting and daunting.*
- 4.7 As there is considerable opposition to the condition that an applicant for financial assistance must have reported the crime to the police, this condition should be reviewed.*
- 4.8 Solicitors should be able to charge a fee based on the events involved in the matter, according to an agreed scale.*
- 4.9 Current provisions for eligibility have not been generally accepted and are widely seen as unfair and inconsistent, and in the case of special assistance, unduly restrictive. There is no workable consensus about what should be done.*

***Regarding the victims services scheme:***

In summary, my opinion is that the victims services scheme does offer assistance that promotes people's recovery and assists them to resume their lives. My impression is that in other jurisdictions, services such as those offered by the victims services scheme are accepted as a necessary part of assistance to victims of crime, and that the ACT should also continue to offer this service. The value of the victims services scheme and of the agency responsible, the Victims Services Scheme of ACT Community Care (VSS), has been widely acknowledged. My main concern is that, so far, the scheme has been somewhat limited in its range of services, number of clients and involvement of other community groups.

Specific findings:

- 4.11 The VSS provides assistance using a multi-disciplinary approach, although the preponderance of assistance is based on psychology and counselling.*
- 4.12 The VSS provides assistance in ways that are timely.*
- 4.13 Within the limited range of its services, the VSS provides assistance that is accessible.*
- 4.14 Within the counselling paradigm, the VSS provides assistance in ways that are solution-focussed, professional, individualized and appropriate to each victim.*

***Regarding guidance on future evaluation of the schemes:***

In summary, currently for each of the schemes, "evaluability" is missing. There may be data, but there is no framework to provide a context for interpretation. With an agreed evaluation framework, much of this data will become valuable. An evaluation framework would begin with an agreed set of goals, allowing for the development of key indicators and measures, criteria for minimum acceptable performance on each indicator and procedures to gather the required data.

- 4.16 Each scheme needs an evaluation framework, including goals, key indicators, measures and minimum acceptable performance criteria for each indicator.*

## **2. Background**

### **2.1 Introduction**

The purpose of this Review is to provide an assessment of two aspects of support to victims of crimes committed in the Australian Capital Territory: a review of the operation of both the financial assistance the victims services schemes.

Financial assistance is available under the provisions of the *Victims of Crime (Financial Assistance) Act 1983* and is commonly referred to as the “financial assistance scheme”. Services to assist the recovery and rehabilitation of victims of crime are provided for under the *Victims of Crime Act 1994*. These services are named in the *Act* as the “victims services scheme”.

The current schemes arise from a Bill passed in the Legislative Assembly in December 1999, the main intention of which was to amend two *Acts*, the *Criminal Injuries Compensation Act 1983* and the *Victims of Crime Act 1994*. As will be explained in more detail below, the effect of the amendments was to limit the extent of financial assistance that had previously been available under the 1983 *Act*, and to establish a new range of services available to victims of crime.

This Review is to assess the operation of the schemes during the period December 1999 to December 2001.

### **2.2 Background to the Review**

Section 72 (1) of the *Victims of Crime (Financial Assistance) Act 1983* provides that “The Minister must commission an independent review covering the operation of this *Act* and the victims services scheme during the 2 year period after this section commences.” Section 72 (2) provides that “The Minister must table the final report of the review in the Legislative Assembly within 3 months after the end of that 2-year period.” The responsible department to commission and supervise the Review is the Department of Justice and Community Safety. In November 2001 the Department took steps to secure an independent consultant to complete the Review.

The timeframe prescribed by the legislation meant that the Review needed to commence before 24 December 2001 and be tabled in the Legislative Assembly by 24 March 2002. To meet this schedule, the final report of the Review was to be delivered to the Department of Justice and Community Safety by 22 February 2002.

An independent reviewer, Dr Anthony Dare of Anthony Dare Consulting P/L, a Melbourne-based evaluation consultancy with a background in evaluating

human service and crime prevention projects, was engaged to complete the Review. Dr Dare was briefed in Canberra on 19 December 2001.

On 19-20 December, Dr Dare met a number of stakeholders. Beginning on 3 January 2002, the Department sent letters to all organizations and individuals known to have an interest in victims of crime services. On 9, 12 and 19 January 2002 it placed public notices in the *Canberra Times* inviting submissions from interested individuals and organizations.

Scheduling of the Review was the responsibility of the Department of Justice and Community Safety. It was acknowledged that the December-February period was not ideal. Departmental staff and I took steps to facilitate the participation of as many individuals and organizations as possible. I also took further steps to solicit submissions, and encouraged some who had displayed an initial reluctance to make a submission.

The deadline for submissions was Friday, 1 February 2002. At the request of some individuals and organizations who expressed doubts about meeting the deadline, by agreement, some submissions were accepted after that date.

In total 27 submissions were received, including 5 from private individuals. All submissions received are listed in Appendix 3 and summarized in point form in Appendix 4.

## **2.3 Terms of reference**

Section 72 of the *Victims of Crime (Financial Assistance) Act 1983* provides that there must be “. . . an independent review covering the operation of this Act and the victims services scheme”. Apart from this statement, the Act gives no details as to the kind or scope of review required.

The Terms of Reference for this Review are contained in the *Invitation for Expression of Interest* from the Department to invited consultants in November 2001.

With regard to the financial assistance scheme, the Department specified that this Review is to provide the following:

An assessment of the efficiency of the *Victims of Crime (Financial Assistance) Act 1983* in providing financial assistance to eligible victims of crime and in particular, whether financial assistance is provided in a manner that is timely, consistent, and cost effective.  
(*Invitation*)

With regard to the victims services scheme, this Review is to provide the following:

An assessment of the effectiveness of the Victims Services Scheme in:

- providing assistance to victims of crime in a manner that promotes their recovery from the harm suffered because of the crime and allows them to take part in the social, economic and cultural life of their community;
- providing assistance to victims of crime using a multi-disciplinary approach; and

- providing assistance to victims of crime in ways that are timely, accessible, solution-focused, professional, individualized, and appropriate to each victim. (*Invitation*)

The Review is also required to give guidance on future evaluation of both the financial assistance scheme and of the victims services scheme.

## **2.4 Nature of the Review**

During the debate on the Bill in December 1999, the Government accepted an amendment that there be “an independent review covering the operation of the *Act* and the victims services scheme”, this provision becoming Section 72 of the *Act*.

Thus the project is for a review, not an evaluation or an inquiry. In planning the project, I thought it was important to distinguish how they might differ.

The *Oxford Dictionary* provides the following definitions:

- **To evaluate** is *to find the value of something*. “Value” is defined as worth, desirability, utility.
- **To inquire** is *to make search into, to seek information*. An “inquiry” is an investigation.
- **To review** is *to view again, survey or look back on*. “To survey” is to take general view of; to scan; to examine the condition of.

I have taken it that the purpose of this Review is to survey (“take a general view of”) the operation of the financial assistance and victims services schemes. The outcomes of such a Review would be an expression of opinion on each item in the Terms of Reference and the identification of issues requiring attention.

The Review is based on three main sources of information:

- *already-existing data* gathered over the two-year period during the schemes’ operation, indicating the quality of services provided;
- *submissions* from interested individuals and organizations, indicating how the schemes have operated in practice; and
- *two small surveys* that I conducted personally: a telephone survey of 9 applicants for financial assistance and a telephone survey of 18 clients of the victims’ services scheme; speaking directly with clients gave me first-hand impressions of what it is like to access these schemes.

## **2.5 Intention of the legislation**

The frame of reference for this Review is the *intention of the legislation*, as shown by public statements from the Government of the day.

Arrangements for assisting victims of crime in the Australian Capital Territory had their genesis in the *Criminal Injuries Compensation Act 1983*, a Commonwealth ordinance that came into effect in the ACT on 30 June 1983 and became the responsibility of the Territory following self-government on 1 July 1990. This *Act* set up a scheme whereby, in summary, compensation might be paid to a person injured as a result of the criminal conduct; to a person who had been injured or had suffered property damage while assisting a police officer; and to a person who was responsible for the maintenance of a criminally-injured person. The maximum amount that could be awarded was \$20,000, increased in 1991 to \$50,000.

By 1997 the ACT Government was becoming concerned about aspects of the arrangements, and put in train a sequence of events that led to the amending legislation of December 1999.

There was much discussion, contention and argument preceding the eventual passage of the amending legislation, and many points of view were advanced. For my purpose, I have focussed on the Government's *intention* for the legislation, which is shown in the following:

- A *Discussion Paper* issued by the ACT Attorney General in August 1997 that put forward twenty-two recommendations for reform.
- The Presentation Speech in the Legislative Assembly and the explanatory memorandum for the Victims of Crime (Financial Assistance) Amendment Bill, to amend the *Criminal Injuries Compensation Act 1983* and the *Victims of Crime Act 1994*.
- The ACT Government's two submissions to the inquiry of the Legislative Assembly's Standing Committee on Justice and Community Safety.
- Government members speeches during the debate on the Bill, 9 December 1999.
- The *Acts* themselves, and the Regulations made under the *Acts*.

### **2.5.1 The 1997 Discussion Paper**

As stated by the Government, the purpose of the *Discussion Paper* was to "canvass the potential for reform" of the criminal injuries compensation scheme (p. 4). The Government said that this had been stimulated by a number of factors including the increasing cost of the scheme and the perception that compensation was being paid for some injuries of a kind not originally intended to be compensated. "Arising from that is a concern to ensure that funds are better directed to meeting the needs of those most requiring assistance and in a form best suited to helping them recover from their injuries" (p. 4). It was also noted that a number of other jurisdictions had acted to reform their own schemes, such as Queensland, New South Wales, Victoria and Western Australia.

The paper noted that over the three financial years 1991-1992 to 1993-1994, the rate of increase of expenditure for compensation each year had been 50%. In 1994-1995 it was only 5%, but in 1995-96 there was another large increase of nearly 40%. Some of the increase was attributable to increases in the maximum award (from \$20,000 to \$50,000 in April 1991), but the larger part was caused by an increase in the number of applications. Whereas during the period 1991-1992 to 1995-1996, there had been roughly an increase of 75% in the number of reported violent crimes, there had been an increase of 185% in criminal injuries awards (p. 6).

The paper noted an ACT Supreme Court decision that the amount of compensation should be the same as that which would have been recovered in an action for damages in tort. One effect of this, said the paper, was to put the Territory in the position of one being sued by the victim, a distortion of the legal process:

What is now needed is an alternative approach which provides fair and compassionate process for determining the amount of assistance that the community pays to help a victim recover from the consequences of the crime. (*Discussion Paper*, p. 17)

Rather than a system based on financial *compensation*, a system of financial *assistance* was recommended. The paper quoted with approval a view put forward in the press in October 1995:

Violent crimes can never be adequately compensated. . . Victims' schemes should not attempt to restore victims to their original condition. . . Rather, they should serve as a recognition of wrong done, together with some generous but not massive token to assist in a process of helping get things back together." (*Canberra Times*, 16 October 1995)

Recommendation 1 set out the general purpose of the reforms, that is, assistance rather than compensation: "That the purpose of the scheme should be to provide a measure of assistance to help victims of crime recover from the effects of their injury."

Recommendation 2 provided that the scheme should provide assistance to victims of crimes of violence, "violence" to include sexual assault and stalking.

With regard to financial assistance for pain and suffering, a number of options were canvassed, including its elimination, on the ground that ". . . the value of a monetary payment to assist a crime victim to recover from their ordeal is dubious" (p. 23). However, after canvassing schemes based on tables of maims (as in New South Wales) and a modified table of maims (as in Queensland), the paper recommended the proportionate scaling method, as in South Australia. Under this method the total non-financial loss was assigned a numerical value from 1 to 50 and the amount awarded arrived at by multiplying the number so assigned by \$1000, up to a total of \$50,000 (p. 23 and Recommendation 3).

The paper proposed that a new approach be taken to assisting victims ". . . overcome with psychological injuries, compared with physical injuries" (p. 27). The Government was impressed with a scheme in Victoria, where victims were provided with a free crisis counselling service: "The new Victorian approach. . . has much to commend it" (p. 23).

It was recommended that

... the primary emphasis when assisting victims who report psychological trauma should be on rehabilitation, in the form of professional counselling. This flows from recommendation 1 above that the purpose of the scheme should be to help victims of crime *recover from the effects of their injury*. If that can be done more effectively by treating the injury rather than by applying compensation principles designed originally to determine damages against the person who actually caused the harm, then the outcome should be closer to the objective of the scheme. (*Discussion Paper*, p. 27, original emphasis)

Thus, Recommendation 4: “That assistance for persons who suffer a psychological problem shall, *prima facie*, be in the form of access to counselling services.”

## 2.5.2 Presentation speech (and Explanatory Memorandum to the Bill)

In presenting the Bill to the Legislative Assembly in December 1998, the Minister said it was based on the real needs of victims of crime, and built on the 1994 *Act* that gave formal recognition of victims’ rights.

The Minister quoted with approval from the report of an inter-agency working party May 1998 that recommended a victims services scheme:

It is the view of the Working Party that the current allocation of Government and community resources to crime victims is seriously distorted and overly focused on individualised financial packages with little or no regard to whether the emotional trauma of criminal victimisation is actually alleviated. The fundamental argument of this report is that the vast majority of crime victims in the ACT are receiving no or an inadequate response to their victimisation. This report asserts the need to see current resources better and more effectively applied to numerically more crime victims than at present. (Presentation Speech, p. 1)

The Minister said that this was illustrated by the fact that about \$5m had been paid in the last financial year to around only 350 victims “. . . while thousands of other victims received no assistance at all” (p. 2). In contrast, the Bill intended “. . . to focus on the whole range of victims’ needs by providing victims with a mix of rehabilitative, practical and financial assistance” (p. 2).

In general, financial assistance would be limited to reimbursing the applicant for expenses associated with the injury. The *Explanatory Memorandum* accompanying the Bill listed medical expenses not covered by Medicare, travel to and from medical appointments and relocation expenses, enabling the victim to relocate in order to recover from nervous shock. It also included pecuniary loss as a result of incapacity to work and expenses (other than legal fees) involved in making a claim, including the costs of obtaining reports from doctors.

Awards for pain and suffering were no longer to be available. The proportionate scaling idea, recommended in the Discussion Paper, did not re-appear in the Government’s proposals.

The amendments provided for “special assistance” of \$30,000 for extremely severe and permanent injuries. The Minister said that, based on an analysis

of recent compensation cases, it was expected that in a typical year, awards of special assistance would be made only in about 20 to 30 cases at most (p. 4).

Another intention of the Government was to simplify the processes for applications for financial assistance, making them more accessible to persons who chose not to engage legal representation. (p. 4)

The Minister announced that the new arrangements would be retrospective to 23 June 1998, the date on which the Government had announced it would amend the scheme. This later became a subject of controversy and then legal challenge, the outcome of which had not been decided at the time of writing this Review.

The Minister said that the reforms would go beyond financial assistance. Amendments to the *Victims of Crime Act 1994* would establish a “comprehensive victims services scheme”:

Unlike the schemes set up in New South Wales and Victoria, the territory’s new victims services scheme will provide more than just counselling services to victims. Its primary purpose is the rehabilitation of the victim both emotionally and physically to the extent that this is reasonably achievable. (p. 6)

The Scheme would provide information to victims about the criminal justice system, their rights and responsibilities and the help available to victims. It would act as “case managers” by coordinating the delivery of a range of rehabilitative services to victims, either in-house or through referral to approved health and rehabilitation service providers. And it would put victims in touch with appropriate groups and agencies in the community that provide a range of assistance and support.

Finally the Minister said it was intended that the scheme would be funded from savings generated by the Bill’s reforms of financial assistance entitlements. He expected that several thousand victims would be assisted each year.

The *Explanatory Memorandum* said that a decrease in payments for financial assistance in the order of \$2 to 3 million per annum was expected (p. 4). Offset against these savings would be the cost of the victims services scheme “which, depending on usage rates, may result in net savings to the Territory in the order of \$1-1.5 million per annum” (p. 4). This implied that the cost of the victims services scheme was expected to be in the order of \$1m to \$1.5m per annum.

### **2.5.3 Government submissions to the Standing Committee on Justice and Community Safety**

The Government’s intention was further shown in its two submissions to the Assembly’s Standing Committee on Justice and Community Safety, to which

the Bill was referred on 8 December 1998, and which then conducted a public inquiry involving submissions and public hearings.

The Government's first submission (March 1999) stated that the territory "is not getting value for money from the 1983 scheme:

The fundamental challenge for the government and the Assembly is to deliver a scheme which contains costs at an affordable level while providing better assistance to a greater number of crime victims each year (p. 2).

Again it referred to the high cost of the current scheme:

The current growth in compensation awards is clearly not sustainable. The Territory needs to be fiscally responsible if it is to address its operating losses. Containment of the costs of the criminal injuries compensation scheme is an essential as part of the measures under consideration for ensuring that later generations (and Governments) do not inherit excessive liabilities . . . . The choice for the Territory is whether to stick with a scheme which it cannot afford and which fails to assist the vast majority of victims of crime or to take the opportunity to adopt a new scheme focussed on meeting more victims' needs more appropriately at a sustainable cost (p. 7).

In its second submission (April 1999) the Government spoke of the "new victims' assistance scheme" which it said was

. . . not a 'counselling service', although it will be able to arrange for the provision of counselling services to victims should they so choose. In fact, the new scheme will be a comprehensive generic victim support and services scheme, whose services to victims include rehabilitation and which will address a far wider range of victim needs than either the existing compensation scheme or existing victim support agencies (p. 9).

The Submission commended the provisions for retrospectivity, without which it said ". . . there is no hope of containing the cost of the scheme in either this financial year [1998-1999] or, given the current backlog of claims, the next financial year" (p. 14).

In conclusion, the Government said that its package of reforms was intended to:

- contain costs at a level the community could afford;
- be accessible to more victims of crime;
- meet more of the identified needs of victims and actively promote recovery from the effects of victimisation;
- continue to deliver substantial financial assistance to the most seriously injured victims and relatives of deceased victims; and
- limit the scope for misuse.

## **2.5.4 The passage of the Bill**

During the second reading debate, which occurred on 9 December 1999, the Attorney-General summarized as follows:

. . . the fact of the matter is that this scheme needs radical overhaul in this Territory. It is a scheme which is being widely abused. The increase in the rate of claims against the scheme vastly exceeds the increase in the rate of crime in the ACT and, clearly, it is being exploited. I do not exclude the fact that there are many victims of crime who genuinely need and obtain money under this scheme, but the focus of any good scheme has to be on rehabilitation and restoration of people to their original position. Money does not always solve those problems (*Debates*, p. 4249).

During the course of the debate the Government, supported by two independent members, accepted a few amendments that did not alter the main thrust of the Bill. A number of amendments of substance were defeated:

- omit the definition of “extremely serious injury”;
- include pain and suffering compensation for particularly serious criminal injury that has persisted, or is likely to persist, for a considerable period;
- remove the requirement that applicants for special assistance have accessed the victims services scheme;
- change the definition of “extremely serious injury”;
- expand the range of agencies, apart from the police, to which a crime could be reported;
- remove the retrospectivity provisions.

As previously noted, the Minister accepted an amendment to provide for a review after two years.

The most significant development in the debate was the motion to restore compensation for pain and suffering for particular groups. One of the two independent members put forward an amendment that restored special assistance for pain and suffering up to \$50,000 for two particular groups: the first group were police, fire and ambulance officers, and the second were victims of sexual offences (*Debates*, p. 4263). This amendment was agreed to.

In fact, this amendment represented a retreat for the Government from its policy to remove compensation for pain and suffering altogether, which up to that point had been a major aim of the new legislation. It was assumed at the time that the Government had needed to make this concession in order to obtain the support of the two independent members.

The *Victims of Crime (Financial Assistance) Act 1983* came into effect on 24 December 1999, creating a new financial assistance scheme and a new victims services scheme.

## **3. How the schemes work**

### **3.1 *The financial assistance scheme***

#### **3.1.1 Intention**

As has been described above, the intention of the financial assistance scheme is to reimburse victims of crime for expenses they have incurred and pecuniary losses they have suffered as a result of criminal injury. Compensation for pain and suffering, available to all victims under the previous arrangements, are no longer available except to police, ambulance and fire officers and to victims of sexual offences. The Government intended that some of the money saved by limiting the range and amounts of financial assistance would be available to support a range of other services for victims of crime.

#### **3.1.2 Entitlements**

Under the *Act*, three categories of victims are identified:

*Primary victim:* A primary victim is a person who receives an injury as a result of a violent crime committed against that person in the ACT. The crime must be reported to the police before an application for financial assistance can be lodged. A primary victim can also be a person who is injured while assisting police. The particular crimes recognized as violent crimes are listed in the *Act*.

Financial assistance may be awarded in relation to physical or mental injuries, including mental shock or nervous shock, or the aggravation of existing conditions.

Primary victims can apply for financial assistance for past or future expenses reasonably incurred as a result of the injury, for lost earnings and for expenses (other than legal fees) in making the application. People who are financially responsible for looking after a primary victim may also apply for financial assistance for expenses and lost earnings.

Primary victims who are police, ambulance or fire officers, or victims of sexual offences may apply for special assistance by way of compensation for pain and suffering to a maximum of \$50,000. All other primary victims may be awarded special assistance of \$30,000 only if the criminal injury is an extremely serious injury.

In summary, an “extremely serious injury” is defined in the *Act* as a criminal injury that is permanent, extremely serious and will remain so permanently, and causes a great and permanent reduction in the victim’s quality of life, and

cannot be alleviated at any time by suitable treatment. Special assistance can only be awarded if the victim has obtained such assistance from the Victims Services Scheme (VSS) as is reasonably available.

No financial assistance is available if the injury was caused by a motor vehicle, if the application is for less than \$100, if the primary victim was committing a serious offence at the time of the injury or if the injury occurred at work and the applicant has not exhausted all workers compensation entitlements before making the application. No financial assistance is available unless the crime has been reported to the police.

*Related victim:* Persons defined as related victims may also apply for assistance for expenses, loss of income and special assistance. A related victim is a person who is either a close family member, a dependent or a person who had an intimate personal relationship to a primary victim of crime who has died as a result of a criminal injury.

*Eligible property owner:* These are people whose property is damaged while they are assisting police.

The maximum amount that can be awarded to primary victims, related victims or eligible property owners is \$50,000, whether or not special assistance of \$30,000 is also awarded. If special assistance is awarded to several related victims, the \$30,000 is shared among them as determined by the Magistrates Court.

A number of factors can operate to reduce the amount awarded, including the conduct of the primary victim, whether expenses are being claimed for services that could have been obtained free from the VSS or whether (except in the case of sex offences) the use of drugs or alcohol by the victim contributed to the injury.

### **3.1.3 Applications**

Whereas under the previous arrangements, the ACT Supreme Court or the Magistrates Court (depending on the case) administered the awarding of financial compensation, under the amended *Act*, the ACT Magistrates Court administers the awarding of financial assistance.

As mentioned, the intention of the legislation was that the process of applying should be simple, straightforward and should not necessarily require legal assistance.

Persons wishing to apply for financial assistance obtain an application form and lodge it with the Magistrates Court. An application must be accompanied by a statutory declaration, copies of medical reports relating to the injury, statements made to police, documents relating to any other source of compensation for the injury (for example, workers compensation) and receipts, invoices or quotations relating to expenses covered by the

application. For applications for special assistance, the statement about assistance obtained from the VSS is also required.

When an application is received, the ACT Government Solicitors Office is informed. The Office will decide whether the Territory should become a party to the claim. Generally, if there is sufficient evidence to support the application and the amount claimed seems reasonable, the Territory will choose not to become a party and the application will proceed through the Court uncontested. An offer is made and, if accepted by the victim, there is no hearing.

A representative of the Government Solicitors Office informed me that the Office intends that as many applications as possible be settled rapidly by conference. This avoids the necessity of a formal hearing. The Office says that the overwhelming majority of applications are dealt with in this way.

Because of the retrospective provisions in the *Act*, applications made after 23 June 1998 but not finalized by 23 December 1999 were affected. The new legislation included transitional provisions to cover these applications. In summary the effect of the provisions was that unless there had already been an interim award for compensation for pain and suffering, there could be no award for that compensation. If there had been an interim award for pain and suffering, the amount could not be increased in the final award. If an award were subject to appeal, the appeal court could not make a new award or increase any previous award for pain and suffering. However, if no award for pain and suffering had already been made, applicants were given the opportunity until 24 December 2000 to apply under the amended *Act* for special assistance.

The transitional provisions were the subject of a legal challenge, the details of which (as supplied by the Department of Justice and Community Safety) are as follows:

The appellants in *Iris Frank, Andreas Fokas, Andrew Michael Pinter And Erol Copelj By His Next Friend And Mother Jasmin Copelj v Australian Capital Territory* [2001] ACTSC 42 sought a declaration that the relevant transitional provision was invalid on the basis that it was inconsistent with section 23 of the *Australian Capital Territory (Self-Government) Act 1988* (Cth). Section 23 relevantly provides that the Legislative Assembly has powers to make laws for the peace, order and good government of the Territory but not with respect to "the acquisition of property otherwise than on just terms". The Supreme Court found, by a majority of 2-1, that the provision was inconsistent and therefore invalid. The Territory has appealed the Supreme Court decision and the appeal was heard by the Federal Court on 9 November 2001. The five-member bench of the Federal Court has not yet handed down a decision.

### **3.1.4 Financial impact of the amended scheme**

As intended by the legislation, the new provisions resulted in a reduction in expenditure arising from criminal injury. In fact, the reduction was far in excess of what had been spoken of during debates about the amendments, where reductions of \$2m to \$3m per annum had been predicted.

The analysis of the impact of the amendments is complicated by the fact that official reports are based on the financial year (1 July to 30 June) whereas the amendments came into effect on 24 December 1999, part way through a reporting year.

The knowledge that the Government was intending to restrict the availability of financial assistance would also have had a distorting effect on the number of applications made in the run up to December 1999, as people attempted to ensure that applications were made before the *Act* was amended.

The financial impact of the amendments can be analyzed both in terms of number of applications and number and total value of awards.

The following table\* shows the rise in applications, awards and total value of awards, the trend that had alarmed the Government of the day, along with a dramatic fall in applications, awards and total value of awards after the passage of the amendments:

<i>Financial year</i>	<i>Number of applications lodged</i>	<i>Number of awards</i>	<i>Total amount awarded (to nearest \$1000,000)</i>
1991-1992	125	103	\$1.2m
1992-1993	211	168	\$1.9m
1993-1994	249	229	\$3.1m
1994-1995	275	239	\$3.2m
1995-1996	385	295	\$4.5m
1996-1997	426	339	\$4.7m
1997-1998	578	374	\$5.0m
1998-1999	651	539	\$6.7m
1999-2000	358	451	\$5.5m
2000-2001	155	76	\$0.9m

\*provided by the Department of Justice and Community Safety.

The direct impact of the amendments was also highlighted in the *Annual Report, 1999-2000*, which analyzed the number of applications made in the periods immediately before and after the passage of the amendments:

<i>Period in which application lodged</i>	<i>Court</i>	<i>No. of applications</i>
1 July 1999-23 December 1999	Supreme Magistrates	213 90
24 Dec 1999-30 June 2000	Magistrates	55
<b>Total:</b>		<b>358</b>

The trend in falling expenditure on financial assistance continues, as shown in this table\* comparing the most recently available period (July-Dec 2002) with some previous 6-month periods:

<i>Period</i>	<i>Number of applications</i>	<i>Number of awards</i>	<i>Total amount awarded</i>
1 July - 31 December 1999	111	154	\$1,863,796
1 July - 31 December 2000	103	49	\$541,618
1 July - 31 December 2001	73	55	\$454,988

\* Supplied by staff of the Magistrates Court.

Thus, it is clear that the amended scheme has, as intended, produced significant reductions in total expenditure on financial assistance.

Of course, it was also intended that at least some of the savings in financial assistance were to be expended on the new victims services scheme, so that the total number of persons assisted would be greater. The victims services scheme was expected to cost some \$1m to \$1.5m per annum, depending on the level of usage. Thus the net saving compared with the expenditure in 1997-1998 of \$5m was expected to be in the order of \$1m to \$1.5m per annum.

As the previous tables have shown, the actual position is that following expenditure of \$5m in 1997-1998, expenditure grew to \$6.7m in the next year, fell back to \$5.5m in the following year, before falling dramatically to \$0.9m in the last full year to date, which is 2000-2001.

Savings are difficult to analyze. The problem is which year to choose as the "base year" against which to measure savings. I have chosen 1997-1998 as the base year, being the most recent year not unduly affected by a "rush" of applications seeking to avoid being affected by the changes. Expenditure in 1997-1998 had been \$5m.

In the short run the new scheme failed to produce savings, because for two years, the cost of financial assistance exceeded \$5m. On the other hand, the fall in expenditure 1999-2000 to 2000-2001 was so dramatic that, even offsetting expenditure on the VSS, the savings in that year far exceeded expectations. The net effect has been:

<i>Period</i>	<i>Cost of financial awards</i>	<i>Saving/loss over base year 1997-1998</i>	<i>Cost of VSS</i>	<i>Net saving/loss</i>
1997-1998	\$5m	\$0	\$0	\$0
1998-1999	\$6.7m	\$1.7m loss	\$0	\$1.7m loss
1999-2000	\$5.5m	\$0.5m loss	\$0.5m	\$1.0m loss
2000-2001	\$0.9m	\$4.1m saving	\$0.9m	\$3.2m saving
<b>Total saving/loss to date:</b>				<b>\$0.5m saving</b>

Calculated this way, to date the total amount saved has not been substantial, but if the reduction is maintained, savings will obviously mount rapidly.

### **3.1.5 Quality of service**

There have been no surveys about the quality of the financial assistance scheme as perceived by applicants. The Magistrates Court intends to implement a survey system to gain feedback from each applicant after his or her case has been determined, but this has not yet been implemented.

I attempted to obtain my own information via a survey of 15 applicants whose applications had been determined recently. This plan was only partly successful. The Magistrates Court found it difficult to contact applicants. The application form does not request applicants to provide a telephone number. About 75% of applicants are represented by solicitors, thus their personal contact details are not known. Of the remaining 25%, after young people under the age of 18 had been excluded from the sample, there remained 39 possible contacts. The Deputy Registrar then attempted to contact these people, with the following results: Of the 39, 30 had either changed residence, did not return telephone messages or declined to participate, leaving 9 people willing to be contacted by the Reviewer.

I was successful in interviewing all 9. One of the applicants had not yet had the application finalized, thus had to be excluded. With a survey population of only 8, I have been cautious about drawing conclusions. Nevertheless I found it useful to talk directly to people who have had first-hand experience of applying for assistance, and it helped me to assess some of the statements made in submissions.

## **3.2 *The victims services scheme***

### **3.2.1 Intention**

A victims services scheme was provided for by amendments to the *Victims of Crime Act 1994*, but virtually all aspects of the scheme are specified by regulations under the *Act*. The *Victims of Crime Regulations 2000* give the objects of the victims services scheme: It is to provide assistance to victims of crime that will promote their recovery from harm suffered because of crimes and allow them to take part in the social, economic and cultural life of the community. The assistance is to be given using a multidisciplinary approach, and is to be timely, accessible, solution-focussed, professional, individualized and appropriate to the victim.

Services are provided by a responsible service agency, ACT Community Care, and oversight of the scheme is the responsibility of the Victims Assistance Board.

### 3.2.2 Victims Assistance Board

The victims services scheme is overseen by the Victims Assistance Board, which was established under the *Victims of Crime Regulations 2000*. Among the functions of the Board are to monitor and evaluate the responsible agency's management of the scheme, to approve service providers and to make guidelines about the volunteer program (Section 6).

The Victims of Crime Coordinator (see section 3.5) is a member ex-officio and a number of groups are represented on the Board: the Director of Public Prosecutions, the Australian Federal Police, the ACT Courts, a justice agency, a health and community care agency, a representative of people with non-English speaking background, a lawyer, a representative of the health professions, a representative of victims services groups and a psychiatrist or psychologist (Section 8)

The Board met for the first time on 28 February 2001 and has met as a Board three times since. Various sub-committees have met many times during the period. Among the matters discussed have been procedures for approving service providers, publicizing the victims services scheme, gathering of data about the developing operation of the scheme and the development of a Web site. Probably the most urgent task was to establish procedures for approving service providers. This has been completed and by December 2001, 35 approved providers had been accredited.

### 3.2.3 Responsible service agency

The scheme is managed by a responsible service agency, the agency that was successful in tendering for the scheme being ACT Community Care. An interim victims services scheme commenced in January 2000 and the full scheme in January 2001. ACT Community Care has established a unit called the Victims Services Scheme (VSS) within its Integrated Health Care Program to administer the scheme.

(Nomenclature has given rise to a possible ambiguity: the 'victims services scheme' is the system of services provided for in the legislation and regulations; the 'Victims Services Scheme' or VSS is the organization that is currently contracted to coordinate and deliver the services.)

The VSS describes itself as follows:

The VSS seeks to assist victims of crime to recover from the harm suffered as a result of a criminal act committed in the ACT. Victims will be assisted, free of charge, by the VSS to regain lost or diminished confidence, and/or wellbeing suffered as a result of the criminal act [in a] constructive and reassuring manner, with due regard to the individual's circumstances, rights and dignity. (ACT Community Care *Victims Services Scheme Policy Manual*, July 2001)

The VSS rules on people's eligibility for the different levels of service under the Regulations, and provides, or arranges for, professional services for

victims of crime. It refers victims to other entities that provide other assistance, promotes a victims support network, provides telephone contact for people seeking information or services, maintains a volunteer program to provide practical assistance to victims and provides information to victims about the criminal justice system.

Services are provided either by staff of the VSS, or by approved providers, professionals who have been accredited to provide services to victims of crime. Service providers are approved by the Victims Assistance Board according to a set of criteria listed in the Regulations.

### **3.2.4 Levels of services**

The Regulations provide for various levels of service under the scheme. All victims are entitled to receive Level 1 service, which consists of not more than two contact hours. Victims affected by a violent crime are then entitled to receive Level 2 service, which consists of not more than six further contact hours. A case coordinator manages the delivery of this service according to a care plan, which includes rehabilitation goals.

If the case coordinator decides that the victim would receive therapeutic benefit from further service, the victim is entitled to received Level 3 service which consists of up to 12 further contact hours. The care plan is revised.

In exceptional cases, where the case coordinator makes a written recommendation to the manager of the agency that further contact hours would give substantial therapeutic benefit to the victim, further contact hours can be approved. As described to me, the procedure goes through several levels and is cumbersome and time consuming. Since the inception of the service in January 2000, out of approximately 500 clients, the Manager of the VSS says that there have been only five requests for further contact hours after Level 3.

When the victim has completed the relevant series of contact hours, case closure is effected. If the victim agrees, he or she is interviewed to measure the attainment of goals and he or she completes a survey to evaluate the services. The case coordinator also completes an evaluation report about the services provided to the victim.

If a dispute arises between a victim of crime and the agency as to eligibility for certain levels of service, the decision can be reviewed at three levels. The first level is an internal review by a person not involved in the original decision. The second level is a review by the Eligibility Review Committee, consisting of three representatives from the Victims Assistance Board. Finally, a person has recourse to the Administrative Appeals Tribunal.

### 3.2.5 Approved providers

The plan is that the responsible agency would have a small staff to assess needs, provide crisis counselling and manage the care program of each client (case management). Much, if not most, of the service would be provided by other professionals, whom the agency would pay on a fee-for-service basis.

Soon after its establishment, the Victims Assistance Board set about to design procedures whereby private professionals and staff of other agencies could be accredited to provide services. Providers who had been operating under the Interim Scheme were reviewed at the August 2001 meeting of the Board and, after providing updated information (evidence of insurance and statement of professional supervision), were ratified by the Board.

The Secretary of the Board has told me that by December 2001, thirty-five providers had been approved to supply services under the Victims Services Scheme. By profession:

<b>Profession</b>	<b>Number</b>	<b>Percentage</b>
Psychologist	23	66%
Physiotherapist*	5	14%
Social worker	4	11%
Counsellor	2	6%
Massage Therapist	1	3%
<b>Total:</b>	<b>35</b>	<b>100%</b>

\*According to the Secretary of the Board, as of December 2001, the private physiotherapists had not supplied information required by the Board, as a consequence of which they would no longer be listed in 2002 as approved providers.

The services available from these providers include trauma counselling, crisis intervention and critical incident debriefing; specialist counselling of children, adolescents and families; assisting clients to deal with anxiety, depression, grief, bereavement, stress and pain; and specialist counselling dealing with domestic violence, sexual abuse and torture.

The procedures for becoming an approved provider are as follows: Intending providers contact the Secretariat of the Victims Assistance Board, and receive an Applicant Pack containing a number of documents. Should they decide to proceed with their applications, the documentation is received at the Secretariat, and is checked to ensure all requirements are complete.

The procedures are designed to ensure that approved providers conform to the criteria listed in or implied by Regulation 41 of the *Victim of Crime Regulations 2000*. Required information from applicants includes:

- evidence of registration with relevant professional association,
- evidence of relevant experience,
- information about any complaints against the applicant,
- permission for police check (an approved provider cannot have been convicted of a serious crime),

- evidence of liability insurance,
- evidence of professional supervision,
- a signed ethical conduct undertaking, and
- a signed undertaking about dealing with ineligible clients.

When two Board members have agreed that an applicant is suitable, the applicant is notified and the VSS is informed that a new provider is available. The application is tabled at the next Board meeting for ratification. Any Board member may make an objection. If there is an objection, the applicant will have the opportunity to answer it. Up to the time of this Review, there had been no such objection to any application.

Providers hear about the VSS from a variety of sources, it would appear mostly by "word of mouth", and through professional associations. The Board says it is planning to target professional associations during 2002 to help to increase the number of providers and range of skills available.

### 3.2.6 Staff profile of the VSS

Staff profile as at December 2000 (end of first year of Interim Scheme)

<i>Position</i>	<i>FTE</i>	<i>Level</i>
Manager	1.0	SPOC
Administrative Officer	0.5	ASO2
Intake Officer/Case Manager	0.6	RN2
Intake Officer/Case Manager	0.2	RN2
Intake Officer/Case Manager	0.4	PO2

Staff profile as at December 2001 (end of first year of Victims Services Scheme)

<i>Position</i>	<i>FTE</i>	<i>Level</i>
Manager	1.0	SPOC
Administrative Officer	1.0	ASO2
Intake Officer/Case Manager	0.6	RN2
Intake Officer/Case Manager	0.6	RN2
Intake Officer/Case Manager	0.8	PO2

The Manager estimates that about 0.5 of her time is devoted to Intake/Case Management, thus the VSS has 2.5 full-time equivalent staff devoted to direct client service.

### 3.2.7 Costs of the VSS

	1999-2000*	2000-2001	2001-2002 (est.)
<b>Employee</b>	<b>79,021</b>	<b>232,885</b>	
<b>Materials</b>	<b>19,611</b>	<b>16,481</b>	
<b>Approved providers</b>	<b>5002</b>	<b>194,853</b>	
<b>Totals:</b>	<b>103,634</b>	<b>444,219</b>	<b>594,700</b>

\*Six months only, as expenditure began in January 2000 with the commencement of the interim scheme

From this table one can see the acceleration in expenditure as the service expands, especially in payments to approved providers. It is still far from the \$1m to \$1.5m expenditure per annum envisaged in 1998.

### 3.2.8 Scale of operation

The interim scheme commenced in January 2000 and during the period January to June 2000, there were 85 new clients. During the period July 2000 to June 2001 (the VSS commenced in January 2001) there were 266 new clients. From July to December 2001, there have been 217 new clients, giving a likely total for 2001-2002 of about 450.

The number of new clients alone does not give a full picture of the scale of activity, as a client may access the service only once or many times. The following table gives further information about activity over the last six months:

	Jul	Aug	Sep	Oct	Nov	Dec
New eligible clients registered during the month	40	45	25	49	44	14
Total number of clients active* during the month	207	227	251	234	251	259
Total number of clients inactive* during the month	191	212	217	282	310	316
Number of clients discharged during the month	55	23	5	61	21	16

\*The VSS informed me that an "active client" is one who received a service during the specified period. An "inactive client" is one whose case has been closed i.e. they have exhausted all hours to which they are entitled, or they have completed contact hours, or they have not continued with VSS services because they declined assistance or are uncontactable.

### 3.2.9 Volunteer program

The VSS is required to provide a volunteer program to eligible victims of crime. ACT Community Care has entered into a service agreement with the Victims of Crime Assistance League (VOCAL) to provide a volunteer program.

The VSS pays an agreed monthly amount in return for the following kinds of services:

- accompany clients when attending court,
- assistance in completing application forms for financial assistance or victim impact statements,
- general emotional support/friendly ear if attending an interview related to the crime about which the person is apprehensive,
- assistance with a home security check, and
- general advocacy with regard to requests for housing or related assistance.

### **3.2.10 Quality of the service**

There is a considerable amount of information available about the quality of services available from the VSS. Whereas the financial services scheme had not been evaluated in any systematic way since its commencement in December 1999, the victims services scheme has been evaluated on at least four separate occasions, three prior to this Review, added to which I conducted my own small survey. These evaluations are based on feedback from customers about their experience of using the VSS.

In March 2001 a questionnaire-based mail-out survey was conducted. The survey had two parts. Part A was a survey by Datacol Research P/L, which covered all of the services offered by ACT Community Care. Part B was a survey conducted by Press, Ganey Associates sent only to clients of the Integrated Health Care Program (of which VSS is a part). This survey focussed more specifically on clinical service delivery. In total, 190 people who had been clients of the VSS scheme from its inception in January 2000 to March 2001 received these surveys, of which 57 (30%) were completed and returned.

#### *Datacol survey*

Clients were asked how satisfied they had been with the performance of the VSS on 17 specific and 2 general aspects of service. The survey also asked how important each aspect was in the overall pattern of service. Each item was rated on a scale of 1 (minimum satisfaction) to 10 (maximum satisfaction).

For the VSS, the 10 aspects of service that were ranked as the most important by clients were the following:

<b>The 10 most important aspects of service, according to VSS clients</b>		
<i>Aspect of service</i>	<b>Rank</b>	<b>Average rating</b>
Protection of privacy and confidentiality	1	9.7
Staff who are trustworthy and honest	2	9.5
Staff who listen	3	9.4
Sufficient information available to answer your questions	4	9.3
Personal safety while receiving the service	=5	9.2
Long term availability of the service	=5	9.2
Staff who work with you to find solutions to your needs	=7	9.1
Being treated as a valued customer	=7	9.1
Staff who provide individualized attention	=7	9.1
Good value for money (for yourself or the taxpayer)	=7	9.1

The performance of the VSS on each of the 10 most important aspects of services is displayed in the following table. For purposes of comparison, averages for all programs of ACT Community Care for these aspects are also shown:

<b>Performance of VSS on the 10 most important aspects of service</b>		
<i>Aspect of service</i>	<b>Averages for VSS</b>	<b>Weighted averages* for all programs of ACT Community Care</b>
Protection of privacy and confidentiality	8.9	9.1
Staff who are trustworthy and honest	8.8	8.9
Staff who listen	9.0	8.6
Sufficient information available to answer your questions	8.4	8.5
Personal safety while receiving the service	8.4	8.8
Long term availability of the service	<i>Not measured</i>	
Staff who work with you to find solutions to your needs	9.0	8.6
Being treated as a valued customer	8.4	8.5
Staff who provide individualized attention	8.7	8.6
Good value for money (for yourself or the taxpayer)	8.5	8.8

\*The "Weighted Average" takes into account the different numbers of customers in each program, thus adjusting for the fact that some programs have very many more customers than the VSS.

As can be seen by inspection, the VSS rated higher than the ACT Community Care average on three of the aspects and lower on six, with one item not being measured. Only three items had averages that varied as much as + or - 0.4 points. On those three items, the VSS had higher ratings on "Staff who

listen” and “Staff who work with you to find solutions to your needs”. This would be gratifying for a service based on counselling. The VSS had a lower rating on “Personal safety while receiving the service”. It would be worth checking with some clients whether this arises from the environment at ACT Community Care, or whether it is a result of heightened awareness of risk associated with an experience of crime.

## *Press, Ganey Associates*

The Press Ganey questionnaire consisted of 47 items relating to aspects of clinical service. For each item, national norms were supplied, so as to facilitate comparisons. The norms were derived from survey of 93 Australian agencies, mostly hospital-based.

On many aspects of service, the VSS was rated at a level comparable to the norms, for example:

<i>Aspect of service</i>	<i>Press, Ganey Survey</i>	<i>National norm</i>
<i>How would you rate the overall quality of services? Clients responding “EXCELLENT”:</i>	41%	44%
<i>How would you rate the professional manner of staff? Clients responding “EXCELLENT”:</i>	53%	56%
<i>How would you rate the respect shown for your privacy? Clients responding “EXCELLENT”:</i>	58%	53%
<i>How would you rate the amount of time the staff spent with you? Clients responding “EXCELLENT”:</i>	42%	44%

On many aspects, VSS rated significantly lower than the norms provided by Press Ganey.

I chose six of these aspects to investigate in my telephone interview survey of 18 recent VSS clients, who I selected randomly from a list of 60 provided by the VSS. Obviously, with such a small sample, the results should be interpreted with care. Nevertheless, my survey suggests that VSS recent performance may have improved compared with that reported in the Press Ganey survey:

<b>Aspect of service</b>	<b>Press, Ganey Survey N=57</b>	<b>National norm</b>	<b>Reviewer's survey* N=17</b>
<i>Did you feel the staff were concerned about you as a person?</i> Clients responding "ALWAYS":	66%	84%	88%
<i>Were the staff available in a timely manner for appointments or visits?</i> Clients responding "ALWAYS":	55%	76%	76%
<i>How would you rate your satisfaction with care in meeting your goals?</i> Clients responding "EXCELLENT":	29%	38%	35%
<i>Did the services improve your condition at least as much as expected?</i> Clients responding "YES":	39%	75%	88%
<i>Did the services stop before you felt ready?</i> Clients responding "NO":	41%	85%	59%
<i>Would you recommend this service to family and friends?</i> Clients responding "DEFINITELY YES":	67%	81%	71%

\*Items are the copyrighted property of Press, Ganey Associates and were used with permission. In total, 18 clients were contacted, 1 interview was incomplete.

It is difficult to say why the VSS received low ratings on some of the Press Ganey items. The Director of Clinical Effectiveness and Quality Management, ACT Community Care, has told me that she is keeping this matter under review. She has some doubts about the hospital-based norms and whether they are appropriate for the VSS. The only item where I have a concern is "Did the services stop before you felt ready?" The relatively low "Yes" response rate of 59% does not gel with the fact that most clients do not complete the 20 services which most would be eligible for. The VSS might check with some clients who have discontinued or terminated to explore this further.

At this point, I am not overly concerned about the VSS results compared with the norms, as they were not confirmed by my own small survey. Both the Datacol and the Press Ganey surveys are to be repeated in 2002, which will allow for comparisons to be made. The Director has told me that she and the Manager of the VSS will closely examine the results from the 2002 surveys, and will implement any necessary changes.

### *Pittard survey*

Ms Julia Pittard, a social work student who completed a work placement at the VSS during September 2001, conducted this project. It consisted of a telephone survey of 23 clients who had exited the VSS between May and September 2001.

(Pittard, J. *Report on the efficacy of services the VSS provides to victims of crime in the ACT* (VSS, ACT Community Care, December 2001)

Some results:

- 86% of those surveyed said it was easy to get information about the VSS because they had been told about it by police, community services or legal advisers; several commented that they would not have known about the VSS unless they had been told about it by others;
- 55% attended the VSS to see an intake worker or counsellor, and of those, 91% said that VSS was convenient and easy to find;
- 78% said that they had been able to talk to someone at the VSS immediately;
- 57% got an appointment when they wanted it, 13% were unable to get an appointment when they wanted it and 26% did not want an appointment, preferring to speak on the phone or be referred to another service provider; and
- 78% of respondents said they had been able to talk with someone at the VSS on contact.

**Survey respondents had a variety of expectations. Most wanted personal support and information. Information ranged from what to expect emotionally as a consequence of the crime, to the procedures for getting support from the VSS (p. 19).**

When asked whether they had had their expectations met by the VSS, all respondents to this question (96%) said that their expectations had been met.

Ms Pittard developed the following survey items, concerning the quality of counselling, in conjunction with VSS staff, based on their perceptions of best counselling practice. Some results:

<b>Aspect of service</b>	<b>Number responding "YES"</b>	<b>Per cent responding "YES"</b>
<b>Did the Counsellor</b>		
make time for you to talk about the effects of the crime?	19	83%
work with you to decide what you wanted to do at the VSS?	20	87%
explain ways you could work on problems?	17	74%
give you a choice of who to see to work on problems	14	61%
take account of your needs and wishes?	21	91%
give you information?	20	87%

I am puzzled by the relatively low percentage of “Yes” responses to “give you a choice of who to see to work on problems”, given that the VSS reportedly gives clients a list of approved providers to choose from.

The Pittard Survey reported that there was also a lack of clarity among clients about complaints procedures. The Manager of the VSS has told me that the necessary procedures have now been implemented.

### **3.3 *Victims of Crime Assistance League (VOCAL)***

VOCAL has a special relationship to the VSS because it is the agency contracted to provide the volunteer program, a program that is provided for in the *Victims of Crime Regulations 2000* (Sections 44 and 48) and under the supervision of the Victims Assistance Board. Under the Service Level Agreement between ACT Community Care and VOCAL, VOCAL agrees to develop and maintain a volunteer program to provide practical assistance and support to victims, and to train and supervise volunteers for the program.

As at December 2001, the volunteer program of VOCAL was managed by VOCAL staff consisting of 1 full-time professional Coordinator and 1 full-time Administrative Officer, working under the guidance of a Management Committee. Volunteers provide approximately half of VOCAL’s support services. In 2001 VOCAL recruited and trained 12 new volunteers. They have relevant tertiary education in fields such as counselling and welfare, represent the cultural and linguistic diversity of the community in which they will be working, and participate in a 9-week training program.

Activities of the volunteers:

- Court support (volunteer presence and support when victims attend Court)
- Counselling and emotional support conducted, both in-house and outreach.
- A 24-hour telephone support service
- One monthly evening victims support group
- One monthly lunchtime victims support group
- Speaking engagements
- Advocacy

VOCAL had 127 new clients in 2000 and 180 in 2001, an increase of 42%. Of these, 74 were referred to the VSS and 8 were referred to VOCAL from the VSS. During 2000-2001, 5200 hours were worked by volunteers. VOCAL states that if volunteer hours were costed at \$15 for day hours and \$20 for after hours, the total value of volunteer hours worked during that period would be \$82,000.

Duties of the VOCAL Coordinator include:

- Intake and assessment of new clients (including telephone inquiries) and counselling when a volunteer is not available.
- Assistance to complete applications for financial assistance and victim impact statements.
- Recruitment, training, coordination and supervision of volunteers
- Case Management.
- Attend Case Tracking Meetings held by the Victims of Crime Coordinator.
- Draft new policies and position papers for the Committee's approval.

In VOCAL's view, the volunteer program presents an opportunity for the victim services scheme to more effectively reflect the diversity of the community it serves. VOCAL believes that volunteers can contribute a very valuable component of service provision. Whereas paid staff need to maintain a certain professional distance from clients, volunteers, who are generally survivors of crime themselves, can offer a unique kind of empathy and support. VOCAL finds that volunteers have a high level of commitment, often working outside normal hours. They offer a broad range of skills and experience that agencies have difficulty in matching, and have a strong connection to community.

VOCAL existed before the establishment of the VSS, and some VOCAL members may have hoped that the VSS would be established using VOCAL as a base. With the VSS being awarded to ACT Community Care and operating independent of VOCAL, some VOCAL members feel that the organization has been relegated and no longer is able to make the contribution it made prior to the establishment of the victims service scheme.

VOCAL staff told me that client referral is a difficult point. Under the new system clients wishing to access services must do so via the VSS for intake and assessment. Thus a client who presents at VOCAL is told that they need to contact VSS in Civic for initial assessment, after which they may or may not reappear at VOCAL.

### **3.4 Victims of Crime Coordinator (VoCC)**

The Office of the Victims of Crime Coordinator (VoCC) is provided for under the *Victims of Crime Act 1994*. The *Act* gives some governing principles about the treatment of victims of crime, in particular that they should be dealt with in a "sympathetic, constructive and reassuring manner" and with due regard for their "personal situation, rights and dignity" (Section 4). They should be informed about the progress of police investigations and court processes relevant to the crime of which they were the victim.

The functions of the VoCC are to promote the governing principles, promote reforms, develop programs, ensure that victims receive the information and assistance they need and advise the Minister on matters relating to victims.

Recently, the staffing doubled in size and the Office is now a two-person operation.

The Office of the VoCC convened the 1998 inter-agency working party that recommended the establishment of a victims services scheme.

With the establishment of the Victims Assistance Board, the VoCC has become an ex-officio member of the Board.

As well as a scrutiny and advisory role, the Office acts for individual victims of crime, especially where they have not received satisfaction from other agencies. The VoCC reports that this direct service role has increased. Over the past two years the Office reports receiving between 250-400 calls per annum, with a 45% increase and a 40% increase respectively in the last two financial years.

The two most common requests are for case status information with regard to justice responses, and for information, advice and assistance.

There has been an increase in the number of inquiries with regard to the financial assistance scheme, currently in the order of 4-6 inquiries per day and the VoCC has expressed concern about whether a small Office can continue to meet an increasing demand from individual inquirers and clients.

## 4. Discussion and Findings

### ***Term of reference 1:***

**An assessment of the efficiency of the *Victims of Crime (Financial Assistance) Act 1983* in providing financial assistance to eligible victims of crime and in particular, whether financial assistance is provided in a manner that is**

- timely,
- consistent, and
- cost effective.

### **4.1 Summary**

My opinion is that the current arrangements provide the intended level of financial assistance to victims of crime in an efficient manner. People report favourably on the helpfulness of staff at the Magistrates Court and the attitude of the Government Solicitors Office. It appears that, in general, applicants receive reimbursement for the expenses incurred as a result of the crime in a way they see as fair and reasonable. The system is, however, not as simple and straightforward as intended, and many applicants feel they need assistance. There are a number of obstacles to their getting this assistance.

The main issues with the financial assistance scheme involve eligibility, where awards for pain and suffering are restricted to certain occupational groups or certain crimes. This is seen as unfair.

The conditions under which a person becomes eligible for “special assistance” are criticized for being too restrictive.

### **4.2 Is financial assistance is provided in a manner that is timely?**

I am taking “timely” to mean that, in the general perception of members of the public who apply for assistance, such assistance is given without undue delay. “Undue delay” would probably mean months elapsing before a determination is made and further months elapsing before payment is received.

My impression is that officials from both the Magistrates Court and the Government Solicitor are keen to expedite all matters and reach determinations as quickly as possible. The internal procedures of the Court specify that all applications (not only, but including, applications for financial assistance) must be processed within 24 hours. Conferences are set

down within 6 weeks after an application is received. One of the jobs of counter staff at the Magistrates Court is to ensure that each application submitted in person is complete before the applicant leaves reception, thus avoiding delays for the applicant.

This commitment to timeliness is substantiated by submissions from VOCAL, Witness Assistant and Individual B. I got the same impression from most of the applicants that I interviewed. On the other hand, things can go wrong, as illustrated by submission from Individual E.

In my opinion:

***Overall, financial assistance is being provided in a timely manner.***

### **4.3 Is financial assistance provided in a manner that is consistent?**

Consistent means “constant to the same principles”. In this context it would mean that similar cases would have similar outcomes, the same circumstances would have the same outcomes. It is difficult to get direct evidence on this point. I think it is reasonable to assume that financial assistance is being provided in a manner that is consistent, for the following reasons:

- Firstly, I have received very few complaints that fall into the category of inconsistency. If lack of consistency were widespread, it would be reasonable to expect that I would have heard about it.
- Secondly, most of the grounds for obtaining financial assistance are so closely specified that it is difficult to see how major inconsistencies could occur. Most assistance consists simply of reimbursing the applicant for expenses actually incurred, as demonstrated by receipts and reasonable estimates.
- Thirdly, with regards to awards of special assistance for pain and suffering, my impression is, again, that inconsistencies are probably rare. I have received no complaints. Applications involving police, fire and ambulance staff are handled by solicitors on behalf of the applicant. I have been told that, over the years, understandings have developed as to the appropriate award for pain and suffering for typical circumstances, thus the amount to be awarded is generally settled by agreement at conference, in the light of previous awards.
- Fourthly, with regards to awards of special assistance for pain and suffering for victims of sexual crimes, I have received no complaints about inconsistency.
- Fifthly, with regard to special assistance, awards will at least be consistent in amount, as a flat amount of \$30,000 is prescribed. The conditions for

which special assistance can be awarded are closely defined in the Act, hence the likelihood of inconsistency is further reduced. Given that only two awards for special assistance have been made under the *Act*, the issue of consistency hardly arises.

In my opinion:

***Overall, financial assistance is being provided in a manner that is consistent, within the intention of the Act.***

On the other hand, it is felt that the *Act* itself treats different groups inconsistently, see section 4.9 below.

#### **4.4 Is financial assistance provided in a manner that is cost effective?**

The Government of the day had three intentions: (1) to contain costs at an affordable level, (2) to provide better assistance and (3) to provide assistance to a greater number of crime victims each year.

##### **Contain costs**

The new scheme has clearly succeeded in containing costs to an affordable level. It has, in fact, produced far larger savings than had been predicted. Hence, from this perspective, financial assistance is being provided in a manner that is not only cost-effective, but also exceeded expectations.

##### **Better assistance**

Here the intention was to use at least some of the money previously awarded for pain and suffering, to provide a range of rehabilitation services via a victims services scheme. Has the diversion of funds away from financial awards and towards victims services produced “better assistance”?

I find that it is impossible to assess this question in any objective way. The question is whether this newly available “apple” is more valuable than the lost “orange”. Some victims of crime have told me that they would rather have assistance to recover than a financial payment, and others who qualified for pain and suffering have said that there was no substitute for receiving a financial payment.

I believe it is clearly better to have a victims services scheme *and* a financial assistance scheme, provided each is of at least acceptable quality. As it stands, the quality of the VSS is acceptable (see below for details of the VSS) whereas the quality of the financial assistance scheme is controversial.

## Greater number

Whether the scheme has succeeded in providing assistance to a greater number of victims of crime is somewhat easier to answer. Introducing the amendments, the Government pointed out that only about 350 people were receiving financial compensation each year, far fewer than the number of crimes being reported to police annually (said to be about 35,000). The intention was that *more* people should receive assistance, and this would be done by adding a victims services scheme. Victims of crime could either access financial assistance or victims services, or both.

In order to analyze the total number of victims of crime accessing one or other form of assistance, we need to disregard the differing nature of the assistance, and for the purpose of this analysis, combine “apples” and “oranges”.

If the intentions of the amendments were being realized, we would observe an increase in the total number of people being assisted. Presumably, by “greater number”, the Government of the day were not thinking of merely a few hundred. The 1998 Working Party gave a “conservative guesstimation” that 5000 extra crime victims per year would receive some level of support and assistance (p. 33). In the presentation speech, the Minister suggested “several thousand” per year.

In fact, by the end of financial year 2000-2001, the total number of financial awards plus the total number of new clients of the VSS was about the same, i.e. about 350:

<b><i>Period</i></b>	<b><i>Number of awards of financial assistance</i></b>	<b><i>Number of new VSS clients</i></b>	<b><i>Number of services* delivered</i></b>
1996-1997	339	NA	339
1997-1998	374	NA	374
1998-1999	539	NA	539
1999-2000	451	85	536
2000-2001	76	266	342

\*This is “services” because some people have received *both* financial and VSS assistance, hence the total number of *individuals* is less than the number of *services*. Because the two schemes operate independently, the number of people receiving both services is not known.

On the other hand, because the number of new clients accessing the VSS is increasing, one could reasonable expect that over time, the total number of services will increase, as indicated by services during the latest period for which data is available, July-December 2001:

<b><i>Period</i></b>	<b><i>Number of awards of financial assistance</i></b>	<b><i>Number of new VSS clients</i></b>	<b><i>Number of services delivered</i></b>
July-Dec 2001	55	217	272

One could reasonably infer that the total number of services delivered during 2001-2002 will be at least 550. Thus, within a year or so the total number of victims of crime receiving a service will probably be double the 350 who received services in 1997. Hopefully, the number will continue to grow. A number of submissions have mentioned that the existence of the service is not well known (see “Is the VSS accessible?” below). It must be said, however, that the number of victims of crime accessing the service is still far from the intention of “several thousand”.

In my opinion:

***Apart from the fact that expenditure has fallen dramatically, it is not possible to determine in any meaningful way whether financial assistance is being provided in a manner that is cost-effective.***

## **OTHER ISSUES**

### **4.5 Applying may not be simple and straightforward**

It was intended that applying for financial assistance be simple and straightforward, not requiring legal representation. Submissions from the VSS, Women’s Legal Centre, Witness Assistant, VoCC, Individual E, SAMSSA and Legal Aid raise doubts about this. My impression is that if one were used to administrative tasks, it would not be too difficult. One person I interviewed said it was like doing a university assignment. For people not used to interpreting guides and dealing with paperwork, it could appear daunting.

If the system were simple, one wonders why the VoCC Office “. . . continues to receive daily phone and office callers puzzled by one aspect or another of the process” and find that about six cases per month evolve into “time-intensive interventions” (Submission from VoCC, p. 18).

The administration of the financial assistance scheme is the responsibility of the Magistrates Court, which obviously has to follow court-like procedures; the problem is that ordinary people are not necessarily familiar or comfortable with courts.

An example is the application form, which has not been designed from the perspective of an applicant; rather it has been designed to satisfy a legal process: Thus the first words to confront an applicant are (presented on the front page of the form in upper case, as shown here):

“ALL APPLICATIONS SHOULD BE ACCOMPANIED WITH ALL RELEVANT DOCUMENTATION AS REFERRED TO IN PART III, DIVISION 1, SECTION 27 OF THE *VICTIMS OF CRIME (FINANCIAL ASSISTANCE) ACT 1983*” [which is then quoted].

Would it not be more useful, and more consistent with the intention, to have the first words be something more like this:

Dear Applicant: We realize you may have been through a difficult experience. We are keen not to add to your worries. These guidelines are designed to be as helpful as possible. . . .”

The items on the form are worded in legal rather than plain language, such as:

Particulars of any criminal proceedings, including proceedings by way of appeal instituted against a person whose action in the relevant injury (or property damage) being sustained (in so far as those particulars are known to me).

To be consistent with the intention of the scheme, this form should be re-designed. This should be possible, given that many organizations who need to follow rigorous procedures, such as Centrelink, the Australian Taxation Office and insurance companies, now use “customer friendly”, plain-language forms.

Applicants are also given a brochure entitled *Financial Assistance for Victims of Crime: Outline of entitlements and eligibility*. This is in relatively plain language but still not simple, being seven pages in length. The main problem is that the *Act* itself is detailed and complex, itself occupying 49 pages (excluding endnotes). There is a limit to which the relevant information can be condensed. As a VSS staff member put it:

We have given people the written information, but it is pretty dense and difficult to comprehend, so I try to assist clients but stress that they should seek legal advice for an explanation of the contents.

The VoCC says that a *Guide for agencies* is being produced, with the assistance of the Magistrates Court and the Office of the Government Solicitor. The VoCC is concerned that the “. . . victims services reforms are being undermined as long as the issue of assistance goes unaddressed” (p. 14). The *Guide for agencies* project should have a high priority, and hopefully be followed by a new *Guide for applicants*.

In my opinion:

***The materials given to applicants for financial assistance should be re-designed so that they are more “user-friendly”.***

#### **4.6 Difficulties with the process**

People can get legal advice from a solicitor, but the intention is that they should not need this advice. Furthermore, many solicitors are reluctant to take on these matters because of the fee cap (see also below). In practice, victims often approach agencies. People want to know what financial assistance is available and what they might receive. The VSS, VOCAL and SAMSAA say they must be very careful in assisting clients lest they say something that is interpreted as legal advice.

In answering inquiries, the VSS informs people of the existence of the financial assistance scheme, and that the scheme is accessed through the Magistrates Court. Staff state that they are not legally qualified to give advice. They may quote from the brochure, and if the person has further questions, may recommend consulting with the Court, Legal Aid or a lawyer if they are planning on making an application.

This need to avoid “doing the wrong thing” must be very constraining. Obviously, agency staff must not give anything that might resemble legal advice. But it should be possible to devise some protocols that, at least, permit staff to assist applicants to navigate through the density of the brochure, *Financial Assistance for Victims of Crime*.

Again, the process is intended to be simple and straightforward. Most applications are dealt with at a conference, where the applicant meets with a registrar of the Magistrates Court and a solicitor from the Office of the Government Solicitor. The solicitor makes an offer, based on the application. Feedback indicates that the officers generally take a helpful, facilitating role. They attempt to settle the matter by negotiation, thus obviating the next step, which would be a hearing in front of a magistrate.

At the same time, it seems unfair that the Territory is represented and the applicant is not. Of course an applicant can engage his or her own solicitor (if one can be found) but must bear the costs.

Submissions from the VSS, Women’s Legal Centre, Mr Freer and Legal Aid point out that although this is a relatively informal system, to people not accustomed to the legal process, it can appear to be formal and daunting. Legal Air says: “The prospect of completing forms and launching into court proceedings without some legal guidance would be daunting for most in the community.”

In my opinion:

***Processes of applying for and being granted financial assistance should be made less confronting and daunting.***

#### **4.7 Requirement to report crimes to the police**

In order to be eligible, an applicant for financial assistance must have reported the crime to the police. This requirement has been criticized in submissions from the Domestic Violence Crisis Centre, Women's Legal Centre, VoCC, Crime Prevention (AFP), Aboriginal Justice Advisory Committee and Women's Consultative Council. They point out that women, especially, are often reluctant to report offences for a number of reasons, including fear of retribution from a partner or a reluctance to reveal the existence of a sexual offence.

In my opinion:

***As there is considerable opposition to the condition that an applicant for financial assistance must have reported the crime to the police, this condition should be reviewed.***

#### **4.8 "Cap" of \$650 on legal fees**

Under the previous scheme, legal fees were unregulated. Some believed that the availability of awards for pain and suffering opened an opportunity for excessive legal fees. In an attempt to regulate fees, the new legislation prescribed a maximum fee of \$650, and excluded legal fees from the reasonable expenses that could be reimbursed via financial assistance.

This "solution" has produced a situation in the ACT where many, if not most solicitors, are reluctant to deal with victims of crime matters. Submissions from the Law Society, VoCC, Mr Freer, SAMSSA and Women's Legal Centre refer to this problem. This reluctance has placed increased demands on agencies which, as mentioned above, are prevented from offering much assistance in case it might be perceived as constituting legal advice.

In my opinion:

***Solicitors should be able to charge a fee based on the events involved in the matter, according to an agreed scale.***

## 4.9 Eligibility provisions of the Act seen as unfair

A number of submissions complain that awards for special assistance are not available equally, but based on occupation or nature of the crime. This is regarded as unfair. They include the Law Society, Domestic Violence Crisis Service, Women's Legal Centre, VoCC, Individual C, Individual D, Mr Freer, Canberra Rape Crisis Centre and the Women's Consultative Council.

They cite the following reasons:

- Special assistance for pain and suffering is restricted to certain groups, based on occupation (police, fire and ambulance staff).
- Special assistance for pain and suffering is restricted to victims of a certain class of crimes, i.e. sexual crimes.
- Although special assistance of \$30,000 is not similarly restricted, the conditions exclude most victims of crime.
- Assault victims are particularly disadvantaged.

With regard to "special assistance", the complaint is confirmed by the fact that, in contrast to the 20 to 30 awards per annum expected, only two awards for special assistance have been made since December 1999.

Some submissions simply recommend a return to the previous system where awards for pain and suffering up to \$50,000 were available to all. I do not think this is affordable or workable.

The issues appear to me to be:

- Should governments make awards for pain and suffering to any victims of crime?
- If so, should awards for pain and suffering be available to some groups and not others?
- If they are available to everyone, how can they be administered in a way that is affordable?
- Should every victim simply receive a flat amount or should awards reflect the seriousness of the impact of the crime?
- Can a proportionate scaling system work? Can a table of maims approach work?

If any of the "solutions" proposed are adopted before there is wide community acceptance, the solutions will give rise to still more problems.

Rather than "tinkering", I believe it would be better to leave the major aspects of the current scheme unaltered for the time being. Instead, I suggest using the opportunity to explore whether awards for pain and suffering should be

available and, if so, how to administer them in a way that is affordable and regarded generally as fair and reasonable.

The Minister might charge a representative group to develop proposals. The proposals would need to be affordable, and be widely seen in the community as being fair and reasonable. Until those criteria were met, the eligibility provisions of the financial assistance scheme would remain as they are.

Experience in other jurisdictions could also be useful in such a re-design. Currently the Victoria and New South Wales schemes are being reviewed. These jurisdictions are wrestling with many of the same issues, and have even tried some of the above “solutions”. Unfortunately, neither of the reports is yet available. Victoria’s has been completed but not yet released, and the review in New South Wales has just begun. This is another reason to “hasten slowly”.

In my opinion:

***Current provisions for eligibility have not been generally accepted and are widely seen as unfair and inconsistent, and in the case of special assistance, unduly restrictive. There is no workable consensus about what should be done.***

### ***Term of reference 2:***

**An assessment of the effectiveness of the victims services scheme:**

***Does the victims services scheme provide assistance to victims of crime in a manner that promotes their recovery from the harm suffered because of the crime and allows them to take part in the social, economic and cultural life of their community?***

## **4.10 Summary**

My opinion is that the victims services scheme does offer assistance that promotes people’s recovery and assists them to resume their lives. My impression is that in other jurisdictions, services such as those offered by the victims services scheme are accepted as a necessary part of assistance to victims of crime, and that the ACT should also continue to offer this service.

The value of the victims services scheme and of the agency responsible, the Victims Services Scheme of ACT Community Care (VSS), has been widely acknowledged. Many recent clients (including most of the 18 that I interviewed) and submissions such as Crime Prevention (AFP), Individual B, Domestic Violence Crisis Service, Child at Risk Assessment Unit, SAMSSA, VoCC and Ms Wyndham point to the value of the scheme. On the other

hand, from time to time there are problems, as shown in the submission from the Witness Assistant. My main concern is that, so far, the scheme has been somewhat limited in its range of services, number of clients and involvement of other community groups.

#### **4.11 Does the VSS provide assistance to victims of crime using a multi-disciplinary approach?**

Services available through the VSS are based on a range of disciplines, including psychology, psychotherapy, counselling, massage, physiotherapy, acupuncture, social work and nursing. The emphasis is on psychology and counselling. As at December 2001, of the total of 35 approved providers listed there were 23 psychologists, 4 social workers and 2 counsellors, that is, 29 out of 35 or 83%.

In my opinion:

***The VSS provides assistance using a multi-disciplinary approach, although the preponderance of assistance is based on psychology and counselling.***

#### **4.12 Does the VSS provide assistance in ways that are timely?**

Evidence from customer surveys and my own brief survey of 18 recent clients indicates that clients who approach the VSS are able to arrange for an appointment promptly. The VSS estimates that 90% of clients are offered an appointment within two days and often on the same day. I received no feedback indicating that there are any undue delays in arranging appointments with approved providers, who have every incentive to commence services as soon as possible.

In my opinion:

***The VSS provides assistance in ways that are timely.***

#### **4.13 Does the VSS provide assistance in ways that are accessible?**

“Accessible” includes being physically accessible, which itself has several aspects. ACT Community Care is located in Civic, which is easy to access via public transport. Parking has not been reported as a problem.

Accessibility also includes offering services that people from all cultural, economic and social groups see as being appropriate for them. The VoCC mentions that the VSS has been particularly successful in reaching men and children (pp. 9-10).

Regarding Aboriginal Australians, the submissions from the Aboriginal Justice Advisory Committee, VoCC and VOCAL voice concerns. Furthermore, the VOCAL submission asserts that the VSS has “. . . little capacity to service victims from culturally and linguistically diverse groups of Australians”. While this might perhaps be overstating the case, my feeling is that the VSS, along with most social agencies, could and needs to do more in this regard. VOCAL has offered to assist, which should reinforce VSS capability in the future. The VSS has also indicated that, as a result of recommendations of the Pittard Survey, it intends to increase its profile with groups representing Aboriginal Australians.

“Accessible” also includes being known in the ACT community. The Pittard Survey showed that many victims of crime had not been aware of the existence of the VSS. This issue is also mentioned in the submissions of Individual B, VoCC and Women’s Health Service. I believe that the VSS should proceed with its current plans to publicize the service as widely as possible.

“Accessible” also includes the service allowing for the full participation of other agencies that wish to contribute. VOCAL, Canberra Rape Crisis Centre and SAMSSA feel that the VSS administrative arrangements are too restrictive and prevent their organizations from participating fully.

My impression is that the VSS is aware of all of these concerns and is working to deal with them.

In my opinion:

***Within the limited range of its services, the VSS provides assistance that is accessible.***

#### **4.14 Does the VSS provide assistance in ways that are**

- **solution-focused**
- **professional**
- **individualized**
- **appropriate to each victim**

#### **Solution focussed:**

My view is that assistance is offered in ways that are solution-focussed. The service is designed such that from the commencement of Level 2, each client is required to have a care plan, including intended outcomes. Each client has a Case Manager whose job is to ensure that the pattern of services for each client is appropriate to the outcomes. As far as I can tell, the services are being delivered in accordance to this design.

#### **Professional:**

My view is that the procedures in place are sufficient to ensure that the services available from VSS are professional. This aspect is the particular responsibility of the Victims Assistance Board. It appears to me that the Board has a sufficiently rigorous process for selecting approved providers, and this process is being followed. There are also a number of other processes in place to ensure quality, including an elaborate procedure for lodging and dealing with complaints.

#### **Individualized:**

My view is that the assistance is individualized. As stated above, each client from Level 2 is required to have a care plan with intended outcomes, each plan being tailored to needs of the individual client. The VoCC says that she is unclear about how the case management process actually works. She includes a detailed discussion of this matter in her submission (pp. 12-13) that I feel could be usefully reviewed by the VSS and other agencies.

#### **Appropriate to each victim:**

The VSS policies and procedures are designed with this end in mind. Ideally, the VSS should have a sufficiently broad range of services delivered in a sufficiently broad range of modes to suit virtually any person from any cultural, social or economic background, including catering to individual tastes and/or aversions. This is a formidable challenge.

The VSS is able to serve the person who has experienced a crime, is upset and disoriented, and who is dealing with the emotional consequences of their experience. Counselling either by VSS staff or an approved provider, appears to be satisfactory. Others may need services that are more difficult to provide. Some people have had a long history of trauma, the current victimization being the latest. Some people need practical assistance to get their lives in order, assistance that the VSS is not designed to give. Some

people may need a specialist service not yet included in the list of approved providers – obviously it is more difficult for VSS to serve these clients.

Nevertheless, as stated above, I feel that the current range of services (mainly psycho/social interventions) and modes of delivery (mainly one-to-one) are too limited. Submissions from VoCC, SAMSSA and the Domestic Violence Crisis Service also mention the need for practical assistance.

In December 1998 the Minister said that “. . .the Territory’s new victims services scheme will provide more than just counselling services to victims”. My impression is that the scheme to date has been primarily counselling. My impression is that the VSS finds it a struggle to go beyond the client-therapist paradigm, and in any case, is constrained by the regulations that are themselves a product of that paradigm.

In my opinion:

**Within the counselling paradigm, the VSS provides assistance in ways that are solution-focussed, professional, individualized and appropriate to each victim.**

#### **4.15 The Victims Services Scheme (VSS) and the Victims of Crime Assistance League (VOCAL)**

I visited each organization, spoke to some of their staff, received their submissions and listened to what others have said about this. It is clear that relations are strained. The VSS feels that it has attempted to create a workable relationship but that VOCAL as an organization is hard to relate to. For its part, VOCAL feels supplanted. What VOCAL wants, and what they evidently feel is missing are

. . . effective referral networks and practices with VOCAL and other key providers should be maintained *based upon principles of mutual respect, equity, common purpose, and an active acknowledgment, in practice, of difference and diversity* (p. 12). (Original emphasis.)

One can get a sense of the issue, and the depth of feeling about it, from this passage from VOCAL’s submission:

If VSS continues to see itself as the rightful owner of the first point of entry for victims services, whilst clients who have other needs do not see their primary needs as counselling, then the current arrangement for victims compensation and its rationale for the VSS can be seen as inequitable and in effect exposing victims of crime to yet another form of violence (p. 12).

From the VSS viewpoint, it is obviously difficult to incorporate the services of a volunteer organization into the victims services scheme, whose regulations and policies are oriented towards a professional service based on accreditation, screening, hourly services and case management. Volunteer agencies like VOCAL do not fit neatly into this paradigm; perhaps more accurately, they hardly fit at all.

Nevertheless, victims services in the ACT would miss a great opportunity if this relationship were not resolved. Volunteers bring an extraordinary enthusiasm and generosity to their work. In its submission, SAMSSA also indicates that it would like to be more closely involved in the scheme.

The Victims of Crime Coordinator (VoCC) feels that there is a great potential in the partnership between VOCAL and the VSS. Obviously in the development stages, there have been some tensions and problems that now need to be worked through. The VoCC has reported that in a few cases, the lack of resolution of the roles has had an impact on client care.

Regarding VOCAL: I feel it is now time for VOCAL to accept that, like it or not, victims of crime services have been contracted to the VSS, and the VSS is the agency responsible for coordinating the service. Agonizing as it will be, there is an opportunity for VOCAL to adapt to the new arrangements, while assisting in their further development. There is an opportunity for VOCAL to be a pioneer in demonstrating how a volunteer organization was able to join with, and even influence, a highly structured organization.

### ***Term of reference 3:***

**Guidance on future evaluation of both the financial assistance scheme under the *Victims of Crime (Financial Assistance) Act 1983* and of the victims services scheme under the *Victims of Crime Act 1994*.**

## **4.16 Need for an evaluation framework**

In order to conduct this Review, I needed a frame of reference against which to compare the performance of the two schemes. In the absence of any other frame of reference, I chose the Government's *intentions*, as revealed in the discussion and debates leading up to the passage of the amendments in 1999. Whereas I believe this frame of reference has been adequate for this Review, it is inadequate for on-going evaluation.

In summary, currently for each of the schemes, "evaluability" is missing. There may be data, but there is no framework to provide a context for interpretation. With an agreed evaluation framework, much of this data will become valuable. An evaluation framework would begin with an agreed set of goals, allowing for the development of key indicators and measures, criteria for minimum acceptable performance on each indicator and procedures to gather the required data.

A starting point for developing standards could be Position Paper number 2 of Victim Support Australasia (March 1998): *Recommended framework for victims support services in jurisdictions*. Another source for standards is the *United Nations Declaration of the Basic Principles for Victims of Crime and Abuse of Power*.

Once there is such a framework, evaluation is possible. In our case, there would probably be a framework with subsections for each scheme. Evaluation allows for strengths and weaknesses to be identified. Appropriate actions can then be incorporated into the corporate plan of the VSS and Magistrates Court.

The Office of the Victims of Crime Coordinator might be an appropriate body to oversee the development of the evaluation framework, given that it has an overview of both the victims services scheme and the financial assistance scheme.

In my opinion

***Each scheme needs an evaluation framework, including goals, key indicators, measures and minimum acceptable performance criteria for each indicator.***

The VoCC also mentions the need for evaluations of intervention models, studies that would indicate what works for which kinds of victims, and the kinds of treatments and services that assist in recovery. She calls for longitudinal studies into how financial packages impact on a person's recovery (p. 21). A similar suggestion is made by the Law Society and the Women's Consultative Council. Good quality research is time consuming and expensive. Care would need to be taken before committing to such a study.

My view is that recovery is based not on *circumstances* but on the *context* the person has for interpreting the events that happened to them. The context "victim" may not be an empowering interpretation. Within this view, therapeutic interventions or financial payments are also circumstances, and thus, in themselves, would make no difference. The question is, what kind of contribution can one make to a victim of crime that could enable that person to create an empowering context for interpreting what happened to them?

Some comments about evaluation, relative to each scheme:

### **Financial assistance scheme**

The Magistrates Court gathers and publishes a considerable amount of data about the financial assistance scheme, which is available in the *Victims of Crime (Financial Assistance) Act 1983 Annual Reports*. Demographic information about applicants, classes of criminal offences, numbers of applications and amounts awarded are included, and I found that the Registrar's staff were very helpful supplying additional analyses, including bringing the statistics up to date as of December 2001.

Furthermore, each *Annual Report* supplies case summaries outlining the circumstances of each individual case for which an award has been made.

On the other hand, there is a virtual absence of any data about the applicants' perception of the scheme. To remedy this, the Magistrates Court plans to gather feedback from each applicant once his or her application has been determined. This data will almost certainly be needed as part of any future evaluation process.

### **Victims services scheme**

In contrast to the financial assistance scheme, there is a plethora of data about the Victims Services Scheme, especially from the perception of the client. Customer satisfaction data has been gathered on four occasions since March 2001.

The Clinical Effectiveness and Quality Management department of ACT Community Care has a plan for the future evaluation of the VSS. The plan provides not only for the gathering of feedback, it also provides for it to make a difference. Data is reviewed and appropriate actions are to be included in the corporate plan for the forthcoming period, the outcomes of which are, in turn, reviewed.

What is now needed is for a body external to the VSS, and in conjunction with the Victims Assistance Board, to establish an evaluation framework.

*[End of body of Report]*

## Appendix 1: People consulted

Ms	Anne	Barrie	Manager, Victims Services Scheme, ACT Community Care
Mr	Tim	Bavinton	Coordinator, Service Assisting Male Survivors of Sexual assault (SAMSSA)
Ms	Doris	Bozin	Senior Deputy Registrar, ACT Magistrates Court
Mr	Ian	Bradfield	Consultant for Australian Federal Police Association
Ms	Rosemary	Budavari	Coordinator/Principal Solicitor, Women's Legal Centre
Ms	Gail	Cantele	Witness Assistant, Director of Public Prosecutions
Ms	Amanda	Casimir	Deputy Chair, Victims Assistance Board
Ms	Leigh	Casley	Secretary, Victims Assistance Board
Ms	Linda	Crebbin	Deputy CEO, Legal Aid Office, Canberra
Ms	Marie'noelle	Cure	Coordinator, Victims of Crime Assistance League (VOCAL)
Ms	Judy	Dixon	Director, Victims Referral and Assistance Service, Victoria
Ms	Gina	Forner	Deputy Registrar, ACT Magistrates Court
Ms	Naomi	Grundy	Press, Ganey Associates
Mr	Bryan	Harper	Deputy Chair of Management Committee, Victims of Crime Assistance League (VOCAL)
Ms	Robyn	Holder	Victims of Crime Coordinator
Mr	Hugh	Jorgensen	Solicitor, ACT Government Solicitors Office
Mr	Larry	King	Executive Director, Law Society of the ACT
Mr	Allen	LeLievre	President, Australian Federal Police Association
Mr	John	Little	President, ACT Branch, Australian Plaintiff Lawyers Association
Ms	Di	Lucas	Director, Canberra Rape Crisis Centre
Ms	Heather	McDonald	Director of Clinical Effectiveness and Quality Management, ACT Community Care
Mr	Malcolm	Mearns	Datacol Research P/L
Mr	Ross	Oakman	Deputy Registrar, Civil Section, ACT Magistrates Court
Mr	William	Redpath	Senior Vice President, Law Society of the ACT
Dr	Sandy	Santmyers	Chair of Management Committee, Victims of Crime Assistance League (VOCAL)
Ms	Alison	Sides	AFP Victims Liaison Officer
Ms	Dennise	Simpson	Manager, Domestic Violence Crisis Service
Ms	Mark	Sloane	Civil/Small Claims Section, ACT Magistrates Court
Ms	Frances	Thomas	Finance Officer, Integrated Health Care Program, ACT Community Care
Ms	Josephine	Thomis	Solicitor, Women's Legal Centre
Ms	Annabelle	Wyndham	Unit Manager of the Child at Risk Assessment Unit (CARAU), ACT Community Care

### ***Project Management Committee***

Ms	Elizabeth	Kelly	Executive Director, Policy and Regulatory Division, ACT Department of Justice and Community Safety
Ms	Karen	Greenland	Director, Criminal Law and Justice Group, Department of Justice and Community Safety
Ms	Anita	Kaney	Policy Officer, Policy and Regulatory Division, ACT Department of Justice and Community Safety
Ms	Bronwyn	Leslie	Policy Officer, Policy and Regulatory Division, ACT Department of Justice and Community Safety

## Appendix 2: Publications consulted

ACT Legislative Assembly. *Victims of Crime (Financial Assistance) Amendment Bill 1998 - Presentation Speech* [by the Minister for Justice and Community Safety, Hon. Gary Humphries, MLA]

ACT Attorney General's Department. *Discussion Paper - Reform of the ACT Criminal Injuries Compensation Scheme* (Canberra, 1997)

ACT Community Care. *Victims Services Scheme policy manual* (July 2001)

ACT Community Care. *Victims Services Scheme, Monthly Reports* (July to November 2001 inclusive)

ACT Government. *Victims of Crime (Financial assistance) Act 1983 - Annual Report 1999-2000* (Canberra, 2000)

ACT Government. *Victims of Crime (Financial assistance) Act 1983 - Annual Report 2000-2001* (Canberra, 2001)

ACT Legislative Assembly, Standing Committee on Justice and Community Safety. *Report on the inquiry into the Victims of Crime (Financial Assistance) (Amendment) Bill 1998* (June 1999)

ACT Legislative Assembly. *Victims of Crime (Financial Assistance) Amendment Bill 1998 - Explanatory Memorandum*

ACT Legislative Assembly. Debates: *Victims of Crime (Financial Assistance) (Amendment) Bill 1998* (9 December 1999, pp. 4228-4300)

ACT Magistrates Court. *Information to applicants under the Victims of Crime (Financial Assistance) Act 1983* [plus application form]

ACT Minister for Justice and Community Safety. *Additional Government submission for the inquiry by the Standing Committee on Justice and Community Safety on the Victims of Crime (Financial Assistance) Act 1998* (April 1999)

ACT Minister for Justice and Community Safety. *Government submission to the Standing Committee on Justice and Community Safety inquiry into the Victims of Crime (Financial Assistance) (Amendment) Bill 1998* (March 1999)

Freckelton, I. "Compensating the sexually assaulted" in Easteal, P. *Balancing the scales - rape, law reform and the Australian culture* (Federation Press, 1998), pp. 191-202 [submitted by the Law Society of the ACT]

Freckelton, I. "The erosion of criminal injuries compensation - does it matter?" draft of a paper (December 1996) [submitted by the Law Society of the ACT]

Holder, Robyn (ACT Victims of Crime Coordinator). *Submission to the Standing Committee on Justice and Community Safety* [of the ACT Legislative Assembly] (April 1999)

Holder, Robyn (ACT Victims of Crime Coordinator). *Supplementary submission to the Standing Committee on Justice and Community Safety* [of the ACT Legislative Assembly] (May 1999)

Law Society of the ACT. *Submission in response to 'Reform of the ACT criminal injuries compensation scheme' discussion paper (ACT Attorney-General's Department)*' (August 1997)

Law Society of the ACT. *Submission to the Standing Committee on Justice and Community Safety of the ACT Legislative Assembly* (March 1999)

Pittard, Julia. *Report on the efficacy of services the Victims Services Scheme provides to victims of crime in the ACT* (ACT Community Care, Canberra, 2001)

Press, Ganey and Associates. *Community and home health survey: ACT Community Care, Victims Services Scheme Group* (March 2001, pp. 46-56)

Stevens, B A. "Recovery from post traumatic stress disorder" attached to Stevens to Faulks, 10 February 1999 [submitted by the Law Society of the ACT]

The Victim Support Working Party. Report of the Working Party: *Victim Support in the ACT - options for a comprehensive response* (Canberra, May 1998)

Victims Assistance Board. Minutes of meetings for 28 February, 4 May, 3 August and 2 November 2001

*Victims of Crime (Financial Assistance) Act 1983 No 11* (as in force on 12 September 2001)

*Victims of Crime (Financial Assistance) Regulations 1998*

*Victims of Crime Act 1994* (as in force on 12 September 2001)

*Victims of Crime Regulations 2000 No 51* (amendments incorporated to 12 September 2001)

Victims Support Australasia. Position Paper Number 2: *Recommended framework for victim support services in jurisdictions* (March 1998)

Victims Support Australasia. Position Paper Number 1: *Recommended levels of service for jurisdictions* (July 1997)

Women's Legal Centre (ACT and Region) Inc. *Criminal injuries compensation - proposed changes* (April 1999)

Women's Legal Centre (ACT and Region) Inc. *Proposed changes to the criminal injuries compensation scheme in the ACT- supplementary submission* (n.d.)

## **Appendix 3: List of Submissions Received**

- 1. Individual submission A**
- 2. Individual submission B**
- 3. Individual submission C**
- 4. Individual submission D**
- 5. Individual submission E**
- 6. Canberra Rape Crisis Centre (CRCC)**
- 7. The Law Society of the ACT**
- 8. Victims Services Scheme, ACT Community Care**
- 9. Women's Health Service (WHS), ACT Community Care**
- 10. Crime Prevention, Australian Federal Police**
- 11. ACT Bar Association**
- 12. Domestic Violence Crisis Service Inc**
- 13. Women's Legal Centre (ACT and Region) Inc**
- 14. Ms Annabel Wyndham, Approved Provider**
- 15. Child at Risk Assessment Unit, ACT Community Care**
- 16. Mr Andrew Freer, Solicitor**
- 17. Aboriginal Justice Advisory Committee**
- 18. Witness Assistant, Director of Public Prosecutions**
- 19. Victims Assistance Board**
- 20. Service Assisting Male Survivors of Sexual Assault (SAMSSA)**
- 21. Victims of Crime Coordinator**
- 22. Australian Federal Police Association**
- 23. ACT Women's Consultative Council**
- 24. ACT Council of Social Service**
- 25. Victims of Crime Assistance League, ACT**
- 26. Legal Aid Office, ACT**
- 27. Ms Heather McDonald, Director of Clinical Effectiveness and Quality Management, ACT Community Care**

## Appendix 4 - Submissions Received

### 1. Individual submission A

- Suffered traumatic experience as a result of home invasion late at night. Invader caused considerable damage to the house. The victim was left badly shaken up and in shock. Taken to emergency overnight accommodation. On the advice of the police, contacted the Victims Services Scheme (VSS) and Victims of Crime Assistance League (VOCAL).
- Was successful in application for financial assistance to make house more secure.
- VOCAL gave support and help needed and assisted through court proceedings and counselling. "I couldn't have managed through this ordeal without them. They run a very valuable and necessary service."
- Also attended VSS for an hour of counselling on the same day. VSS did not feel that the victim needed further counselling. "They felt I was quite capable to do it all on my own. But it is not quite as easy as that when one is suffering from trauma." Compared with VSS, VOCAL seemed to have more to offer, including accompanying victim to the court proceedings, which was very comforting.
- Feels that VOCAL is grossly under-financed and is expected to do too much on a voluntary basis:

There is a limit to how frugal an organization providing such a service to the Canberra Community can be expected to operate on, even to the point of using the blank side of used papers donated by other organizations. I know this because they used this paper to copy something for me.

- Also, compensation for pain and suffering should be reinstated for individual cases where it is warranted.

[End of submission]

### 2. Individual submission B

- Was a victim of assault and heard about VOCAL through a friend. Found their service to be prompt and very helpful. Was told about existence of financial assistance and the VSS.
- Had a counselling session at the VSS and found the session helpful with dealing with emotions and feelings which occurred as a result of being the victim of an assault.
- Submitted an application for financial assistance, seeking reimbursement for expenses. Met government solicitors at Magistrates Court and found them to be helpful and polite. The solicitor just asked a few questions about the incident and then agreed on the amount. Received full reimbursement for all medical expenses incurred, plus travel expenses for meetings at VOCAL and VSS. In summary, I found the process to be very valuable and fair. The people who helped me at VOCAL, VSS and the ACT Magistrates Court were all helpful and provided prompt service. The only criticism I have of the process is that there is not much publicity that these services exist, and something like a television campaign would raise the community awareness of these services (however, I am aware this sort of publicity costs a bit of money). I was just lucky that I happened to tell a friend about the assault I was a victim of and he told me about VOCAL. Otherwise, I would have received no reimbursement for the costs incurred to me.

[End of submission]

### **3. Individual submission C**

- “My opinion is that the scheme is a complete failure and needs amendment ASAP. My reasons will become apparent by reading further.”
- Was assaulted and suffered multiple injuries. Assailant brought counter claims against victim, which the victim had to defend, most of which were eventually dismissed.
- Assailant was ordered to pay compensation, but failed to complete the payments.
- Victim reports that at one stage court staff said that victim “. . . should feel lucky to receive anything at all as most people get nothing”.
- Regarding financial assistance, was variously told by solicitors and court staff that
  - “Scheme was abolished.”
  - “Only cops get payments now.”
  - “No use, courts not granting anything.”
- Did not attend VSS because victim was feeling too depressed, harassed and paranoid to be able to discuss problems with anyone, feelings that remain.
- Feels that claimants should never be treated as victim has been treated.

[End of submission]

### **4. Individual Submission D**

- Current scheme is a “travesty”, the principal beneficiaries being police and other emergency workers who are already “. . . amply compensated for risks and injuries suffered in dealing with crime”.
- They already have the risks recognized as a component of their salaries and other elements, as well as access to compensation schemes.
- “Accordingly, there is no justification for additional, windfall benefits under the Scheme. Such eligibility is the clearest possible example of double-dipping.” Feels that these personnel are a major factor in the rising cost of the scheme.
- In contrast, ordinary members of the public have been severely disadvantaged.
- The Review should recommend exclusion from the scheme of any person whose injuries are covered occupation-based benefits.

[End of submission]

### **5. Individual Submission E**

- Knows of several children who have been victims of assault in recent years. Feels that “Victims of crime get nothing but counselling, mainly about how the systems have changed, that the police have limited resources and that it is now difficult to help them.”
- Knows of particular crime where plaintiff was not informed that court decision had been reversed on appeal.

- Contacted Victims of Crime office and complained about not being notified and was informed that the system has changed. Believes that “Victims now have no rights its seems.”
- Regarding an Out Of Time Motion for financial assistance, experienced problems with information and meetings.
- Regarding the need to have legal representation:  
The administration people at the Magistrates Court advised me that we did not require legal aid but I don’t think we would have been treated this badly if I had a lawyer.

[End of submission]

## **6. Canberra Rape Crisis Centre (CRCC)**

- CRCC response focuses specifically on victim/survivors of sexual assault, and is informed by the experiences of victim/survivors of sexual assault who have used the VSS, and from CRCC’s experience with the new system.
- CRCC pleased that survivors of sexual assault are granted the capacity to apply for special assistance for pain and suffering (along with police and emergency services workers).
- However, pain and suffering compensation should be available to all victims of violent crime, including victims of domestic violence and of homicide.
- Police and emergency services workers should be able to access such compensation through their own workers compensation schemes.
- Re. Financial Assistance Scheme: CRCC experience is limited because, as far as they are aware, no current clients have lodged financial assistance claims under the new Act.
- Re. the VSS: CRCC and the VSS have established a good working relationship and support each other in working with victim/survivors of crime. However, the VSS refers few clients to CRCC. CRCC refers clients who require on-going counselling to the VSS.

*Problems with the VSS arrangements:*

- Limiting VSS services to victims of crimes committed in the ACT is too restrictive.
- The VSS only deals with consequences of specific crime. If a recent rape raises issues about past abuse for a victim/survivor, these cannot be dealt with by the VSS, whereas “. . . at CRCC our response is more holistic.”
- Only individual counsellors, not organizations like CRCC, are able to get accreditation to be a VSS provider:  
As a service with a fine reputation, which provides 6 monthly reports to Government funding bodies, a community based service which has accountability and transparency processes in place, we regard this as short sighted of the Government to have such a restriction. . . .The waiting list grows and we cannot access any VSS funds to assist in the service provision, as can private practitioners or individual practitioners.

[End of submission]

## **7. The Law Society of the ACT**

Re. the different aspects being reviewed, the Society has greatest expertise in assessing the Financial Assistance Scheme:

- In its submission to the Justice and Community Safety Committee of the ACT Legislative Assembly in 1998 the Society stated: “the first effect

would be to greatly reduce peoples rights to monetary compensation . . .”  
This has come to pass: “. . . the *Victims of Crime (Financial Assistance) Act 1983* is a misnomer as it has drastically curtailed financial and other assistance to victims of crime”.

- In the year 1999 - 2000 there were 451 awards, totaling \$5,547,193, compared with 76 in the year 2000 – 2001 in which \$871,228.00 was awarded, a decline of 84%. Only \$440,350 was for pain and suffering, 87% of which went to two categories of recipients: victims of sexual assault and police officers.
- The largest group to miss out on compensation has been victims of assault because of restrictions on ‘Special assistance’. “Extremely serious” is not defined. Also, the requirement to make an application within one year is too restrictive. Not always possible to assess whether a person is likely to suffer “extremely serious” injury within that period.
- “These tautological criteria have ensured that very few claims are made and that very few victims are eligible for lump sum entitlements.” Thus the Act leads to inconsistencies.

This draconian criteria does not apply to police officers, other emergency service workers and victims of sexual assault. . . . The Law Society is not anti police or against emergency service workers. We merely observe that at least police officers are trained and armed to deal with violence and that they, unfortunately, are not the only occupational group that come into contact with violent and threatening crime. . . . Similarly, without denigrating the obvious harrowing effects of sexual assault there are a number of other assaults that can be every bit as damaging, violent, malicious and harrowing to their victims.

- Equal access to the pain and suffering an important part of ensuring consistency: . . . the only criteria that can treat victims of crime equally, that does not distinguish between the haves and have nots, the employed and the retired, the business man and the pensioner is the lump sum provisions for pain and suffering suffered by each victim as a result of the criminal act.
- People who were victims of a crime committed prior to the enactment of the legislation who would otherwise have been entitled to a lump sum payment but whose application had not been finalized were denied that entitlement. “. . . this is contrary to all concepts of fairness”.
- The amendments have been cost effective in reducing the number applications and the total cost of assistance, consequences of “. . . the inconsistent, harsh and unjust provisions of the Act”.

Re. the Victims Services Scheme (VSS), the Society does not claim to have similar expertise in assessing the VSS:

- Critical of unduly long time to establish the service, which remained ineffective for at least twelve months after the passage of the legislation.
- In the absence of lump sum compensation “. . . many people will not be bothered to access the Victims Services Scheme. It is hardly efficient for the scheme if other aspects of the Act should militate against its success”.
- Important that the VSS continues to allow a choice of service provider. Choice important part if the VSS is to be solution-focused, individualized and appropriate to each victim.
- The Society is interested in “. . . a transparent, realistic, open book review of the costs of the scheme and a precise and realistic identification of its benefits”.

*Recommendations:*

- Repeal the retrospective provisions.
- Amend the eligibility criteria for pain and suffering payments.
- Abolish criterion of “extremely serious injury”.
- Replace with a test of “serious injury”. The injury would have to be a criminal injury and one that would reasonably require treatment by a health professional. The court would then need to be satisfied that the injury is serious, taking into account the effects of the injury on the victim, including the following: Impairment or loss of a bodily function; disfigurement; mental or behavioural disturbance or disorder; loss of quality of life. Such a test removes “trivial injuries” but allows for the proper assessment of serious and properly compensable injuries. Apply the test to all victims of crime and abolish the exclusory provisions of Section 10 (1) (e) and (f).
- The legislation regulates legal costs incurred in making an application, setting limit of \$650 per application  
... principally to discourage legal representation for applicants. This is an appalling denial of justice for some of society’s most vulnerable people. An increasing proportion of applications are made by the victims themselves or by lawyers pro bono.  
The Law Society does not quibble with the notion of fixing the costs but quibbles with the amount of \$650 which is less than the amount received in respect of less complicated applications made in New South Wales and other states.  
The flat rate should be abolished in favour of a fee structure which recognizes the amount of work done. Alternatively, the fixed rate should be increased to at least \$950.
- Longitudinal study of victims of crime is needed.

[End of submission]

## **8. Victims Services Scheme, ACT Community Care**

### *Establishment and development*

- The Interim Victims Services Scheme commenced 24 December 1999. Service was provided by the Intake and Assessment Unit of the Integrated Health Care Program within ACT Community Care, initially with two part-time staff, by March 2000 there were three part-time staff, half-time administrative support and a temporary project officer (Ms Anne Barrie) to develop the service.
- Recruitment of approved providers and the development of policies and procedures commenced. Development of draft service agreement with Victims of Crimes Assistance League (VOCAL) to provide volunteer component.
- In December 2000, ACT Community Care awarded a three-year contract to operate permanent VSS from 1 January 2001 to 31 December 2003. Ms Barrie appointed as Manager of VSS.
- ACT Community Care provides the intake, assessment, debriefing, counselling, referral, rehabilitation and case management for eligible victims of crime. The VSS is responsible to the Victims Assistance Board, as described in the *Victims of Crime Regulations 2000*.

### *Expansion of services*

- Interim Scheme commenced by offering *counselling* via psychologists, counsellors or social workers, and *rehabilitation* via physiotherapists.

- Current range of services expanded to include acupuncture, massage therapy, chiropractic and self-defense. Group psycho-educational sessions are planned for 2002.

*Some VSS plans for immediate future:*

- Promotion of VSS to indigenous and non-English speaking clients.
- Referral protocols for Canberra Rape Crisis Centre, Domestic Violence Crisis Service and Australian Federal Police.
- Marketing plan for 2002.
- Development of a Victims Support Network.

*Quality control*

- The VSS team meets fortnightly to review policies and procedures and to plan networking, service delivery, health promotion and community education activities.
- Case review/clinical meeting held on the alternate weeks to discuss service delivery and client-specific issues. All active clients are reviewed every 8 weeks using database-generated reporting system.

*External links*

- VSS staff assist in training Australian Federal Police recruits, VOCAL volunteers and students at the School of Social Work, Australian Catholic University.
- The VSS provides fieldwork placement opportunities for tertiary students.
- The VSS is represented on the Sexual Assault Services Advisory Committee, the Criminal Justice Sub-Committee of the Domestic Violence Prevention Council, the Domestic Violence Interagency meeting and the ACT Emergency Recovery Committee. It participates in the ACT Family Violence Intervention Program.

*Evaluation:*

VSS services have been evaluated several times since the establishment of the permanent Scheme in January 2001.

- The VSS participated in a two-part survey. Part A: the ACT Community Care Customer Survey (Datacol Research) and Part B: survey of professional aspects of services for Integrated Health Care Program (Press, Ganey Associates), surveys of 56 VSS clients from January 2000 to March 2001.
- In September 2001 a final year social work student from the Australian Catholic University, Ms Julia Pittard conducted a telephone survey of 26 VSS clients from May to September 2002.
- As part of the current Review, in January 2002 Dr Anthony Dare completed a telephone interview survey of 18 VSS clients from September to December 2002.

[The staff profile is given.]

- Currently, each Case Manager has 90 active cases, and the VSS Manager 41. Each Case Manager also provides direct clinical services to about six clients.
- All Intake Officers/Case Managers have monthly professional supervision with appropriately qualified supervisors paid by VSS. All professional staff will be accessing monthly group supervision in 2002.
- All professional staff participate in informal peer supervision and debriefing. Staff access ongoing professional training and regularly attend training courses and

conferences [15 such attendances listed]. All permanent staff have a Performance and Development Plan, which is reviewed annually.

#### *How services are delivered*

- The VSS located in ACT Community Care building, Civic, corner of Moore and Alinga Streets. The VSS has a 1800 free call number that operates 24 hours. Between the hours of 8.30am – 5pm the intake officers/case managers answer the telephone. Although the contract requires only that an answering service operate out of office hours, after hours and public holiday calls are diverted to the Link team based at the Canberra Hospital.
- After-hours calls are rare. (For 2001: January-March, no calls; April to November, six calls; December, no calls.)
- When a call comes in from a new client during business hours, the Intake Officer/Case Manager ascertains whether the caller is a victim of crime and if the crime occurred in the ACT. If the caller is eligible, basic information is sought and a brief outline of the assistance the VSS can offer is provided. A suitable appointment time is negotiated. Occasionally a home visit may be negotiated. The VSS aims to offer all clients appointments within two or three working days of the first telephone contact. Often, an appointment is offered on the same day.

[Details of the levels of service are given.]

[Details of procedures for Approved Providers are given.]

[Details regarding interstate clients are given.]

[Details of procedures for dealing with ineligible clients is given.]

#### *Complaints*

The VSS is required to record complaints. It has received one complaint, which was resolved. An Approved Provider has advised the VSS that one complaint may be in train.

#### *Accommodation*

Clients are seen face-to-face in interview rooms at the City Health Centre, ACT Community Care, Civic. Feedback via the Pittard Survey has indicated that the city location is not a problem for clients. A location alongside other services is regarded as an advantage. Because clients report to the City Health Centre, bystanders are not privy to the fact that clients are attending the VSS.

#### *Short-term focus of services*

VSS believes that the brief intervention model is not always appropriate for people with a long history of trauma or with complex trauma. On occasion clients are unable to focus on the specific crime for which they are referred, as this may bring back memories of other traumatic incidents that have occurred in their life. Approved providers have expressed concern that often these individuals have difficulty in establishing trusting relationships and terminating services when a relationship has just been established may, in fact, re-traumatize the individual.

#### *Lack of consistency across states and territories*

Not all states offer similar types of assistance to victims of crime as is offered in the ACT, and some have different eligibility criteria. On occasion some clients “fall between the cracks” in that they cannot access free professional counselling services in the ACT.

### *Financial Assistance Scheme*

There are problems regarding VSS and financial assistance. "VSS has been informed that it is not appropriate for its staff to assist clients applying for Financial Assistance, as this may be construed as giving legal advice."

VSS is required to provide a volunteer program to eligible victims of crime. ACT Community Care has entered into a service agreement with the Victims of Crime Assistance League (VOCAL), to provide a volunteer program. VSS pays an agreed monthly amount in return for the following kinds of services:

- accompany clients when attending court and assistance in completing application forms for financial assistance or victim impact statements,
- general emotional support/friendly ear if attending an interview related to the crime about which the person is apprehensive,
- assistance with a home security check, and
- general advocacy with regard to requests for housing or related assistance.

VSS has established a cooperative working relationship with VOCAL, which includes:

- Regular meetings during 2001 between the VSS Manager and members of the VOCAL Committee of Management Executive and the VOCAL Volunteer Coordinator/Case Manager.
- The VOCAL Volunteer Coordinator/Case Manager has been invited to attend monthly case review meetings.
- VSS staff assist with volunteer training sessions and other activities held at VOCAL House.
- A VOCAL representative has been included on the selection panel for the recruitment of new VSS Intake Officer/Case Manager positions.
- The VSS Manager participated on the VOCAL interview panel which recruited to the salaried positions with the agency

### *Level 1 referrals (non-violent or property crimes)*

It is assumed erroneously that a straightforward burglary is not traumatic for people; we have found that for single, older and isolated people that it can be quite a traumatic event resulting in the individuals developing acute stress symptoms such as hyper-vigilance, disturbed sleep and anxiety, to name a few. This is especially the case if the victim's personal effects and home have been completely ransacked. The number has been small, about 10 since the service began. Believes these clients need access to service at Level 2.

### *Recommendations*

- Explore the possibility of limited access to the VSS for the relatively small number of ACT residents who are victims of crimes committed in other States. Counselling may be paid for if crime occurred in NSW or Victoria, and ACT liaises with relevant interstate approving body, but no such provision is available if the person is from other States.
- Better information from Magistrates Court informing all agencies of how to apply for financial assistance and which staff at the Court to contact. Although it is claimed that the forms and processes are simple, our experience with clients does not bear this out.

- Assistance for people when presenting case for financial assistance. Although the process is comparatively informal, people are still required to present at the Magistrates Court at a Conference with a Registrar and the Government Solicitor, and present their case, supported by the appropriate documentation. To those not accustomed to the legal process, this can appear to be a very 'formal' system.

[End of submission]

## **9. Women's Health Service (WHS), ACT Community Care**

- The services offered by the VSS has assisted many clients of the WHS and served to reduce the WHS waiting list.
- "The immediacy of service by VSS is a great support to our service. Have had very positive feedback re. professionalism of private providers."
- It would be useful if the VSS were able to assist people living adjacent to the ACT, in communities such as Queenbeyan and Yass, who have been victims of crime committed in New South Wales.
- Our experience is that children who are victims of domestic crime often suffer from a disturbed education. It would be useful if the VSS services could assist.
- Need to increase community awareness of VSS, particularly among other service providers: "We continue to get referrals from agencies which we then have to redirect to VSS (e.g. refugees, DVCS, other health and community agencies)."
- Asked by VSS not to refer if victim has long history of abuse, as VSS believes our agency better place to give long-term counselling. "This may be the case, however, I believe that under the legislation such clients should have the right to access VSS when the crimes have been committed in the ACT."
- Concern that some clients may use up their service quota early on, and later, at an anniversary or time of crisis, they may have no further access.
- Community education re. support and assistance that is available for people applying for financial assistance. (A brochure outlining agencies that will assist with applications and type of support given, would be useful)

[End of submission]

## **10. Crime Prevention, Australian Federal Police**

- "With respect to the timeliness, consistency and cost effectiveness of the provision of financial assistance to victims of crime, there have been no major problems relayed to this office."
- There have been concerns raised over the time taken to process claims; may indicate a perception by victims that priority given to them lower than they would expect.
- A concern has been raised over the requirement for victims to report incidents to the police. Generally not an issue except for particularly delicate situations such as alleged sexual assaults and alleged historical sexual assaults. Victims generally reluctant to report incident to police, thus they are ineligible.
- Re. the VSS: The office refers all victims of crime against the person to the VSS. Little feedback to date however  
 . . . the feedback provided has been positive. When dealing with VSS, the Victim Liaison Officers have noted that matters appear to be dealt with in a timely manner, and that the

VSS staff appear to take each case on its merits and to provide individual assistance to each client.

- Re. future evaluation, a longer review period, not at Christmas/New Year, would be appreciated.

[End of submission]

## 11. ACT Bar Association

*The Association resolved that it had no further comments but referred the Reviewer to its letter of 1 December 1998 to the then Attorney-General:*

- “The maximum levels operate differently. Clearly, very few people will qualify for the \$50,000. Clearly, there is no award for pain and suffering. Clearly, persons in the position of the [named client] family will receive a maximum only (as a family) of \$50,000 in total.”
- Rehabilitation is a positive aspect of the Bill, which the Association supports.
- Believes that retrospective legislation is almost always unfair and justifies criticism. Notes that the US Constitution expressly prohibits such legislation.

[End of letter]

## 12. Domestic Violence Crisis Service Inc

- Under the new legislation, victims of domestic violence are not eligible for special assistance in relation to pain and suffering and few would meet the very restrictive criteria for “special assistance”:

DVCS remains outraged at the eligibility requirements. There is no rational reason why special assistance in relation to pain and suffering is limited to police officers, ambulance officers, firefighters and victims of a violent sexual crime.

- Support the inclusion of victims of violent sexual crimes being eligible to apply for special assistance for pain and suffering but find the inclusion of just one particular crime “very odd to say the least”. Domestic violence victims face similar issues of fear, loss of trust, self-blame and shame.
- Section (2) (a) ‘*the criminal injury is an extremely serious injury*’ is a very restrictive criterion. The definition under section (11) means that few women who have been the victims of domestic violence will actually meet it.

Recommendation: DVCS recommends that the legislation be changed to include victims of domestic violence under section 10 (1) (e & f).
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- concept that they must be able to access compensation, but not under this particular Act.
- Under the previous arrangements, few victims of domestic violence actually applied for or received compensation, but at least compensation for pain and suffering was available.

Recommendation: DVCS recommends that solutions and options should be investigated that would enable women who are the victims of domestic violence to more easily be able to access the systems when applying for financial assistance and that these options should take into account cultural issues.
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- Requirement to report offence to the police: DVCS works with many victims of domestic violence who do not report their situation to the police. Their reasons include fear of retribution from partner ('if you ring police I'll kill you'), previous unsympathetic response from police, distrust of police by some refugee groups, fear of ostracism from their communities and families.

Recommendation: DVCS recommends that changes be made to the legislation to take into account those women that have not made a report to police based on an understanding of why women may not make a report to police.

- Counselling should be available to all victims of crime but will not make the difference for every victim. Needs vary, including practical assistance to
  - move to a new area or receive practical help with the move,
  - have a holiday and re-access their lives, and regain strength and health,
  - buy a car to transport their children,
  - pay some debts, and
  - replace furniture and belongings that may have been destroyed by the assailant.
- Re: the VSS: DVCS experience is that the VSS does provide counselling assistance to victims of crime that is timely, accessible, solution focused, professional, individualized and appropriate to each victim. "We are pleased that this service is available but this does not detract from our broader concerns of the limitations on what is now available to victims of crime under the legislation."

Recommendation: DVCS recommends that the scope of assistance that is available through the VSS be broadened to include some more practical assistance and support to victims of domestic violence.

- Re. evaluation: We will be interested in
  - . . .how many victims of domestic violence are actually awarded special assistance after meeting the criteria under clause (2) (a). We think it would be useful to seek feedback from victims of crime in relation to what they actually needed that would have made the difference in their lives.

[End of submission]

### **13. Women's Legal Centre (ACT and Region) Inc**

- In 1999, the Centre strongly opposed a number of the amendments, including:
  - the abolition of pain and suffering from all awards;
  - the restrictive nature of eligibility for 'special assistance'; and
  - the requirement that a report be made to the police.
- "Our concerns about these matters still remain and have been reinforced by our experience with the operation of the scheme."
- Many clients are victims of domestic violence, which does not result in an "extremely serious injury" but more minor injuries, trauma and distress from which a victim may recover over time:  
It is unfair that such victims are not compensated for pain and suffering unless the injury is permanent. It is very difficult to explain to domestic violence victims that such compensation is no longer available and that they are restricted to claiming reasonable expenses incurred and loss of earnings.

- Many domestic violence victims incur few expenses or loss of earnings, thus receive little assistance:  
Reinstating the pain and suffering component for domestic violence victims at least would enable those victims who do not have a reasonable expenses or loss of earnings claim to obtain some fair and just compensation for their injuries. Compensation for pain and suffering would also reinforce that the community regards domestic violence as a serious matter and would reinforce initiatives such as the successful Family Violence Intervention Program.
- Oppose the requirement to report of the crime to the police. A female victim of sexual abuse and domestic violence may be reluctant, owing to fear for her safety, a perception that the criminal justice response, particularly to sexual assault complaints, may be inadequate, loss of family and friends and support as people 'take sides', and so on.
- Increased demand for the Centre to provide legal assistance, as fewer private legal practitioners appear to be taking such matters on, owing to the fee limit of \$650, which we think, is unrealistic. In their experience that many victims, particularly of domestic violence and sexual assault, find the application process daunting and need legal representation:  
We believe that the above suggestions for improvements to the victims of crime financial assistance scheme are necessary to restore fairness and justice for female victims of crime.

[End of submission]

#### **14. Ms Annabel Wyndham, Approved Provider**

- Was a member of the working party that recommended the establishment of an agency to provide victims services.
- Works with families as Approved Provider (social worker) one day per week with clients referred by the VSS.
- Most clients have said that they found the VSS helpful and supportive.
- Has found the VSS very good to work for: Refers new clients quickly; sends paperwork in a timely way; has been responsive to phone or email inquiries; agrees to extra counselling sessions for clients when requested; and pays invoices on time. "I think it is great scheme and support the whole idea and reduction of compo., but as you know I was on the working party that recommended that."

[End of submission]

#### **15. Child at Risk Assessment Unit, ACT Community Care**

- Staff of the Unit have stated that ". . . the existence of a free-of-charge service for victims of crime, brokered by the VSS, has been helpful for quite a number of clients of our service".
- Of the 400 children a year who are referred to the Unit, about 10% are referred to the VSS.
- Staff report that referrals to VSS are responded to quickly and that the VSS staff are polite and helpful. We do not have any feedback from the clients (children or their parents).

- Staff would have a concern about the limit of six sessions at Level 2 if access to Level 3 were not relatively easy.
- They regard the financial assistance scheme as satisfactory as many of their clients are eligible for special assistance for pain and suffering:  
*I think it is true to say that staff believe that health, counselling and practical assistance are what victims of crime, children and families need most, as compared to money.*

[End of submission]

#### **16. Mr Andrew Freer, Solicitor**

- Partner of a small/medium size private practice operating in the ACT. Has acted for victims and is on the Management Committee of VOCAL (ACT) Inc.
- Acted for many victims of crime under previous scheme. Following amendments, many solicitors have ceased acting for victims of crime due to the pain and suffering threshold and legal costs restrictions that were imposed by the amendments. He continues acting for victims of crime.
- On many occasions has provided advice to the effect that special assistance is unlikely and that financial assistance will be limited to the reimbursement of expenses. After explaining the procedures for applying for financial assistance, “I am left with the impression that many potential claimants are intimidated by the procedure and take matters no further”. Basically performing a regular, unpaid civic duty of outlining how the process works.
- For claims that are not as straightforward, many victims do not know of their possible entitlements. As the scheme does not provide free legal advice from private solicitors, the availability of such advice is restricted.
- The victim pays any legal costs and the legislation caps the amount regardless of whether an application is straightforward (and can essentially be resolved on the documentation) or whether it is a matter that may need to be the subject of a hearing. Believes that the NSW scheme is significantly fairer than the ACT system:  
Whilst the Australian Capital Territory Government Solicitor’s Office is genuine in its attempt to assist in the resolution of applications, their involvement essentially creates a cost for a victim of crime. If the victim of crime chooses to be represented then the dealing with the ACT Government Solicitor’s Office actually results in a cost to the victim.

[Outlines problems with claims on behalf of children.]

- Expense of making an application for special assistance must be paid up front and may not be recovered:  
Most victims I speak to . . . are generally aggrieved that even where significant injuries are sustained they do not receive compensation for the pain and suffering and other more intangible convenience and trauma that they suffer.

[End of submission]

#### **17. Aboriginal Justice Advisory Committee**

- Timing of the Review has made it difficult to put forward a detailed submission.
- Appears to be an under representation of Indigenous people utilizing victims services. Issue of the relevance to them of the services provided:

There is a general perception that the victims generally covered by the scheme are victims of family violence and, though not inconsistent with overall community attitudes, there are personal and cultural issues, as well as the perception of a degree of inappropriateness, attaching to responses to family violence for Indigenous people.

- Alternative ways of working with Indigenous victims are required, including an Indigenous counselling service.
- AJAC members are not sufficiently familiar with the details of the of financial assistance scheme as to provide detailed comments at this stage.
- Issues of concern include requirement to report to the police, particularly with regard to family violence, the limited capacity for legal representation.

[End of submission]

## **18. Witness Assistant, Director of Public Prosecutions**

*Re. Financial assistance:*

- Experience working with victims of crime, as ex-police officer and now as Witness Assistant. In both roles has been involved in most aspects of victim assistance. Views are based on personal, confidential information from victims, rather than the official view of the Office.
- Feedback from applicants applying for financial assistance is generally good. Process is timely, response often within two weeks, advising of hearing date.
- There have been complaints about the application form, and the poorly written information “package” given at the time of obtaining the application form. Sometimes needs to assist victim to fill out the information. One victim reported taking the form to a solicitor to assist but the assistance supplied was not helpful. “I believe this was contra to the ‘stream lining’ of the system to minimize payouts to solicitors and maximize payout to the victim.”
- Received complaint that application for reimbursement for interstate travelling expenses to attend funeral of victim was rejected.
- Has received some complaints about definition of “extremely serious injury”, and inconsistencies in cases where people have sustained numbness and scarring. I received some complaints by victims stating that the lawyer said there was no CIC for victims anymore. This occurred after the negative publicity of the enactment of the new legislation. Of late there have been no further complaints.

*Re. Victims Services:*

- Feedback from victims who access the service has been relatively good. In the early stages, complaints were to do with victims who did not “fit” the prescribed victim category, for example arson victims and people who witness motor vehicle fatalities.
- Three complaints where counsellors left the VSS and were not then accredited as Approved Providers under the Act. Victims complained they “. . . don’t want to have to tell their story again and again to new people”.
- Two complained that their private counsellors were not Approved Providers, which required them to apply for financial assistance.
- Three complaints that when applying for extensions to VSS it takes time and “. . . is therefore not helpful to their overall health”.

[End of submission]

## 19. Victims Assistance Board

- As the Victims Assistance Board has existed for only 12 months, much of its work is still very much in the "establishment" stage.
- Board feels that the legislation has been structured to make the best use of available resources to assist in the recovery of the greatest number of victims of crime, regardless of the type of crime.
- Board feels that with establishment of the victims services scheme and the Victims Assistance Board, the ACT now has the broadest range of rehabilitation services available for victims of crime in Australia and ". . . the only scheme that covers all aspects of rehabilitation. It allows the client to determine what they need for their recovery and assists them to receive it".
- No particular problems with the legislation, except that, anecdotally, the kind financial assistance available to victims of crime appears to be poorly understood.
- The legislation allows the Board to monitor and direct the provision of services to victims of crime in the ACT. Provides the VSS with guidelines to clarify the appropriate use of the services, and optimizing the principle of victims' choice.
- The approval process for service providers generally works effectively. There is a range of providers available in terms of geographical location in the ACT, gender, and professional background. The screening process ensures that victims of crime receive the best possible treatment available.
- Board feels that the VSS is developing well and becoming better known within the community. Marketing of services is being planned. Good communication exists between the VSS, the Secretariat and the Board.

[End of submission]

## 20. Service Assisting Male Survivors of Sexual Assault (SAMSSA)

- Philosophically, SAMSSA supports a shift to compensation that reflects the harm experienced by survivors of violent crime. Accompanied by the establishment of the VSS, this change should allow for greater flexibility and tailoring of a combination of support and financial compensation to individual needs.
- No adequate sum of money to recompense someone who has been violated sexually, often over many years by someone very closely related, and difficult . . . to establish a precise sum that reflects the damage to social relationships and skills, career prospects and financial earning ability, years of emotional abuse and neglect that almost invariably accompany sexual violence.
- Concern from workers and clients of this service that the accessibility of information about financial assistance needs improvement:  
Information about accessing financial assistance was initially distributed as a lengthy, photocopied document that was hard to read, overwhelmed readers with details, and was not at all appropriate for people with low literacy or poor English. It is written in 'legalese'.
- Workers in support services advised not to assist clients to fill out application forms.
- Most lawyers in private practice refuse to assist with this task because of the cap on fees.

- Some concern voiced by clients that it appeared that the government was attempting to make the process so complicated and difficult to discourage people from obtaining that they are entitled to.
- The VSS is well designed. Focuses on the individual needs of victims of crime, adopts a case management approach, and directs resources in accordance with needs.
- The VSS tends to devalue practical assistance (e.g. clean up after a crime), distinguishing it from “professional” services.
- “Recovery” should not be limited only to a restoration of the *status quo ante*; it is possible for recovery from violent crime to be profoundly transformative, setting a person on new paths.
- The VSS also risks becoming provider-drive in its case management (as do all human service providers), assessing victims’ needs according the services available, not vice versa.
- To date, the VSS has attracted a great deal of interest from psychologists, counsellors and social workers. Now it should expand its network of providers to include a much greater range of disciplines and professions, and other “non-professional” workers like SAMSSA members, who could provide appropriate support and assistance.
- The current response time and accessibility of the VSS is excellent. The services are individualized and appropriate within the limits referred to above.
- SAMSSA would hope that this review could provide an ongoing evaluative framework for the VSS and financial assistance scheme for the future.

[End of submission]

## 21. Victims of Crime Coordinator

- **The functions of the Victims of Crime Coordinator (VoCC) include:**
  - develop and implement projects and programs aimed at improving system-wide communication, quality standards and responses to people victimized by crime;
  - encourage and support agencies to implement the principles of Section 4, *Victims of Crime Act 1994*;
  - promote reforms in the law, the administration of justice and in services for people victimized by crime; and
  - act as an advocate and information source for people victimized by crime.
- The VoCC is also a member of the Victims Assistance Board and reports on the victims services scheme.
- Over the past two years the Office has received between 250-400 calls per annum. There has been a 45% increase and a 40% increase in the last two financial years. About half of the calls each year comprise new clients.
- About two thirds of the callers are female and the type of incident is typically an assault matter with the perpetrator being known.
- In the main, the VoCC is called upon where a victim of crime or their support person considers that the response from agencies has not been forthcoming or effective. Over the past five years, the two most common requests are for case

status information with regard to justice responses, and for information, advice and assistance.

- There has been an increase in the number of inquiries with regard to financial assistance, currently in the order of 4-6 per day. Possible reasons include:
  - community, service and legal providers less able or prepared to assist victims of crime in financial assistance applications,
  - increase in referrals direct from the Magistrates Court Registry (the VoCC Office is based in the Court building), and
  - lack of a central place for expertise and assistance.
- The May 1998 report from the inter-agency Victim Support Working Party was instrumental in influencing the then Government “. . .away from a purely fiscally motivated reform agenda and towards one which did attempt to address service needs. It is very pleasing to note that the majority of the Working Party’s recommendations have, to date, been substantially implemented.”
- The total potential pool of victims of crime in the ACT is tremendously diverse. Arguments on how best to respond appear to present stark either/or preferences for ‘counselling’ on the one hand, and ‘compensation’ on the other. The lack of a meaningful analysis of the needs of crime victims as a whole remains a significant hindrance to mature and effective developments in the ACT. A number of recommendations were not implemented, including:
  - The automated victim contact system.
  - The crime scene clean-up fund.
  - Additional police Victim Liaison Officers.
  - A Courts Client Liaison Officer.
- Whilst the current review is very welcome, it is disappointing to note that the need for evaluation has not been met. It is imperative that a new service builds evaluative measures into its everyday procedures. The collection and collation of feedback should be routine.
- The victim service field across Australia would benefit from more active collaborations that share data. The ACT should explore, with interstate colleagues, the scope for standardized methods of collection.
- There continues to be a dearth of evaluation into effective intervention models and treatments:

This is an absolutely critical point. The angst that was expended about the 1999 criminal injuries compensation reforms could have been minimized if there had been any reliable studies that consistently showed the efficacy of one form of treatment (or mix of treatments/interventions) over others - and for what types of offence. Further research issues relate to the most efficacious interventions for people from Indigenous or Culturally and Linguistically Diverse Backgrounds.

It is **recommended** that the VSS be facilitated to develop a research partnership(s) that seeks to explore and evaluate ‘what works’ in interventions for crime victims.

*Re. the VSS:*

The feedback about the VSS has, in the substantial majority of instances, been positive:

- Quick access by phone and by appointment to a counsellor at VSS.
- Compassionate and helpful communication with VSS staff.
- Access to Approved Providers who are specialists (for example with abused children) or who are close to the client's work or home is welcomed.
- In the main, feedback about the VSS has noted that it has been responsive to clients' needs.

Some areas where improvements could occur:

- Clear priority for an assertive marketing campaign of the service more widely to the community and also to certain special groups.
- Still the case that a minority of victims of crime consumed a hugely disproportionate amount of total resources allocated.
- Priority for conducting outreach and community education activities to Indigenous service organizations.

It is **recommended** that the VSS be resourced to implement a service development and outreach program. This program should be on at least three years duration and be multi-functional in stimulating:

- Promotional and community education activities,
- Targetting special needs groups to encourage referrals,
- Piloting new recovery options, eg, healing circles/camps,
- Identify and support evaluation activities, and
- Help facilitate networking and partnerships between providers and academic institutions.

It is **recommended** that a three year pilot research and evaluation program be conducted that examines the literature and tests specific supportive measures to meet the needs of victims of crime from indigenous and Culturally and Linguistically Diverse Backgrounds. It is suggested that such a program needs to be undertaken by services working in collaboration.

- With 24% of the total clients being men, the VSS is obviously filling a previously unmet need. The VSS may see benefits in recruiting male counsellors to its staff, encouraging more males to become approved providers.
- Currently, 24% of VSS clients are children under the age of 15. "The ability of the service to reach children is, I believe, one of its most significant achievements."
- Many child protection and family workers are unfamiliar with the services available through the VSS.

It is **recommended** that the VSS conduct interactive information sessions and discussions with child protection and family providers about their services, and that part of this include information about the FAS.

- Concerned at the low level of victims of property offences who are accessing the VSS. Believes that victims of burglary often need significant support.

It is **recommended** that the Department of Justice & Community Safety and ACT Policing be encouraged to conduct more research into the impacts and needs of victims of residential burglary especially those from disadvantaged backgrounds.

- VSS aims to offer a holistic service. Its increasing ability to provide crime victims with access to massage therapists, physiotherapists, vocational and occupational

rehabilitation providers is commendable. VSS reports that 25% of clients chose to see a counsellor or social worker. Unclear the proportion of clients (and client hours) being seen 'in-house' and those referred externally. Unclear what 'mix' of services clients are accessing and for what types of offences.

It is **recommended** that VSS be encouraged to extend its training opportunities and professional interactions with, in particular, occupational and vocational rehabilitation providers. This recommendation should not be taken as confining itself to responses to victims affected by crime in workplace situations.

- Unclear the extent to which the VSS case coordinators actually make contact, with the consent of the client, with other providers to discuss and plan aspects of the care plan rather than to simply refer.

[Detailed discussion of case management and follow-up.]

- Clients have not raised any issues with the 3-Level system of service. Concern over potential that services for a high need client could come to a "sudden halt", undoing the good work that has gone on before.
- VoCC receives a significant number of clients from the VSS (and other providers) seeking information and assistance about the Financial Assistance Scheme, not as an issue of 'compensation' but rather as one that may address the harmful impacts of actual material loss and financial expense. Exploring these harmful impacts and options to overcome them must be part of the care planning process undertaken by VSS.
- It is not something that is specifically excluded in the Regulations. It is certainly not an area of expertise in which solicitors, in the main, are qualified or experienced to guide a client.
- It appears that the VSS is not being allowed to assist clients in this area and solicitors feel that they are unable because of the legislative fee cap. Believes that the victim service reforms are being undermined as long as this issue goes unaddressed.

It is strongly **recommended** that VSS be resourced and trained to enable the service to become a source of information and assistance on options for practical, material and financial restoration as part of its coordination of the service mix for clients. Part of this recommendation would also include VSS exploring, with Legal Aid (ACT) and my Office, a role for its counsellors in the proposed Minor Assistance Scheme.

- Practical and community or peer-based responses are a critical core component of recovery. Sees great potential in the Health and Community Care and VOCAL partnerships with the VSS. Not unexpectedly, there have been tensions and problems. Must be a partnership to which both parties are fully committed. Knows of a few of cases where a lack of clarity on the differing tasks of the partners and the tensions between them has impacted on client care.

It is **recommended** that priority be given to documenting the operational procedures between the two agencies, the performance measures required, the means of reporting on operations, grievance procedures (for the agencies and for their mutual clients), and devising opportunities for team building and mutually beneficial service development.

- Approved providers: some appear to have misconceptions about the way some agencies work. Suggests that the VSS and/or the Victims Assistance Board provide a series of information sessions to providers, with incentives to attend.

- If given the opportunity, approved providers could be a source of important feedback as to 'what works' in recovery pathways for victims of what types of offences; feedback on the accessibility and flexibility of the service agencies; and feedback on the operation of the VSS itself.
- If an ACT resident becomes a victim of crime interstate and is eligible for service in that state, it would seem preferable that the client be able to access services with approved providers in the ACT.

#### *Financial Assistance Scheme*

The issue of most concern is peoples' access and assistance to it. It is not uncommon to have individuals say that they have been informed that "compensation has been abolished". The debate has sent some inaccurate messages. Urgent need for more written and verbal information to be delivered to crime victims through information dissemination channels.

During 2001, VoCC dealt with 69 inquires relating to financial assistance; in January 2002 alone there were 19. About 6 per month evolved into time-intensive interventions.

Magistrates Court and the Government Solicitors Office collaborating with VoCC to produce 'guide for service providers' to the FAS. It is hoped that a 'guide for applicants' will follow.

Other concerns re. the FAS:

- Restricted to violent crimes
- Requirement to report incident to the police (why not to another authority?)
- "Extremely serious [permanent] injury" very difficult to judge.  
It may be opportune to explore in more depth some alternative methods of resourcing peoples' recovery such as more flexible interpretations of what constitutes a "reasonable expense", in proportional scaling or, distasteful as it appears, a table of maims.
- The valuing of one set of injuries sustained in one occupational area above others is not a sustainable policy position on any grounds.
- Legal fee cap of \$650 to legal fees, also not claimable under the legislation appears to have acted to constrain the profession from being a source of advice and assistance to victims of crime. Has led to unnecessary stress for victims of crime. Limit should be increased or legal fees should be recoverable like any other expense or - preferably - both.
- Filing an Out of Time Motion if an application is made more than 12 months after the incident is reportedly more stressful than the actual application. As never been refused, why can't it be decided on the paperwork? Procedure appears to be unnecessary and cumbersome.
- The application form needs to be completely reworded in plain English. It is incomprehensible to the ordinary citizen. It also needs to be structured in such a way that a client can complete it in a step-by-step fashion.

*Regarding the FAS Annual Report:*

It is **recommended** that detail on the type of 'reasonable expenses' allowed be included in future Annual Reports.

Finally, there remains a significant lack of any research, especially longitudinal studies, into how financial packages impact on a person's recovery.

It is **recommended** that ways to rectify this lack be actively explored by the Department of Justice and Community Safety.

[An appendix lists a range of victims of crime reforms in ACT justice agencies is given, including ACT policing, Office of the DPP (Witness Assistance), Courts Administration and Corrective Services.]

[End of submission]

## 22. Australian Federal Police Association

- Represents the industrial and related interests of all employees of the Australian Federal Police. Submission is based on wide consultation.
- Expense to the public purse is an issue and there are competing interests. Early Compensation Acts were much more generous than over the past decade.
- Recent schemes have limited the “class” of victim and made use of alternative government facilities to provide treatment and other assistance. The most limiting schemes have been the *Victims of Crime Assistance (Amendment) Act 2000 (Victoria)* under the Kennett conservative government and subsequently the *Victims of Crime (Financial Assistance) Act 1983 (ACT)*.

The *Victims of Crime (Financial Assistance) Act 1983* recognises the special role of policing and emergency services and that their officers will not infrequently find themselves victims of crime due to the simple fact they routinely place themselves in potentially dangerous situations to protect the community.

- The *Safety Rehabilitation and Compensation Act 1988 (Comcare)* limits the ability of a police officer or emergency personnel as Commonwealth employees from claiming a permanent impairment or pain and suffering from a work related injury unless there has been a whole person permanent impairment of not less than 10%:

Prior to the introduction of the Comcare legislation the Legislature assured Police due to their unique role and service to the Community the rights provided to them by the Criminal Injuries Compensation Act 1983 would not be affected or limited.

- The unique position of police and emergency officers was reflected in Section 9 and 10 of the Act as amended.
- Comment re. workers' compensation and criminal injuries compensation: However, it might well be that categories of applicants for compensation such as persons particularly liable to be victims of violence in the course of carrying out their duties, such as police and prison officers, ought to be able to be compensated by workers' compensation entitlements rather than via criminal injuries compensation entitlements. This can only be asserted legitimately, though, where such entitlements are adequate". Freckleton, I. *Criminal Injuries Compensation: Law Practice and Policy 2001*, p. 103.
- Comcare fails to adequately compensate for claims of less than 10% permanent impairment.
- Including as a “primary victim” in Section 9 any person who assists a police officer in the course of his duties was recognition by the Legislature of the unique role of police.
- However there is an anomaly re. aspects of Sections 9 and 10. [The details are given.]

- It is the Association's view that the present application of the scheme has had the desired effect of limiting the drain on the public purse while treating, rehabilitating and generally compensating victims. Personnel cannot 'double dip' as ". . . cannot avail themselves of both eligibility for special assistance pursuant to Section 10(1)(e) and also the Comcare legislation", hence the Act is in essence a safety net.
  - It is agreed that, unfortunately, police officers are a high user group of the existing Scheme. *Annual Report 2000-2001* reveals that Police Officers had 26 claims and pain and suffering totalling \$123,350.00.
  - The claims arose from the following incidents: 19 attempting to effect an arrest; 3 assault, 1 attempting to restrain; and the balance being general injuries arising in the execution of police duties. As case summaries show:  
All are violent assaults leading to injuries arising in the execution of the police officers duties which he would not otherwise have been required to undertake had it not been for his obligation to protect the safety of the community.
- Our submission is that the payment of pain and suffering, the sum of \$123,350.00 is a small amount to ensure the confidence of Canberra citizens by compensating police officers in the unwavering execution of their duties. Further, by the payment of such modest sum it is plain the scheme is being as the "safety net" it was intended to be.
- It would be inequitable and unfair to require police to place themselves in situations of danger for the community's benefit where the Territory would not provide some form of compensation if they were subsequently injured.

[End of submission]

### **23. ACT Women's Consultative Council**

- Notes that financial assistance has decreased from \$5,547,193 in the year 1999-2000 to \$871,228 in the year 2000-2001. The recipients have largely been in the categories of victims of sexual assault and police officers.
- The largest group to miss out on compensation has been victims of assault, especially domestic violence.
- The Council is also concerned that inconsistent and inadequate treatment is afforded to women due to the fact that women may be reluctant to classify an assault as one of sexual assault.
- Women should be provided with an appropriate allowance for reasonable costs of legal representation.
- Concerned about definition of "an extremely serious injury". Has the potential to lead to further inconsistent treatment for women:  
This view is based on the difficulties previously encountered in gaining women's rights in the areas of both Sexual Assault and Domestic Violence. The council believes that equal access to the pain and suffering provisions is an important part of ensuring consistency in financial assistance.
- Concerned about retrospective effect of the provisions.
- Council believes that the absence of monetary compensation means that women will not avail themselves of any assistance whatsoever.
- The VSS must continue to allow a choice of service provider.

Recommendations:

- Repeal the retrospective provisions.

- Extend time for people who did not bring an action because of the proposed changes.
- Instigation of appropriate allowance for legal costs.
- Choice of service provider.
- Amendment to the eligibility criteria for pain and suffering to broaden its application to the original legislation to cover assaults.
- Obtain more comparative data to compare recovery times of those who have received compensation with those victims who have not received compensation.

[End of submission]

#### **24. ACT Council of Social Service**

- Compensation for the victims of crime is an important social justice issue. The trauma of a violent crime can profoundly affect a person. Crucial that the legislative and compensatory mechanisms provide adequate support to victims of crime that addresses their individual needs. The changes narrowed the range of compensatable victims.
- In 1999 the Assembly's intention was that the Review would determine whether the changes led to a better result for victims. The terms of reference have narrowed that scope to look at the efficiency of financial assistance, and the effectiveness of the service provider. Terms of reference appear to presume no change in the way the financial assistance and victims services scheme operate.

##### **Recommendation 1**

**That the Department of Justice and Community Safety approach the Minister with a view to instigating a fuller, more expansive investigation into the operations of the Act.**

- The current Review is inconsistent with the ACT Government protocols for consultation with the community. The time frame for comment has been far too short, even if it had been undertaken mid-year instead of over the Christmas break.

##### **Recommendation 2**

**That any future review is conducted in accordance with the terms of the ACT Government Consultation Protocol.**

There is also a problem with the Department's identification of stakeholders to take part in this process. While some obvious groups have been identified, the specific targeting of groups to comment has ignored the fact that many people who have personal experience of the operations of the Act have no voice. ACTCOSS understands that surveys have been done by the victims services scheme, however this is a filter that does not allow the personal experiences of victims to be heard.

##### **Recommendation 3**

**That any future evaluation of the Act take into account the personal experiences of those assisted by the provisions of the Act, including the processes they had to go through to get assistance, and interviews with those who were unsuccessful in their claims.**

- ACTCOSS's role has been compromised by the fact that ACTCOSS was not advised of the Review until after submissions had closed. Urges the Review to take note of the comments of the service providers, even where those comments fall outside the Terms of Reference.
- There should also be no delay in publishing the consultant's findings.

*Recommendation 4*

That the consultant's report be provided to all interested stakeholders at the same time it is presented to the ACT Government for consideration.

[End of submission]

## **25. Victims of Crime Assistance League, ACT**

### ***Recommendations***

#### **Rules for Financial Assistance**

- That the Victims of Crime (Financial Assistance) Act be reviewed with the objective of more clearly defining assistance available to victims of stalking – for example, including greater practical assistance such as a police operated surveillance device to assist victims in feeling protected, to assist the AFP in apprehending and deterring offenders.
- That there be a review of eligibility criteria regarding payment for pain and suffering of victims who are receiving unemployment or disability benefits. There is concern that some victims, who have experienced significant pain and suffering, are not receiving appropriate payment and assistance.

#### **Needs of Culturally Diverse Community**

- That a joint effort be made between ACT Community Care and the VSS to recruit and train culturally diverse volunteers, by readjusting or increasing VOCAL's funding to enable it to provide linguistically and culturally appropriate information about support services. In special client cases, funding to enable home visits and a transport service for crime related appointments would be an improvement.
- That funding be set aside to develop culturally sensitive programs and support groups for men, women, youths and children at VOCAL House assisted by VSS and other services.

#### **Data**

- That VSS consider means to share a common database on client information and case management of all VSS clients with a view to provide an ongoing support service, particularly when a client has exhausted their allocated counselling and assistance hours. The database arrangement needs have a greater focus on meeting clients' needs rather the structures, procedures and protocols of the service provider.

#### **Roles**

- That the Victims of Crime Coordinator's (VoCC) role exclude the provision of 'hands on' service to victims such as assistance for application for financial assistance or preparation of Victim Impact Statements, Court support and general assistance. This would reduce the number of instances where victims are at Court and are not provided support by VoCC's assistant due to them being unavailable – the support role would be better managed by volunteer groups.

- That the Victims Assistance Board needs to make clear directives as to the roles of VSS and VOCAL in providing services to victims, including providing general assistance to victims regarding their eligibility for assistance.
- That there is a clear delineation of responsibilities of VSS and VOCAL during the period where 2 to 20 hours contact is provided to a client for support.
- That there is a clear delineation of responsibilities of VSS and VOCAL after the period where 2 to 20 hours is provided to a client for client support – that is, for ongoing support after the completion of the (up to 20) hours provision of support, so that VSS does not intrude on VOCAL’s role as a service provider.
- That the Victims Assistance Board review the role and duties of VSS staff to ensure that they are not going beyond their charter.

### **Liaison**

- That the Victims Assistance Board provide clear guidelines on processes to promote a working relationship between responsible agencies. A strong link needs to be established between the three Victims Liaison Officers from the Australian Federal Police, between the Director of Public Prosecution Liaison Officer, the major agencies that receive referrals from them such as the Domestic Violence Crisis Service, and the Rape Crisis Service. This would facilitate cases being allocated to VOCAL which is able to provide Court support and ongoing support to victims.
- That the processes for the AFP include a requirement for them to work closely with VOCAL in obtaining support workers to assist victims in a timely manner; in a similar manner that the AFP currently does with the Domestic Violence Crisis Service (for victims of violence, domestic violence, assault and stalking, etc.)
- That the office of the DPP forms a closer working relationship with VOCAL, to provide training to the volunteers with a view to making timely referrals so that more victims can be provided information on case conferencing, Court procedures, facilitation of Victims Impact Statements, and the provision of information on case outcomes to victims.
- That VOCAL be included in educational work with the Department of ACT Community Corrective Services, and Relationships Australia in providing a Victims Awareness Program for prisoners and parolees, and for staff in their rehabilitation and crime prevention program.
- That VOCAL be allowed to place more advertisement posters around the waiting areas at the Family Court, the Magistrate Court and the Supreme Court to provide information regarding assistance and services available to victims.

### **Referrals**

- That there is a clarification of the procedures for referral of victims to the volunteer components of the Victims Service Scheme.

### **VoCC Title**

- That the VoCC’s title be changed to better reflect the role of that position as coordinator and policy maker. Within the community, the existing title and role of VoCC is often confused with VOCAL’s Victims of Crime Coordinator; and seen as being a direct service provider (i.e. Victims Ombudsman) rather than a coordinator and policy maker.

[End of submission]

## **26. Legal Aid Office, ACT**

- Concerned about the inequity of retrospective application of the amendments.
- Concerned about special recognition given to claims by police officers and firemen injured, who already have access to compensation schemes.
- The "all or nothing" distinction between special assistance claims and other claims is inequitable. "We have seen a few examples of special assistance claimants receiving \$30,000 for claims that would have been previously valued at half that amount." Some gradation of assistance would deal more equitably with injuries that are very serious with long-term effects, but not permanently disabling.
- Prior to the commencement of the new legislation Office provided 100s of advices and grants of aid for compensation each year, and approximately 120 grants of assistance for compensation claims made in the 12 months prior to the new legislation.
- In-house staff of the Office also continue to be available for advice and minor assistance (such as checking application forms).
- In the 10 months, 1 January to 31 October 2001, the Office gave advice to 22 people about criminal compensation, and received applications for aid from 12. Of the 22, 12 were given general advice about claims. Of these two had potential to be special assistance claims and the clients were invited to return to the office for further advice after obtaining further information. One did so.

I think it possible to observe that there is a general perception that pursuing claims is now seldom useful and fewer people, regardless of whether they have a potential claim or could benefit from assistance with the preparation of an application form, seek out advice and assistance.

- Submission to the Law Society Statutory Interest Fund for funding to operate a Victims of Crime legal advice scheme, using a contracted private practitioner. The scheme would provide regular information sessions, perhaps once a week at the Magistrates Court, giving guidance on applying for assistance: "For people who are already vulnerable and often anxious it can be an overwhelming task."

[End of submission]

## **27. Ms Heather McDonald, Director of Clinical Effectiveness and Quality Management, ACT Community Care**

- Is responsible for the coordination of quality improvement activities across the ACT Community Care. Agency has been reviewed by Australian Quality Council resulting in achieving a Business Excellence Award.
- Customer satisfaction survey is major project. Datacol Research P/L survey has been conducted for the past four years. Designed to establish and understand the key drivers of customer satisfaction. For VSS, survey examines both frontline quality and aspects of the service. The Press Ganey survey examines clinical aspects.
- These companies benchmark the results with organizations that are as like as possible. Even though the VSS was benchmarked in the report, there are few services in the norm group that would match the VSS.
- As a result of the feedback from the Australian Quality Council, a project has commenced to increase the number of quality indicators. The VSS is included in this project. Some indicators under development are:

- How well the VSS is able to provide initial assessments for clients
- The timeliness of information forwarded to external providers and information received back from external providers
- Complaints/incidents
- Any problems with the process of delivering services or the outcomes achieved.

[End of submission]