

**Sociology 3395: Criminal Justice & Corrections**  
**Overheads Class 20: Victims and Criminal Justice 2: Official Responses**

Today we will look at 3 of the most significant responses to the victim's traditional role in the criminal justice process:

- (1) The Civil Courts
- (2) Criminal Injuries Compensation
- (3) Victim's Services Programs

**(1) The Civil Courts:**

\*This involves civil lawsuits against the offender where:

- Defendant's act was wrongful
- S/he owed a duty to plaintiff
- Damages were reasonably foreseeable

\* Burden of proof = "balance of probabilities"

\* Many problems with lawsuits:

- Inability to identify/locate offender
- Limitation periods
- Offender having no assets
- Legal costs
- Counterclaims
- Other prior claims (e.g. criminal fines)

\* Studies show few victims sue; even fewer recover:

- Linden (1968): 4.8% sued but 1.8% of victims collected
- Delta/Vancouver (1974): 4% collected
- General Social Survey (1988): Only 1% tried to collect

## **(2) Criminal Injuries Compensation:**

- \* Grew out of dissatisfaction with civil courts
- \* Politically justified as:
  - “Natural justice”
  - Contribution to public welfare
  - A form of insurance
- \* Began in New Zealand (1963) and spread rapidly
- \* Until 1992, federal-provincial cost-sharing, but provincially run
- \* Common features of programs:
  - Aids victims of violent crime
  - Compensates “Good Samaritans”
  - Consider contributory behavior of victim
  - Designed to compensate financial loss
  - Some programs cover “pain and suffering”
- \* Problems from a victim’s perspective:
  - Low awards compared to lawsuit
  - Limitation periods
  - Maximum award limits
  - Deducting collateral benefits
  - Do not cover property loss/ damage
  - Increasingly fails to cover pain and suffering
  - Long delays/ bureaucracy
  - Under-funding of programs
  - Programs not well-known
  - Compensation denied for many reasons
  - Upsetting hearings

\* Robert Elias (1983):

- Programs an example of “symbolic politics”
- Initial legislative supporters voted against funding programs
- Act as a form of welfare/ appeasement

\* Elias’ Survey:

- Fewer than 1% of violent crime victims applied
- Fewer than 35% of applicants were compensated
- No impact on crime rate
- Those involved had worse experience than those who were not

\* Ultimately:

- A “band aid” solution after the fact
- Does not deal with root causes of problems
- Does not provide “real” assistance to victims

### **(3) Victim’s Services Programs:**

\* Massive growth in victim service programs since 1970's

\* 1997 report found 4 basic types of programs:

- (1) Police based services
- (2) Crown/court based victim-witness services
- (3) Community based services
- (4) System based services

\* Marriott-Thorne (1998) divides available services into:

- (1) Services available to all victims (Prov. / RCMP Victims Services)
- (2) Services to victims of family violence (public and private)
- (3) Specialized services (MADD, sexual assault services)

#### (4) Mandated non-justice services (adult/child protection)

##### \* Funded through:

- Victim fine surcharges
- Grants
- Private fundraising

##### \* Provincial Victims Services (Prov. Dept. of Justice):

- Provides services to victims after charges laid/ court process begins
- Victim Services Officers responsible for:

Court preparation sessions  
Child Victim Witness Program  
Criminal Injuries Compensation  
Victim Impact Statements  
Providing emotional support  
Providing information  
Liaison with prosecutors, counsellors, other services

##### \* My evaluation (Prov. Victims Services):

- Focused on encouragement vs. discouragement of victim role/identity
- Surveyed 44 clients and 22 support staff

##### Findings:

##### \* Official attempts to avoid encouraging victim identity:

- On one hand, extensive training/ avoiding term victim/ giving options
- Present as “short term problem” /attempt to “normalize”/ build up
- “Knowledge is power”
- Some clients appreciate/ others feel belittles their situation

\* Approach inconsistently/ incompletely implemented:

- Denying labelling, and then doing it
- Providing info on cycle of abuse

\* Program's close ties to CJS:

- Built around/unable to criticize traditional CJS
- Staff have no more power than victim: "hands tied"
- Criticized as "part of the system" (e.g. impact statement restrictions)
- All about what happens in court
- Perceived as protecting their jobs
- Encourages sense of victim's powerlessness

\* Responses by Staff:

- Blamed legislation
- Focused on brevity of encounters/ claim minimized impact
- Claim clients already saw selves as victims/ no more harm done

\* Ultimately, tension between attempts to avoid, and inculcation of victim identity

\* Much official concern with protecting program itself