

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

In the last class, we looked at the traditional place of victims in the criminal justice process, and a few of the recent changes that have been made in that regard. Today we will extend this latter discussion, and look at three significant responses to victims concerns in the legal process. These are:

- (1) The civil courts;
- (2) Criminal Injuries Compensation programs;
- (3) Victims Services Programs; and

(1)The Civil Courts:

Canadian courts have held to the traditional viewpoint that victims of crime have no place as parties to the proceeding in criminal matters as they have the option to pursue a civil lawsuit for their losses. The validity of this argument will now be examined.

Technically, if a person has been injured by the act or omission of another without just cause, a *tort* has been committed. The injured person has historically been entitled to civil damages if (i) the defendant's act was wrongful; (ii) s/he owed a duty to the plaintiff; and (iii) the damage was reasonably foreseeable. The standard of proof in such matters is no longer "guilt beyond a reasonable doubt," but the much lower standard where the defendant must be proven to have caused the injury on "a balance of probabilities."

Without getting into the complex legal hurdles involved in establishing the above points, which may be even more problematic if the suit is defended, it must be noted that victims usually have much more immediate and pressing difficulties to contend with:

- (i) The victim, in many cases, may be unable to identify and locate the offender. This, by itself, effectively precludes a lawsuit as service of court documents becomes impossible.
- (ii) Limitation periods for bringing suit may expire before the victim has recovered enough emotionally to consider suing.
- (iii) Court-ordered damage awards are not always enforceable in practical terms, as "you can't get blood out of a stone." While there are costly, time-consuming legal mechanisms to execute on judgements, for example, by placing a lien on the defendant's land, seizing bank accounts and personal property, garnishing wages, and summoning the defendant to court regularly to be examined with regard to any assets or income, *none* of these are effective against someone who owns nothing of value, has prior judgements against them, whose property is encumbered by secured or preferred debts, or who declares bankruptcy. Ultimately, such a defendant is effectively "judgement proof."

(iv) Where the victim does recover damages, they may be whittled away by the legal costs involved in bringing the suit and any costs incurred in executing upon the judgement.

(v) The offender may file a civil counterclaim against the victim, and, at least in the past, was eligible for legal aid. Victims generally are not, especially when they own any significant assets. This can be an emotional nightmare for the victim, and leave them almost broke with legal costs.

(vi) In many cases, the collection of criminal fines has priority over the payment of civil damages or of restitution/compensation orders.

Considering all of these problems, it is little wonder that the civil courts have been rarely used by victims of crime. Three surveys bear this out:

(1) A pioneering 1968 study by Allen Linden found that in Toronto at the time, only 1.8% of victims surveyed collected anything by filing a lawsuit, despite the fact that some economic loss was suffered by 74.2% of those surveyed. In addition, only 14.9% considered suing, 5.4% consulted a lawyer, and 4.8% actually tried to collect from their attackers.

(2) A later study conducted in Vancouver and Delta, B.C. in 1974 had similar results: only 4% of the Vancouver residents succeeded in recovering anything from their attackers while none of the Delta residents did.

(3) More recently, the 1988 General Social Survey found that in only 1% of reported victimizations were attempts made to seek redress through the court system.

So much for the civil courts as a realistic alternative for victims of crime to seek redress.

(2) Criminal Injuries Compensation Tribunals:

The second major institution of civil redress for crime victims is represented by a variety of state-funded compensation schemes. These administrative programs initially grew out of dissatisfaction with the problems involved in utilizing the civil courts for redress. The idea was that tribunals would provide quicker and more efficient compensation to victims of crime than the courts.

These were justified politically as:

(i) a way of providing of "natural justice" to the innocent and worthy;

(ii) a way to contribute to the public welfare by protecting and restoring the core values of trust in society, both by the victim and by the general public, in order to preserve the stability and security of the social system; and

(iii) as a form of "insurance" against certain types of crime inevitably arising out of our current social and economic arrangements.

Historically, the pioneer in implementing such state-funded compensation was New Zealand, which, in 1963, passed an Act to provide state compensation to victims of violent crime. Other governments quickly followed. Britain passed its law in 1964. In 1965 California became the first U.S. state to enact such a system, and it has been followed by most of the other states since then. In Canada, Saskatchewan was the first province to pass such a law in 1967. This was evidently a popular idea, as when B.C. introduced its system in 1972, it was the eighth province to do so. Since then, the two territories, N.S. and P.E.I. have been added to the list, leaving no province in Canada without a scheme for compensating victims of violent crime (although recently, some provinces have disbanded their boards and amalgamated their functions with either their Workers' Compensation Boards or Victims' Services programs).

Until 1992, these programs were run on a cost-shared basis between the federal and provincial governments, although the boards are constituted and administered provincially. While none are identical, they have shared a number of common features:

- All were designed to aid the victims of violent crime. These include surviving dependents of victims of homicide, and usually persons responsible for the maintenance of the victim;
- Many programs also compensate "Good Samaritans" who are injured in the course of attempting to enforce or assist in the enforcement of the law;
- All jurisdictions consider the possible contributory behavior of the victim in assessing the eligibility and size of the award;
- The compensation schemes were all designed to alleviate pecuniary loss. Compensation may be obtained for financial costs incurred as a result of the injury, death or disability of the victim (e.g. funeral expenses, the cost of some therapeutic equipment).
- Compensation could also cover the losses to dependents as a result of a victim's death, to pay for the maintenance of a child born as a result of rape, or for other expenses deemed reasonably the jurisdiction in question.
- *Some* programs also compensate for pain and suffering (although this has become much more restricted since the termination of federal cost-sharing in 1992).

While these may sound helpful in comparison to the civil courts, in practice there are many areas that victims have traditionally argued are upsetting, unjust, and inhumane. These include:

(i) While there is the advantage that no identification or conviction of an offender is required, it is also true that **the compensation obtained is usually far less than a court would order in a private lawsuit**. Furthermore, if the victim later does later sue successfully, s/he can only

recover an amount in excess of the compensation paid, as the Board is entitled to have its share back.

(ii) **Many jurisdictions apply a limitation period within which application must be made** (e.g. 1 year after the crime). After that, victims in most cases are out of luck.

(iii) **Most jurisdictions impose maximum limits on awards to victims.** Ontario, for example, has a maximum lump sum award in the event of injury or death of \$25,000, or \$1000/ month in the case of periodic benefits. It has also restricted awards to \$150,000 (lump sum) and \$250,000 (periodic) as the total compensation payable to all applicants in respect of any one occurrence.

(iv) **Many boards deduct collateral benefits** from the amount of compensation awarded. Some even deduct welfare payments which, in effect, does little to compensate victims in times of financial need. Indeed, many have a means test ensuring that compensation is only given to the poorest of the poor.

(v) **Property damage or loss is virtually never covered**, despite the fact that many victims either do not have, or cannot afford private insurance.

(vi) **Not all boards have included payments for non-pecuniary loss** such as pain and suffering, nor do those that do all recognize that pain and suffering are not restricted to the primary victim.

(vii) **Long delays occur between the time of application and the time compensation is actually paid** to victims. Indeed, it has been argued that many victims are deterred from applying by the lengthy bureaucratic procedures and investigative process. For those that do apply, these can be very difficult as there are frequently bills to pay as a result of victimization, such as for specialized therapeutic equipment, or, in the worst cases, funeral bills. Moreover, this is aggravated by the fact that either injury or "post traumatic stress" frequently make it difficult for victims to hold regular employment.

(viii) **These Boards are notoriously underfunded** by both levels of government. As one victim put it (1982 figures): "It costs every taxpayer \$320 to support the justice system. Of this, 32 cents goes to victims." Fattah (2000) adds: "Since in many jurisdictions the budget is determined in advance and cannot be exceeded, the more applications the program receives, the lower the awards. As the schemes are poorly funded in the first place, successful applicants usually end up receiving ridiculously low amounts as compensation for their victimization."

(ix) **The existence of government compensation for victims is not well known**, nor has it been well-advertized - even by the police. In some respects this follows from underfunding, with Fattah (2000) commenting that "It is easy to understand why it is in some countries there is a deliberate attempt not to publicize these state compensation schemes." This means that many victims never find out that such programs are open to them. Nationally, a 1987 Gallup Poll reported that 73% of Canadians were unaware of the existence of these programs. Indeed, it has

been reported that in Ontario only one in fifty-five eligible victims actually seeks compensation. This appears to be similar to the situation in other jurisdictions. A study of the New York and New Jersey programmes revealed that fewer than 1% of all victims of violent crime even applied to the Boards, and only 35% of those who applied were compensated.

(x) **Compensation may be denied for numerous reasons.** For example, in almost all systems, eligibility is contingent upon reporting the offence to the police and the victim's willingness to cooperate with the justice system. Most also exclude (or drastically reduce the awards to) victims who provoked or otherwise contributed to their own victimization. One rule that renders the majority of victims of violence ineligible is the high minimum limit that is usually set for compensation and below which victims do not qualify. Of course, the burden of proof is on the victim, and very often it is difficult to prove that the injury resulted from a criminal attack when the attacker has run away and there were no witnesses. As a result of these restrictions, a large number of victims simply do not qualify for compensation.

(xi) **Victims are often not satisfied with the nature of the hearings themselves.** While, on the one hand, they are given "a forum in which to tell their side of the story which may not have been brought to light at the court hearing," there have been numerous reports of victims being grilled by Board officials over their role in the incident, their financial position, and/or the extent of their injuries. This does little to help individuals who are trying to come to terms with horrific personal experiences, and may, at times, amount to revictimization. Indeed, researchers have found that among victims who go through the process of compensation, even those who end up receiving some funds are less satisfied than those who do not apply (Elias, 1983).

(xii) **Federal-Provincial cost-sharing for these programs ended in 1992**, when the Canadian government cut back funding to the provinces. This resulted in many provinces reorganizing their programs (i.e. amalgamating criminal injuries compensation with either their victims services programs or workers compensation boards). It also meant severe cutbacks in eligibility and coverage (e.g. non-pecuniary damages such as pain and suffering being eliminated or harshly curtailed). In addition, Nova Scotia has recently cut all types of compensation other than counselling awards.

The upshot of all this is that very few victims apply, even fewer are minimally compensated, and these individuals are often more dissatisfied than those who didn't bother. What can we make of this?

A convincing argument is made by Robert Elias (1983). Elias argues that these schemes really have very little to do with compensating victims, but are instead examples of "symbolic politics." In his view criminal injuries compensation uses symbolic language or apparent gestures to detract attention from tangible issues of resource allocation, particularly from the fact that substantive programs do not always follow political rhetoric. These enable politicians to say that something has been put in place to do something for victims, while in fact it fails to provide most victims with assistance. Elias emphasizes how these programs serve to quiet public demands or concerns with a so-called policy announcement that fails to provide any tangible results.

In support of his argument, Elias notes that in many states unprecedented number of legislators ended up co-sponsoring such programs. Sponsors, and even other supporters, loudly trumpeted their support for the programs among their constituents, and the public greeted such plans with great favor and appreciation. Ironically, however, many of these same supporters and proponents of compensation later voted against the appropriations to fund the programs, or for extremely meager funding with very restrictive eligibility requirements. "Even from the beginning therefore, the actual commitment to creating substantive programs was low, but the political advantages of supporting the plans were nevertheless realized."

Elias also argues that apparent public support for these programs was the precursor to the expansion of police services to fight crime. Going hand in hand with this, these apparent compensation programs served as a form of welfare to psychologically "appease" those most likely to commit - and suffer the effects of - crime (e.g. the poor and minorities), through *apparent* concern with the rampant crime and violence in their communities. Rather than addressing the sources of crime and poverty, however, this strategy resulted in a mixture of toughness and symbolic pacification enabling effective social control. Elias notes that "It is probably no coincidence that these programs arose in the late 1960's at precisely the time that welfare roles were expanded to cope with urban discontent. And, it is also probably no accident that most of the programs actually adopted were established within a few years of that crisis period or not at all, were instituted in states whose cities were most beset by disruptions, and have been plagued by tentative and insufficient budgetary support since the decline of urban discontent in the early 1970's (despite the fact that the number of violent crime victims continued to rise).

Finally, Elias argues that "perhaps the best reason to label victim compensation as symbolic politics is simply due to its lack of success and substance in practice." Elias administered a survey to board officials and 342 victims of two programs in New York and New Jersey. Among victims, there were control groups of claimants and non-claimants for both jurisdictions. He discovered three things, each of which corresponded to an ostensible goal of victims compensation.

With regard to the tribunals' ostensible goal of compensating victims, Elias found that fewer than 35% of those applying ever received compensation (and many of these considered the amounts insufficient). This was in addition to the fact that less than 1% of all violent crime victims even applied in the first place. So much for the goal of compensating victims.

With regard to the tribunals' ostensible goal of helping to control crime, studies have shown that these "have no apparent effect on reducing the crime rate, the clearance rate, or on conviction rates. They are not providing a greater certainty of justice that might, if achieved, deter crime.

As for the tribunals' ostensible goal of improving attitudes and cooperation among people toward criminal justice and government, Elias' research has found that increased willingness to cooperate with authorities has not been forthcoming (e.g. there has not been increased reporting

of crime or willingness to prosecute as a result). In fact, the majority of those who dealt with such tribunals exhibited a *worse* attitude towards future cooperation with authorities due to their treatment. This was particularly so among uncompensated or "inadequately" compensated claimants. The small minority that were satisfied with their compensation (or who did not apply), however, were more inclined to support the programs, government and cooperation with criminal justice institutions - the latter apparently impressed by the fact that policymakers have been considerate enough to show their concern for victims by providing compensation programs. Elias states: "A perfect example of symbolic politics: the public is thankful for the program and hopes it will never need it, when in fact, should the program ever be needed, for the vast majority of people, it will not actually be there!"

In the end, Elias argues that victim compensation has some very serious problems that will not likely be fixed - even though many things could be done to make them more substantial. He says this is because our real commitment to victims is considerably unclear. Rather than get at the root causes of violence (e.g. poverty, inequality, over-criminalization, inadequate gun-controls, and alienation), policymakers prefer to stick "band-aids" on a problem after it occurs. This merely helps justify our "bankrupt" crime-prevention policies. With victims apparently "taken care of," it is not as necessary to have any impact on crime. Ultimately, he feels that "real, and not symbolic assistance for victims should not be promoted in isolation, but should be accompanied quite closely by demands for major transformations in criminal and social policy focusing on the real sources of crime in society. Future research and work should dwell not so much on how to make victim compensation and other aid better as on how to make victim assistance unnecessary in the first place."

(3) Victims Services Programs:

The last 20 years have witnessed an unprecedented development in the field of victim services. Indeed, victim services have been called the growth industry of the decade. The expansion of service programs for victims of crime in the United States, Canada, Britain and many other countries has been nothing short of phenomenal. Ten years ago, in 1990, Davis and Henley estimated the number of victim service programs in the U.S. to be over 5000, whereas 20 years earlier there had been none.

In a 1997 report by the Canadian Resource Centre for Victims of Crime, the four basic types of program models were identified:

(i) Police based victim services: usually located in police detachments/departments, these types of programs are designed to help the victims as soon as possible after their contact with the justice system begins. The types of services that police based programs may include are: death notification, information about the justice system, information about the investigation, assistance with victim impact statements and criminal injuries compensation applications, referrals, etc;

(ii) Crown/court based victim/witness services: these are usually located in courthouses, and work very closely with the Crown's office. The emphasis is on court preparation. The types of services offered may be: information about the court process, tours of the courthouse, emotional

support throughout the court process, facilitating meetings with the crown, working with child victims/witnesses, etc. Obviously, victims usually only have contact with the Crown/court based programs if the police identify and arrest a suspect;

(iii) Community based victim services: these types of programs are usually not government operated, but may benefit from government funding. They usually specialize in the types of victims they deal with, i.e. sexual assault centres, domestic violence transition homes, impaired driving victims, etc;

(iv) System based services: this is a relatively new approach to providing assistance to victims in that it is not "police" or "crown" based but "system" based. This means that the victim only has to go to one place to get the types of services they can access from both police and crown based programs. This service based model has been adopted by both P.E.I. and Nova Scotia.

If you look at the article by Marriott-Thorne in your readings, you will see an outline of how models of service delivery vary throughout the various Canadian provinces and territories. I will not go into these in detail today, focusing instead on the variety of services for victims available.

Marriott-Thorne divides these into four categories:

- (a) Services available to all victims;
- (b) Services to victims of family violence;
- (c) Specialized services to victims of crime; and
- (d) Mandated non-justice services.

In the first category are (i) the Provincial Victims' Services Division, part of the Department of Justice; and (ii) the RCMP Volunteer Victims Assistance Program. The former operates four key programs, including Criminal Injuries Compensation, the Regional Victims' Services Program, the Child Victim/Witness Program, and the Victim Impact Statement Program. The latter operates out of RCMP detachments with volunteers providing support, information and referral to victims of crime.

In the second category are services with a specific focus on victims of family violence. In general, these can be divided into public and private services. In the former case we see victim services run by the Police, as well as projects and initiatives funded by the Department of Justice. Private services, in contrast, include transition houses and women's centres.

In the third category we find specialized services to victims of crime. Three major examples include services to victims of sexual assault, services to victims of impaired driving (MADD), and various legal services such as legal aid, and the Public Legal Education Society

In the final category are mandated non-justice services, including Adult Protection Services Child Protection Services, etc. under provincial social service legislation.

Marriott-Thorne notes that funding for these services comes from a variety of government sources, the Department of Justice, and the Victims' Assistance Fund. This latter source is funded through surcharges (the "victim fine surcharge") added to offenders fines at the time of sentencing. These are authorized under both the Criminal Code and the provincial Victims Rights legislation. It should also be pointed out that, Marriott-Thorne aside, some of the private organizations also conduct their own fundraising to avoid becoming "coopted" by the government.

Today I will be focusing my critical comments on the Nova Scotia Victims Services Division, with which I am most well-acquainted (similar programs exist here in NFLD). This was initially set up in 1989 under the Victims Rights and Services Act, and subsequently restructured following a 1991 study on victims needs and services in N.S. by Prof. Chris Murphy of Dalhousie University.

Victims' Services has already been evaluated once, in 1996, in government-sponsored review by Bill Collins and Ann Martel. This report is largely supportive of the Victims Services program, and merely suggests some administrative changes to improve the *efficiency* of the program as it is currently constituted (e.g. cessation of funding short-term community projects under the Victims' Services Funding Program in favor of a more integrated province-wide network; hiring some staff on a fee-for service basis, etc).

However, I also conducted my own research on the Nova Scotia Victims' Services Division. Following a descriptive overview of their activities, I will outline what I found.

Nova Scotia Victims' Services contacts and provides support services to victims of crime who are involved in the court process, typically after a charge has been laid against the offender. Operating largely as an information provider and referral service it provides a variety of voluntary programs and services, including court preparation sessions, the child victim-witness program, funding for counseling through criminal injuries compensation, and assistance with preparing victim impact statements. "Victim Services Officers" essentially deal with clients - either over the phone or in person - in an attempt to explain the court process. They provide emotional support, keep clients informed about their case, pass on relevant forms and documentation, and liaise with prosecutors, other officials in the justice system, counselors and community organizations that may be of help to clients.

Victims' Services are responsible for the following::

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| (1) Regional Victims' Services Program | (3) Victim Impact Statement Program |
| (2) Child Victim/Witness Program | (4) Criminal Injuries Compensation |

In my own study, I examined the question of encouragement vs. discouragement of the victim identity by Provincial Victims Services and 2 other support organizations. Of the 44 clients and 22 support staff surveyed, by far the largest group of subjects indicated that victims' encounters with victim support organizations had a mixed impact on victim identity. There were a variety of

reasons for this. In many cases clients simply pointed to things that they liked and disliked about the service, and support staff responded with factors that they considered helpful and unhelpful to their clients. However, it quickly became clear that these surface issues masked a larger tension in the data. Each service was at some level *aware of*, and *attempted to deal with* the central issue: the potential for increasing clients' sense of victimhood through support practices. Yet, their attempts were *not exhaustive*, such that *ways of encouraging or increasing clients' sense of victimization inadvertently entered interactions all the same*.

In the case of Provincial Victims' Services, it was clear that staff underwent extensive training for their role and were clearly sensitized to the possibility that their dealings with clients may further their sense of victimhood. One worker stated:

I don't identify them as victims. The only way that term comes up is self-identification. If a person identifies to me that they've been a victim of an assault, then I certainly understand that and I affirm that back to them. If the person identifies themselves as having had an incident, or something unpleasant has happened, I certainly give them information, give them options from that perspective as well. I think there are a whole lot of issues around the term victim and I think that if people come to an understanding that they feel they've been victimized and they're overwhelmed by that victimization, then there's certainly a set of options to respond to that. If people feel that they have suffered an unpleasant situation and want to know the consequences - they're looking for information and they're looking to continue to take control of their life, I certainly provide the information option - and I give them a whole range of options to choose from ((Interview #30: Female, age 47).

Indeed, the same subject suggested that "knowledge is power," and that her job was to "normalize" the client's situation as a "short term problem" after which they would get their "balance back." Other workers suggested that part of their job with clients was to "build them up" (Interview #24: Female, age 42).

In some cases, clients appreciated this approach: other times not. Consider the contrasting reactions of the two following clients:

If I need anything I can call and they listen. They believe me and understand. Every time that I called them they gave me the information that I need. I have control with them, and they aren't going to keep going unless I want them to. They aren't treating me as helpless, but are trying to build me up more. (Interview #31: Female, age 28).

I was confused and shattered, but found that they didn't help me in my confusion. They just treated me like I was a normal person who had walked off the street looking for some information, like I had total control of all my faculties. I was in need of answers and they couldn't tell me anything. They don't even make you

feel they could help. I was made to feel that I was not important, like I was shunned (Interview #11(b): Female, age 43).

In the former case, the client implies that this treatment encourages a sense of empowerment, which is clearly contrary to the powerlessness inherent in victimization. However, the latter client implies that she felt further victimized by this strategy. Of course, this also relates to the latter's view that she was not treated with the concern, sympathy and "respect" she felt was appropriate given her circumstances.

Aside from differing client responses to this approach, it is important to note that a separate sense of victimization may develop out of the *inconsistent* or *incomplete implementation* of this philosophy by staff. The worker above, for example, was observed to ask a client "Have you been a victim of crime," immediately softening her voice and adding "It's not easy, is it?" Another staff member, after outlining a policy like that above, stated: "We're not really into labeling people, other than identifying them as a victim." She noted how she tells clients that "this is not your fault. This is about the offender taking responsibility" (implicitly altercasting clients as victims). As well, she indicated that she provides clients with information on the "cycle of abuse" such that they can understand their situation. In her words "You can't move on unless you identify where you are"(Interview #16: Female, age 43).

While such policies to avoid casting clients into the victim role, and inconsistency in their application were clearly important, something else was far more significant. This had to do with Victims Services' location in the Department of Justice - and hence its *close ties to the criminal justice system*: an institution whose significant impact on victim identity has already been noted. Both staff, clients, and workers in other victim support organizations commented in this regard. Staff, for example, noted:

I have to walk a fine line and avoid criticizing the system. I can't commiserate with clients in that regard (Interview #16: Female, age 43).

Indeed, the role of Victim Services Officer does not change clients' traditional rights vis-a-vis the offender and the state within the criminal justice system. One officer noted that:

"Probably one of the most difficult areas is if a victim believes that the Victim Services Officer can somehow change the process. I understand that, but certainly don't have any more power than the victim (Interview #30: Female, age 47).

Hence, while able to provide information, refer clients to services, and help access recent procedural changes such as victim impact statements, they face many restrictions built around the traditional criminal justice process. In addition to their demonstrated failure to increase victim satisfaction in the reading by Davis and Smith (1994), for example, there are legal restrictions on what victims can write in their victim impact statements related to the offender's rights (i.e. the victim can't speak to sentence). The Victim Services Officer has to explain these to clients, a victim impact statement not meeting these guidelines may be rejected by the court despite their

objections, and the Victim Services Officer can't prevent defense counsel from cross examining the victim on these statements.

These institutional restrictions have prompted criticism from support workers at other organizations, generally revolving around the theme that Victims Services is "part of the system." For example, consider the following comments, the former from a staff member at a shelter, the latter from a "victims' advocate" of the impaired driving organization:

Victims Services is part of the system. While some workers are willing to go the extra mile, they take a lot of flak for it from the Department of Justice. They are constantly being pulled and defending what they're doing (Interview #25: Female, age 42).

There is so much red tape. Some of them may care, but there is only so much they can do. Their hands are tied. (Interview #11(a): Male, age 47).¹

Similarly, clients commented on these restrictions. For example, one man who reported a "good" relationship with his Victims Services Officer was critical of how these restrictions inhibited her role, and impacted on the sense of powerlessness associated with his victim identity:

Victims Services is the only bright spot in the whole system. While they're caring, there's got to be some kind of legislative change put in place so they have some teeth, so if the victim doesn't agree with the way things are going they have some avenue of appeal instead of feeling so bloody powerless. I feel so sorry for the Victims Services officer. She may be there to provide a service, but the bottom line is she is bloody near as powerless as the victim. There is nothing in place to allow her to have any kind of real clout. It's like she's both inside and on the outside of some conversations that we have. It's like she's supposed to be there as an advocate of the victim, but when she deals with the Crown it's like 'Why the hell are you sticking your nose in?' The way things are set up right now, she is little more than a feel good option - certainly better than nothing, but almost a figurehead (Interview #12: Male, age 43).

Other clients reported more negative aspects of these institutional restrictions, and were far less generous in terms of how they felt these impacted on their sense of victimhood. Some complained that "it's all about what happens in court, and they don't want to talk about anything but court and how you felt there"(Interview #20: Female, age 17). Others complained that the content restrictions on victim impact statements inhibited them from speaking about their own experiences from their own "point of view" (Interview #21: Female, age 35), representing "an exercise in seeing whether I could write an essay" (Interview #11(a): Male, age 47). While these

¹ Indeed, several respondents noted that impaired driving is not on the schedule for compensation, and a low priority for workers in many cases.

restrictions exist, in the first instance, to protect officers from being subpoenaed, cross-examined by defense counsel, and potentially damaging their clients' case, and in the latter, to ensure that victims' input is not excluded, such rules become very difficult for clients in practice. Indeed, they relate to the powerlessness associated with victimhood that they already experience in the criminal justice system:

Victims Services told me not to talk about my case. It's in your face all the time to be quiet or you'll hurt the case. That's the biggest problem cause you can't talk about your experience, even though you're there because you need help. It revictimizes by shutting you up. It's very limiting and adds to the feeling of the horrible secret in the first place. It triggers those feelings, and is not empowering, but inhibiting (Interview #21: Female, age 35).

I decided not to do a victim impact statement. It wasn't that I didn't want to. It just looked like so much work, and there is a lot of 'you can't say this and you can't say that.' If I am going to write a victim impact statement give me credit. Let me just do it. Whatever I say about my experience from my point of view is what I say. Frig that (Interview #21: Female, age 35).

Ultimately, while many respondents found the information provided by Victims Services helpful to some degree, both clients and support staff from other organizations were critical of these institutional restrictions, particularly how they sensed that staff were just doing a job:

It's a token response. With all the cutbacks the people at Victims Services didn't really understand what is happening. They were good listeners, but I almost felt at times when I was talking with them that they had a list in front of them. That's the feeling I got. Very quickly I realized who signed their paycheques. It's a conflict of interest. They know if they want their jobs they can't go outside of political policy. The system is the key - they are in so let's protect ourselves. I felt they thought I would go so far, realize I couldn't fight the system, and learn to accept it. It definitely made me feel more like a victim, more reliant on the system. (Interview #23: Female, age 48).

Victims Services staff get a salary and go to the office and do their job. It is a more structured approach than ours and they don't want to cross professional boundaries (Interview #7: Female, age 53).

Victims Services Officers responded in three ways. Some blamed the legislation limiting their responsibilities, claimed that they wished they could do more, and put the blame on the system. In the words of one woman: "I often take the heat for the system's failures." (Interview #24: Female, age 42). Others minimized the impact of their interactions by pointing to the brief encounters that they have with most clients (Interview #30: Female, age 47). Some added that clients already saw themselves as victims before their encounters, thereby minimizing any accentuation of victim identity during their interactions (Interview #30: Female, age 47).

Nevertheless, these do not entirely negate the impact of their encounters on clients' sense of victimhood.

Summing up my research, there is a tension at Victims Services between attempts to avoid inculcating a victim identity in clients and the presence of factors that do just that. Victims Services Officers are clearly sensitized to the potential for their actions to engender a further sense of victim identity in clients, and at least some emphasis is placed on not treating clients as victims at the outset. Their approach is to provide information on options and choice of referrals at the client's behest. While some clients found this approach encouraging, others considered it to be an inappropriate response under the circumstances and felt revictimized as a result. Moreover, the inconsistent application of this approach was problematic, where clients were implicitly altercast or labelled as victims in some cases.² Yet a third factor impacting on victim identity loomed much larger: the intimate connection of Victims Services with the criminal justice system. It not only is identified as part of the system by many clients and support staff in other services, but operates under restrictive rules that clients find disempowering, if not outright revictimizing. While Victim Services Officers respond that they are not the only factors impinging on clients' victim identities, and merely operating under the rules as written, many clients consider that they assist one of the former through applying the latter. Ultimately, the tension in this context illustrates the curious paradox of attempting to encourage empowerment in an institutional context where support staff have little or none themselves.

Before closing this section on Victims' Services, I would simply like to address one key related issue. Noted criminologist Paul Rock (1990) has argued that victims' interests were never the motivating or mobilizing force behind such programs. Similarly, Robert Elias (1983) argues that victims services really serve official needs, not victims needs. Keeping these in mind, I want you to consider the following quotes from your reading by Marriott-Thorne, who also just happens to be the Director of Nova Scotia Victims' Services Division. These are extracted from her written submission to the Parliamentary Committee of Justice and Human Rights in 1998 as it considered the proposed Federal Victims Bill of Rights:

"There are enough service providers without the entry of the Federal Government in either direct service delivery or direct funding to organizations. The need now is for better local coordination, cooperation and specialization. The Federal Government has a role in assisting each province/territory to accomplish this." (p.21)

"Implementation of a National Bill of Rights would distort local priorities, may create expectations that not all provinces/territories could meet, and create legal uncertainty in intruding on Provincial jurisdiction over the administration of

² Either approach poses difficulties depending on the specific situation, and, if seen as mutually exclusive alternatives, the best response here is that Victim Services Officers gauge the situation carefully and formulate an appropriate response based on training, experience, and the presenting client so as not to make them feel more victimized as a result of the encounter.

justice." (p.23)

"It is recommended that legislation prescribing a Bill of Rights for Victims remain within provincial jurisdiction where the right to a specific service can be linked to the availability of resources." (p.23)

"It is recommended that a Federal Victims Strategy to enhance the rights of victims should include the provision of adequate resources to enable the provinces/territories to provide the necessary services to address those rights." (p.23).

So, what are the real priorities here? Protecting turf (and jobs), or having another program in place that helps victims?