



**SUBMISSION TO THE ACT JUSTICE AND COMMUNITY SAFETY
DIRECTORATE ON A CHARTER OF RIGHTS FOR VICTIMS OF CRIME
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Introduction

The ACT Domestic Violence Crisis Service (DVCS) welcomes the opportunity to make a submission to the Justice and Community Safety Directorate on a *Charter of Rights for Victims of Crime* in the ACT. DVCS is a community organisation that has been providing supports to Canberrans that have been affected by domestic and family violence for 30 years.

As a 24/7 organisation DVCS provides support for all people in the ACT community with:

Crisis Intervention
Legal Advocacy
Support to young people and their families
Support to men to address their use of family or domestic violence
Support Groups for women and children
Security Upgrades
Emergency Accommodation
Safety Planning
Awareness, Education and Training

Response to the Options Paper

Even its most passionate critics would not claim that the criminal justice system and courts have an easy task. There are many and complex situations with multiple stakeholders to consider. Having personally worked with victims for almost two decades I do feel that this system is overwhelming offender focussed; some of the reasons for this are structural and some are dependent on the at times inconsistent support (or lack thereof) that victims receive from relevant agencies when they have unfortunately become a victim of crime.

Through our work at DVCS with thousands of families over 30 years who have experienced and subsequently been impacted by family violence we have noted how dangerously inconsistent these supports are across the criminal justice system. Some of the individuals working within these agencies have at times lacked the skills and depth of understanding of the complexities of family violence that encompass elements of safety and risk assessments that go beyond the administrative tasks of ensuring that victims are updated with relevant information as their matter proceeds through the courts, for example. The responses provided below pertain to DVCS' extensive work and understanding of working with victims of family violence crimes. Responses are only provided for the first two key areas from the Options Paper.

1. *Providing information in an accurate and timely manner to victims of crime about justice processes and their case*

DVCS is highly supportive of the ACT working towards ensuring best practice is implemented and adhered to in providing information to victims of crime. DVCS would welcome the development of an online portal that could provide information on all stages of the justice process (inclusive of accessible versions) as *one* option. Due to the significant trauma and in some cases ongoing safety and risk concerns of family violence victims, placing this onus on the victim to seek this information in isolation from information being automatically sent out would be unsatisfactory. Any central online information portal would also need to be updated regularly and ensure clearly articulated options for where else the victim may get support in understanding the information and where to access other ongoing emotional and safety planning supports. For family violence victims it would also be crucial that the online portal maximised safety due to the ever increasing technology abuse as a power and control tactic. Quick exit options, for example need to be available, particularly considering the risk dynamics of family violence victims and perpetrators and in cases where the offender is bailed, is 'tech savvy' and/or has access to the victim.

DVCS would support a centralised database and that it was inclusive of those agencies not currently considered to be a justice agency. Could DVCS be considered a criminal justice agency and have obligations under the Charter? This request comes from the fact that DVCS currently 'case tracks' approximately 90% of family violence victims and matters at any one time by providing information about justice processes, court updates, assistance with Victim Impact Statements and support at Defended Hearings. In order to offer this service and support to this overwhelming number, DVCS is faced with having to seek information from the courts and DPP *via email*, often relying on the goodwill of individuals within those agencies to provide this information in a *timely and effective manner to maximise safety and manage emotional distress of victims*. An automated notification system would also be welcomed as long as it was coupled with the option to talk through the case updates with an appropriately skilled practitioner. DVCS already sends some case updates to victims via SMS as soon as an outcome is known. The victim (client) can then call DVCS 24/7 to talk through what this update might mean for their ongoing emotional and physical (safety) wellbeing. *Consistent feedback provided is that this process works well for a significant number of victims as long as there is the option to talk through the automated notification details.*

It is DVCS' professional opinion, based on significant operational experience that a single point of contact/case management system would have benefits to victims and agencies. There are some examples provided in the Options Paper for consideration and all could work; however, *we believe that what is most important is that victims have choice and that*

the choice or decision to have or change support may vary depending on the nature of the crime, any previous experience of the criminal justice system, already engaged supports and where the victims are in the process of their matter – from bail application all the way through to being on a victims register if there is a period of incarceration. A single point of contact would minimise duplication of service delivery and enhance consistency of information provided to victims by agencies. A process of being able to nominate/identify the single point of contact and in turn review it would need to be established. The Family Violence Intervention Program’s (FVIP) Case Tracking for family violence matters does already do this to some extent. There is some duplication, however, as individual agencies, such as ACT Policing work to meet their KPIs separate to the FVIP mandate, for example. Such a process also requires *obligations* to exchange high levels of information sharing and collaboration that goes beyond goodwill of individuals within agencies.

In relation to legal information, advice and/or representation for victims in criminal proceedings DVCS supports the Victorian Law Reform Commission’s view that a separate and specific victim legal information service is not needed. This is of course contingent on justice agencies being *obligated to communicate effectively and regularly with victims of crime*. DVCS also believes that legal representation should be allowed in certain circumstances where victims appear in proceedings. Many DVCS clients have experienced the criminal justice process as one where they are treated as a “witness” to the crime that has been committed against them – in fact, that is how they are referred to. The opportunity to have legal representation may validate the experience of being a victim of crime and ensure adequate provisions around privacy, counselling notes and subpoenas.

Equally so, DVCS would be supportive of vulnerable victims being represented in legal proceedings, with the caveat, however that rigorous consideration be given as stated by the previous Victim of Crime Commissioner (VoCC), John Hinchey, that victims should have access to a legal advocate who is able to step-in when witnesses are being cross-examined. This is in order to ensure access to current and future participation rights.

On a final note for this key area, DVCS is highly supportive of specialist support officers, however, as stated, they must be extensively supported and supervised. Again, victims of crime must be offered choice as to who (specialist support officer or not) or what justice agency will provide this. The ACT must also find some solutions to the ongoing frustration with access to interpreters and who should or should not fund this. As a fundamental human right it should not distract or detract from how a victim of crime experiences the criminal justice system.

2. Opportunities for victims to participate in the justice process

DVCS' understanding of and thinking on how family violence victims of crime wish to participate in justice processes has evolved over the decades. Whilst we have consistently held the view that victims should have access to and receive information about justice processes in a timely way we have had to reserve our expert opinion on how they wish to engage around their views being sought in prosecutorial decisions. Due to the complex dynamics and often ongoing risk and safety concerns in family violence matters not all victims wish to have input into the justice process. It may be for reasons of wanting to maintain the relationship with the perpetrator or fear that their safety will be compromised should it become known to the perpetrator that their views have been sought. Many victims of crime "beg" DVCS staff to ask police to tell the perpetrator/offender that it is "not her doing this to him but the police/courts". DVCS is most supportive of the medium type of participation for victim of family violence crimes. We reserve judging what types of crimes might require a threshold for access to consultation and participation. How and what a victim needs is based on a multitude of factors, so working with all victims initially to establish what is required in the safest way possible is the most ideal situation.

Due to the dynamics that exist in family violence situations, these victims of crime should have access to information about the progress of their case and the opportunity to provide input *at all stages* to manage risk and in turn, safety plan. This has already proved a significant challenge for DVCS as the process for providing victims with this information is for us to seek it from the ACT Courts. Often it is inconsistent and based on the goodwill of court staff to provide the information. Many of these staff are administrative and lack the specialist understanding of risk and safety. As a backup, we access the relevant information from DPP to pass on to our clients but this usually means a delay in the order of a number of days. DVCS has repeatedly requested 'read only' access to the court database to access this information to provide to our clients (as stated we case track for approx. 90% of family violence victims) on the grounds that we are a criminal justice entity under the *Crimes (Sentencing) Act 2005*, an FVIP stakeholder, an authorised support service under the *DV Agencies Act 1986* and hold a position on the Domestic Violence Prevention Council. This request has been repeatedly denied.

DVCS is of the firm opinion that victims should have an opt-in option at any stage of the justice process on the proviso that the victim support services have made contact in the first (automatic) instance to explain service offering and for the victim of crime to understand what supports are being offered. How otherwise can they make the choice about what they need to opt-in/out?

The matter of notifying family violence victims of crime bail applications, variations, revocations or the setting of special conditions is absolutely vital so that the safety of the victim is not compromised. It is unfortunate that some DVCS clients have been aware of issues surrounding bail after the perpetrator has been released from remand and subsequently arrived at the home of the victim. Or in other cases, in the absence of accurate or timely information from the courts the victim has been placed into emergency accommodation awaiting an update. *All family violence victims of crime must be notified as soon as is practically possible by the obligated justice agency of any such bail situations.* Those same obligated (and nominated by the victim) justice agencies should be responsible for notifying victims of any information surrounding bail that may impact on their safety – this information should be able to be accessed and provided with efficiency and in a timely manner. Further to this, family violence victims of crime should be afforded the right to provide a submission or be consulted with when an offender is applying for bail or in the setting of bail conditions. This already does occur to some extent, as DVCS will advocate with both police and prosecution by passing on the victim’s concerns regarding bail in the form of a *Victim Relationship History Form*.

DVCS is supportive of ACT Policing and DPP consulting with victims of family violence crimes in the following circumstances:

- When consideration is being given to modifying charges
- When considering not proceeding with charges against the accused
- When considering accepting a guilty plea for a lesser charge
- When accessing special measures
- When giving evidence as a witness

DVCS is NOT supportive of ACT Policing and DPP consulting with victims of family violence crimes in the following circumstances:

- When considering laying charges*

**DVCS continues to be supportive of the ACT’s pro-evidence, pro-charge, pro-prosecution of family violence matters irrespective of victim wishes (due to dynamics of family violence)*

DVCS is also supportive of family violence victims being afforded the right to information contained in PSR or ICO reports that may compromise their safety. Such information as where an offender might reside, any special conditions, engagement in Corrections programs that may indicate some desire to change may all impact on a person’s actual or sense of safety.

Victim Impact Statements have been utilised by some DVCS clients and for that cohort it has mostly provided validation and contributed to their healing process. Again, it has to be an informed choice as some victims of family violence may feel that that without choice, 'power over' is being utilised; by the system in this case. Risk and safety of the victim is also a key factor in that not all victims want the perpetrator/offender to know the impact they have had on them. At times it may be appropriate for the VoCC to represent victims on a community or social level where the crime impacts more than a primary victim.

Finally, in relation to victims registers and Sentence Administration Board considerations - it is DVCS' view that all victims of family violence crimes should have access to as much information as possible about processes and how they can engage in them. Risk and safety are key considerations when determining rights for victims of family violence crimes. The potential ongoing relationship between victim and perpetrator must feature in all decisions about what and when victims of family violence crimes should have access to. DVCS would be very supportive of ensuring that justice agencies are well resourced to manage this, potentially over a significant period of time. That is the inherent challenge - not so much whether it should but how to resource it, because that would be the right thing to do for victims of crime.