

2019 - 2020 Annual Report

Commissioner for Victims' Rights



Government of South Australia
Commissioner for Victims' Rights

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28 September 2020 presented to Attorney-General

To:

Hon Vickie Chapman MP

Deputy Premier
Attorney-General

This annual report will be presented to Parliament to meet the statutory reporting requirements of section 16F of the *Victims of Crime Act 2001* and the requirements of Premier and Cabinet Circular *PC013 Annual Reporting*.

This report is verified to be accurate for the purposes of annual reporting to the Parliament of South Australia.

Submitted on behalf of the Commissioner for Victims' Rights by:

Bronwyn Killmier

Commissioner for Victims' Rights

Date 28 September 2020

Signature B Killmier

From the Commissioner

It has been a busy year for my office, and I want to thank my team of three for the work they have undertaken this year. Covid-19 brought challenges to the workplace, but we were able to transition quickly to work remotely and still provide a service to victims of crime. This was in part, not only due to the technology and systems we already worked with, but because we had largely transitioned to electronic systems and a paperless office.

One of the issues facing victims is the lack of knowledge about their 'rights'. Many complaints from victims relate to the failure of being informed about their cases, or the withdrawal or lowering of the charges against the accused. *The Victims of Crime Act 2001* outlines that victims are required to specifically request to be kept informed. Of course, if they are not aware of this, they don't make the request. We are told that most victims expect to automatically be kept informed. We believe that the Act should be amended so that rights become 'opt out' rather than an 'opt in'. This would see the removal of references such as 'on request' and the onus shifted from victims to agencies. I strongly believe that agencies involved with victims should be mature enough to deliver on victims' rights that have been legislated since 2001. This is one change but there are many other amendments that we are working on for victims.

To raise awareness of victim rights and how to exercise those rights, we collaborated with South Australia Police (SAPOL) at the Royal Show. I would like to thank SAPOL for allowing us to partner with them - of course, there is great synergy with SAPOL, who are the first point of contact for most victims of crime. We were assisted at the Royal Show by our partners and volunteers.

We also began a Twitter account to raise our public profile, and as an important source of information and support for victims of crime. We have also developed all the material for our new website, coming in 2020-21. This new website format will be simplified for easier navigation and location of information, as well as being more accessible. We worked with the National Victims of Crime Working Group (NVOCWG), to discuss a proposed National Victims of Crime Day to be held in 2021 when we can focus community attention on victim issues.

Moving accommodation from Pirie Street to Franklin Street provided further impetus to modernise how we manage our publications and distribute them to victims, as well as providing an opportunity to go completely paperless in the office. We have rewritten some of our publications to be easier to read and more accessible and have introduced postcards that can be distributed with pointers to our website.

This year we have spent significant energy and time in developing and establishing rigorous policies and processes relating to discretionary and legal funding payments, so that victims are treated equitably.

The development of the policies and tracking workload in a more structured manner as outlined in the last annual report, has enhanced decision making and ensured victims' needs are met in a more timely manner. This will be further enhanced when a case management system is secured.

During this financial year, case management needs have been scoped and funding approved, and this should be procured and implemented in the 2020-21 financial year, leading to streamlined services to benefit victims.

We received less requests for assistance in the initial stages of Covid-19 and this enabled one of our part time staff to mobilise and assist in other areas where there was a greater demand on government services at that time. However, from June onwards these requests increased significantly – from May to June 2020 the increase was greater than 30%. Overall, there has been an increase in demand for our services, with our year to date statistics showing 96% of matters were completed in the 2019-20 reporting period. Specific details on victim services provided throughout 2019-20 are contained further in this report.

In June 2019, the government made a funding decision which resulted in a procurement for a counselling service for victims at less cost than had previously provided. At the time of this announcement I noted the need to review the impact this would have on victims and victim services. My office undertook numerous consultations with members of my Commissioner for Victims' Rights Consultative Committee (CVRCC), as well as stakeholders involved in the victim arena in order to provide advice on what was required in a counselling tender.

In June 2020, the outcome of the procurement process was announced, with Relationships Australia SA (RASA) being the preferred provider. I would like to acknowledge RASA and their significant experience in trauma counselling and look forward to working with them for the benefit of victims. I would also like to personally acknowledge the 40 years of service provided to victims by the Victims Support Service (VSS). I have previously been a VSS Board member, so I know first-hand how hard VSS have worked with victims over an extended period.

In response to advice I provided to the Government about the gaps that would be left when funding was only provided for counselling, in June 2020, my office was provided with additional funding for increased staffing and system capabilities. This funding will address issues falling outside of the victims counselling contract, including support to prepare victim impact statements, court support and the provision of information and advocacy. Even though this will be a challenge, it will also be an opportunity to examine how we can do the best for victims across the State in a coordinated way. I have begun consulting with my CVRCC as well as other agencies involved with victims to develop a long-term sustainable plan.

Bronwyn Killmier

Commissioner for Victims' Rights

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Overview: about the agency

Our strategic focus

Our purpose

The Commissioner for Victims' Rights (CVR) is an independent statutory office with responsibilities under the Victims of Crime Act 2001. The Commissioner helps victims of crime in South Australia in their dealings with the criminal justice system, and ensures victims are treated fairly and respectfully with their rights acknowledged and observed by public agencies and officials.

The Commissioner provides information, advice and support to South Australians who are harmed, and their families and friends, to deal with the physical, emotional and financial impact of crime. The Commissioner also participates in certain criminal proceedings and consults on victims' grievances.

The CVR monitors laws and policy for the safety, fairness and justice of victims of crime in South Australia.

Our vision

Victims in South Australia are treated fairly and respectfully with their rights acknowledged and observed by public agencies and officials.

Our values

The CVR services are responsive, inclusive and collaborative.

Our functions, objectives and deliverables

- > to give statutory recognition to victims of crime and the harm that they suffer from criminal offending
- > to establish principles governing how victims of crime are to be treated by public agencies and officials
- > to help victims of crime recover from the effects of criminal offending and to advance their welfare in other ways
- > to marshal available government resources so they can be applied for the benefit of victims in the most efficient and effective way
- > to assist victims in their dealings with prosecution authorities and other government agencies
- > to monitor and review the effect of the law and of court practices and procedures on victims
- > to carry out any other functions assigned to the Commissioner under the *Victims of Crime Act 2001*, or under other Act.

Our organisational structure

- > Commissioner for Victims' Rights
- > Assistant Commissioner for Victims' Rights
- > Project Support Officer (Corporate)
- > Project Support Officer - 1 FTE shared by .6 and .4

Legislation monitored by the agency

Victims of Crime Act 2001

The agency's objectives and performance

Policy, legislation and collaboration

A key function for the Commissioner for Victims' Rights (CVR) is to identify gaps in service delivery, legislation, rights or access to justice in relation to victims of crime. The CVR has a responsibility to marshal available government and non-government resources so that they can be applied for the benefit of victims in the most efficient and effective way.

The CVR collaborates and liaises across government and non-government agencies, and with communities, on policy and service delivery. The Commissioner has made submissions on proposed legislation on behalf of victims.

The Government has a vision that the office of the Commissioner for Victims' Rights should be a central point of coordination for victim support in South Australia to avoid duplication, remove confusion and ensure that victims have a clear pathway to support.

The CVR has identified systemic issues impacting on victims, that need to be addressed long term. The CVR will continue to collaborate and consult with agencies and victims to realise changes to practices, policy and legislation that will mitigate the impact of crime on victims.

National Victims of Crime Working Group

The Commissioner hosted the National Victims of Crime Working Group (NVOCWG) in South Australia in November 2019.

The NVOCWG are working towards a proposed National Victims of Crime Day to be held in 2021 to focus community attention on victim issues.

The working group also discusses relevant legislative amendments, innovations and processes impacting on victims.

Commissioner for Victims' Rights Consultative Committee

The Commissioner for Victims' Rights Consultative Committee (CVRCC) was formed in February 2019 to invigorate and enhance innovative ways of delivering meaningful services for victims. Meetings are held every 6 weeks but due to covid-19 restrictions meetings have either been deferred, or held online. The CVRCC members include victims with lived experience, victim support group representatives and government and non-government agencies.

Some of the topics discussed by the CVRCC include the complexity of victim impact statements and the timing of when they are presented in court, the improper concealment or disposal of a body and conditional release dates coinciding with the date of a murder, the victim of crime counselling tender and victim requirements of counselling, submissions on proposed government legislation, various legislative changes required for victims, and collaboration on the Royal Show display to raise community awareness of the rights of victims.

Collaboration on policy and service delivery

The Commissioner has collaborated and liaised with many agencies, groups and committees in 2019-20, including:

- > National Victims of Crime Working Group
- > Offender Management Program
- > Youth Court Stakeholders
- > Witness Assistance Scheme (WAS) ODPP
- > Homicide Victim Support Group (HVSG)
- > Victim Support Service
- > Courts Administration Authority
- > Department for Corrections
- > South Australia Police
- > Flinders University
- > University of South Australia
- > Adelaide University
- > Commissioner for Children and Young People
- > Road Trauma Support Team (RTST)
- > The Compassionate Friends
- > Child Protection Services
- > Forensic Mental Health
- > Yarrow Place
- > Parole Board

In 2019-20 the CVR also partnered with the Flinders University College of Business, Government and Law to provide a placement for a student undertaking honours in the Bachelor of Criminology.

Information, education and community engagement

The CVR has an ongoing and evolving marketing and engagement strategy to promote the rights of victims, and the assistance that is available for victims and to raise community awareness of victim issues. The Commissioner continues to examine innovative ways for keeping victims informed through the criminal justice system.

Website

The CVR website (www.voc.sa.gov.au) provides information for victims on the Declaration of principles governing treatment of victims, as outlined in the *Victims of Crime Act, 2001*. These principles should govern the way victims are dealt with by public agencies and officials.

The criminal justice system can be complex and confusing. The information on the CVR website can help victims understand what to expect, from reporting a crime through to the outcome of the court process and beyond. Amongst other information, it also provides where support can be obtained.

Although there is a wealth of detailed information and resources available on the CVR website, the platform is very outdated and not easy to navigate. The CVR has streamlined and developed the site content in preparation for the launch of a new more interactive site in the 2020-21 financial year, where victims will be able to access clearer information through animations and videos, as well as print.

Publications

The CVR publications are used not only by victims, but also by many government and non-

government agencies who provide support and services to victims. The publications have been updated and simplified with the use of plain English and diagrams. The CVR consulted with stakeholders and victims to ensure the most accurate and appropriate information for victims is included.

Information is supplied in a more efficient and cost-effective manner, using postcards pointing to the website where hard-copy publications and digital editions can be sourced.

Publications produced in multiple formats will provide easier access for different victims and agencies to use. Further improvements will be made with the new website in 2020-21.

The Commissioner commenced production of simple single topic factsheets the first of which is information about the various types of compensation available to victims of crime.

Media

The Commissioner has engaged with media and provided opinion and discussed a wide range of victim topics through radio, television and online and print media, raising community awareness of victim issues.

Royal Adelaide Show

The CVR partnered with SAPOL at the Royal Show to highlight victims' rights. The stand was staffed by CVR but assisted by our partners on the CVRCC, as well as other volunteers. It was intended to extend the reach to regional areas by participating in Field Days during the year, but this has been delayed due to Covid-19.

The CVR also partnered with the University of South Australia School of Creative Industries for students to assist in developing materials for the Royal Show display. The Commissioner is grateful for the opportunity to partner in this manner.

The Commissioner for Victims' Rights stand at the Royal Adelaide Show in 2019



Social Media

In August 2019 the Commissioner for Victims' Rights joined Twitter, with the following statistics for the year.



The number of times someone engaged with the tweet (eg clicked on it, retweeted, liked, etc)



This is the number of times a tweet appeared in timelines across Twitter

The three top tweets (with the most engagements) were

Date	Topic	Impressions	Engagements
March 19, 2020	Today is International Happiness Day - let's all do something to spread happiness in these uncertain times. #InternationalDayofHappiness pic.twitter.com/iazj0ckjyO	33,749	564
June 25	It doesn't matter whether you think a crime is serious or not - all victims need empathic listening pic.twitter.com/XTE4sAMkf2	727	103
March 30, 2020	In the midst of the crisis we have an opportunity to reassess the way we live our lives #becomingminimalist pic.twitter.com/wBe0wo3UmT	1,419	99





Homicide Victims' Support Group of South Australia

Memorial Vigil 2019



Community engagement

The CVR presented to the University of Adelaide law school, Flinders University Social Work and the Australian and New Zealand Society of Criminology, as well as to other organisations such as SAPOL, the AFP, Zonta and Rotary.

The Commissioner also spoke at important partner events, including the:

- > HVSG anniversary of 25 years of dedicated service to those people who have lost a loved one to homicide, helping them in their time of greatest need
- > World Day of Remembrance for road traffic victims, hosted by the RTST, and,
- > HVSG annual memorial vigil.

CVR policy and procedures

The Commissioner has developed, implemented and maintains policies and procedures that enhance the support given to victims of crime in South Australia. The policies and procedures are adhered to by staff to ensure consistent decision making. These improvements in business processes have also increased operational efficiency, streamlined administration practices and improved the triage, assessment and decision processes for victims.

Case management system

The introduction of a case management system in the next financial year, as well as continuing the successful transition to a paperless office, will benefit victims by improved administration efficiencies and digital record keeping, increased data accuracy, increased flexibility for the office, and importantly improved and streamlined triage, assessment and decision making for victims.

In addition, the case management system provides centralised data capture and management, which will enable accurate data reporting. The data reports can be analysed to identify trends or potential issues for victims that may need to be addressed and can also be used for forecasting and strategic planning by the CVR to improve services and assistance for victims.

Staffing and succession planning

The Commissioner for Victims' Rights continues to collect meaningful data and undertake an assessment of CVR workload. This has assisted in determining staffing needs for efficient and effective management of workload, and meeting customer service benchmarks.

Victim assistance

The Commissioner for Victims' Rights upholds the principles governing how victims of crime are to be treated by public agencies and officials. The CVR also helps victims recover from the physical and psychological effects of criminal offending and provides resources to benefit victims in the most efficient and effective way.

During the year, the office dealt with:

1,537
total enquiries



4.6
Avg follow ups
per enquiry

7,127
total subsequent
contacts



96%
Total matters
completed

10
Avg days to
complete



363

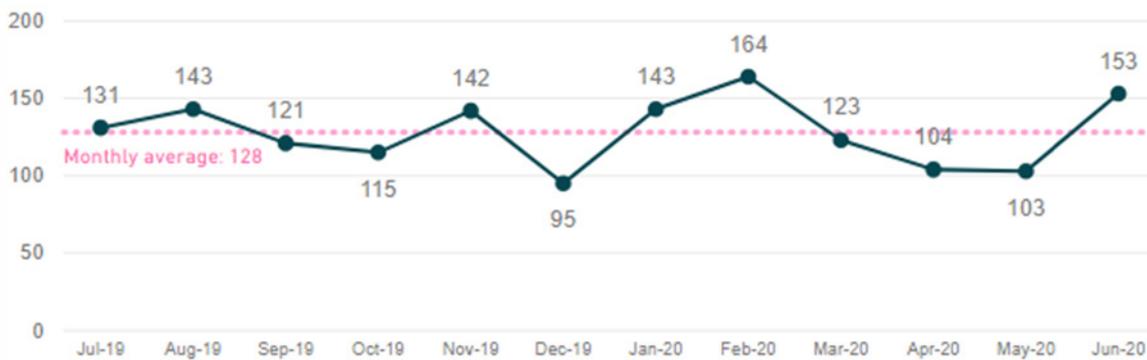
applications to the Commissioner for Victims' Rights for discretionary payments

191

applications were approved



Total new enquiries by month



Helping victims in their dealings with prosecution authorities and other government agencies and officials

Some people have a complaint about how they have been treated or supported as a victim of crime. If the victim is not satisfied with how an agency has resolved their complaint, they can contact the CVR who assists victims dealing with public authorities and the justice system, and consults regarding the treatment of victims to ensure that the Declaration of Principles Governing Treatment of Victims has not been violated.

In 2019-20 the CVR received:

93
grievances from victims against other agencies

12
are pending

81
matters have been resolved

Most grievance matters relate to victims not being kept informed, not being consulted if charges are downgraded, withdrawn or not proceeded with.

The CVR has liaised with many agencies to resolve victim grievances including:

- > SAPOL
- > Office of the Director of Public Prosecutions
- > Crown Solicitors Office
- > Department for Correctional Services
- > Courts Administration Authority
- > Members of Parliament
- > Attorney General's Department
- > some media agencies.

It was not necessary for the Commissioner to request apologies under sections 16(A)(2) and 16(A)(4) as all complaints were resolved at the agency level.

Example:

A victim suffered harm as a result of a break-in, where there was significant property damage and theft. The offender was apprehended and received a jail sentence. The victim came to the CVR regarding clarifying the court outcome, asking for court transcripts, return of his property, the downgrading of charges and the failure to request restitution from the offender. All issues were addressed over a six-month period with the courts, SAPOL and the DPP all involved.

Advocate on behalf of victims

Some victims require assistance in navigating the criminal justice system and interacting with other agencies. The CVR can consult with agencies and officials, and advocate on behalf of victims.

In 2019-20 the Commissioner for Victims' Rights received 137 requests from victims seeking advocacy. 130 matters have been resolved and 7 are pending.

Victims of past trauma have requested assistance from CVR, and the examples below demonstrate how trauma has a long memory and how the impact of crime can reach far into the future. This also emphasises how important early intervention and support is for victims.

Example 1:

A victim reported that an intervention order put in place to protect a vulnerable victim had been amended without any advice or consultation. This error, by two government agencies, resulted in significant trauma for the victim's family, and may have resulted in further harm. Both agencies apologised to the victim and discussed the issues with the victim and the Commissioner. Following this, the systems used by the agencies relating to variations to intervention orders were strengthened to ensure the victim's views are known prior to applications for variations.

Example 2:

A 80+ year old victim requested a court outcome and transcript for an incident that occurred in 1942 when she was a child. She had limited information to provide. Initial enquiries with the court failed to find the information. The CVR researched the incident in archival newspapers and found information to clarify the required detail. The court was able to find the information with this detail and the transcript and outcome was provided to the victim.

Example 3:

An elderly victim, whose sister was murdered in the 1960's in a regional area, sought information about the matter, and any court or coroner files. Despite extensive searches, unfortunately due to previous destruction of regional coroner and police records the information was unable to be obtained, although newspaper articles referring to the incident were located and referral to the archives was provided.

Example 4:

Two victims of a serious offence committed in the 1980's sought information about the outcome of the case and were initially provided with inaccurate information. The CVR was able to clarify the issues, and resolve the provision of inaccurate information, securing apologies for the victims.

Provide discretionary funding to benefit victims and to assist in the recovery from the impact of crime

Each discretionary payment application is assessed before a determination is made by the Commissioner and includes consultation with SAPOL and other agencies.

Of those applications that were approved, below is a snapshot of some of the types of assistance provided to victims:

- > relocation to enable domestic violence and other victims to stay safe
- > payment for some emergency medical costs
- > additional security to increase the safety of victims of crime in their homes
- > payment of funerals for victims who have died as a result of murder.

For the 2019-20 period there have been 363 applications to the Commissioner for Victims' Rights for discretionary payments, of which 191 applications were approved. The remaining applications were either not approved, funded from a more appropriate source or were not eligible.

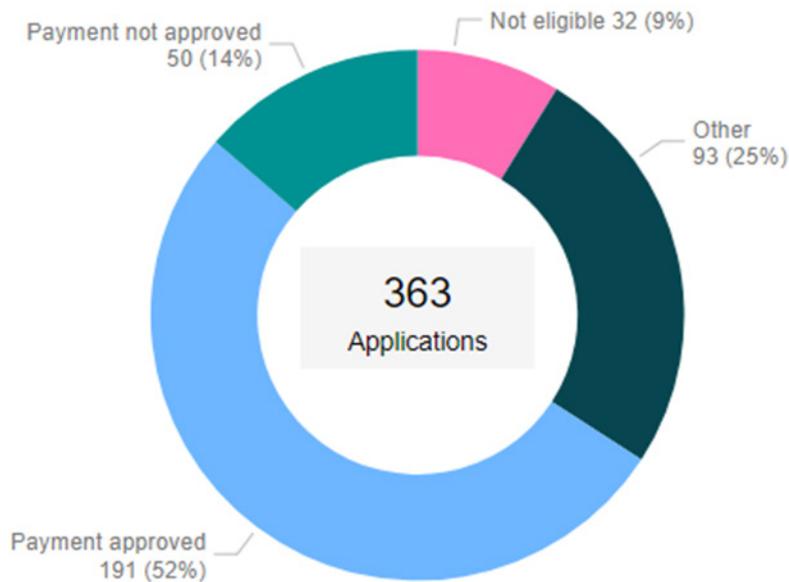
Example:

There are specific funding agreements for security upgrades relating to Family and Domestic Violence (FDV), but only for victims who are women and children. These are managed by other agencies but the CVR collaborates and assists as well.

The Commissioner funds security for all victims who satisfy CVR policy requirements so that they can remain safely in their homes. This is inclusive of all genders, and considers other offences, as well as FDV.

For example, the Commissioner has funded security upgrades for victims of elder abuse (eg father assaulted by son) and for male victims of domestic violence (eg same sex marriages where one male partner has assaulted the other).

Discretionary payment application outcomes, July 2019 to June 2020



Note: all data exclude admin and professional enquiries

Assist victims in making submissions to the parole board

When a life-sentenced prisoner lodges an application for release on parole, the Commissioner for Victims' Rights makes a submission to the Parole Board representing the co-victims or those affected.

The Commissioner takes all reasonable steps to contact any co-victims to obtain their views so that their comments can be collated into the submission.

All submissions must meet strict timelines to be considered by the Parole Board. Following the Parole Board determination, all co-victims must be contacted and advised of the outcome and any conditions imposed.

The Commissioner also frequently has contact with SAPOL, DCS Victim Services Unit and the Parole Board in relation to the parole submissions.

For the 2019-20 period, there have been 598 contacts to co-victims by the CVR office in relation to 40 parole matters for life-sentenced prisoners.

Assist victims by preparing community impact statements

The Commissioner prepared a community impact statement in relation to an aggravated serious criminal trespass during which a firearm was discharged. This incident impacted on a large number of residents in the neighbourhood who were left feeling angry, fearful, hyper-vigilant and unsafe in their homes and their community.

This community impact statement has not yet been heard as part of sentencing submissions but will enable people to remain anonymous while having a voice to describe how the crime has affected them and others in the area.

All other information is included in the Attorney-General's Department annual report.



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