



ABN: 41 473 082 653

**VICTIMS OF CRIME ASSISTANCE
LEAGUE (ACT) INC.**
Supported by the ACT Government

Patron: Gwen Winchester

Ms Robina Jaffray
Secretary
Standing Committee on Legal Affairs
ACT Legislative Assembly
GPO Box 1020
CANBERRA ACT 2601

7th September 2005

Dear Ms Jaffray,

RE: a) Inquiry into Police Powers of Crowd Control dated 6 June 2005
b) Inquiry into Sentencing in the Criminal Jurisdiction in the ACT
dated 6th June 2005
c) Further to our letter to you dated 29th July 2005

Thank you for your invitation to contribute to the above inquiry.
VOCAL would like to make a submission to the inquiry into Sentencing
in the Criminal Jurisdiction in the ACT.

Please do not hesitate to contact me if I can be of further assistance.

Yours sincerely

Marie-noëlle Curé
Service Coordinator

1 Iluka Street Narrabundah or PO Box 2, Narrabundah ACT 2604

Telephone 6295 9600; Fax 62959400; email [vocalact@cyberone .com.au](mailto:vocalact@cyberone.com.au)

SENTENCING IN THE CRIMINAL JURISDICTION IN THE ACT

VOCAL has as its vision 'to be a responsible and active participant in the ACT community through a strong, diverse and vibrant membership. We aim to deliver high quality, efficient, effective and relevant services and support to victims of crime, whilst we raise the level of public awareness and contribute to community cohesiveness.

VOCAL's mission is to help and support individual persons and their families who through a criminal act against them are victims of crime. To assist them to overcome their anguish and suffering move towards a state of understanding and acceptance of their adversity in order to resume a more stable mental and physical condition.

We are funded by the Department of Justice and Community Safety to offer support to victims during their relevant court actions

As a responsible volunteer operated service provider, we are committed to promote public awareness of the plight of victims, and promote action in the interest of those victims and the existence of VOCAL (ACT), to act as a vehicle and catalyst for the community to be involved in issues of crime and its impact, to work in a co-operative fashion with community, business and government, to adapt and better deal with crime and resultant victims issues.

In attempting to fulfil its mission VOCAL wishes to make this submission for the following inquiries:

Sentencing in the Criminal Jurisdiction in the ACT

1. VOCAL basically supports the propose recommendations put forward in the Crimes Bill. From the victim's perspective, the sentencing system is a part of helping victims to recover and contribute towards ending their anguish and suffering, as well the important aim of keeping the community safe from criminals.

VOCAL supports Police Powers that assists the victim in their recovery as opposed to police activities, which prolongs or causes anguish and suffering to victims of crime.

2. Submissions 1: Young Offenders

- 2.1 VOCAL believes that the current sentencing regime is inappropriate for the rehabilitation and restraint of young offenders from committing further offences.
- 2.2 One example is that a group of children ranging from 13 to 16 years of age terrorised the Narrabundah shops by stealing and damaging property, even allegedly setting fire to a car and a

house. From the victim's perspective, the police response was limited and did not prevent further offences being committed by the children in the weeks following that incident. It is a sad day indeed when Canberra businesses need to consider closing up business or moving away as a means of remaining safe from the tyranny of young offenders

- 2.3 VOCAL submits that, in cases of habitual reoffenders, the legislation must grant powers to the courts or police to limit reoffending. Through tougher sentencing for young offenders, imposing restrictions on young offenders movements after a certain times of the day, or specific orders being placed on reoffenders to stay away from the (area in question) the victim, or their property.
- 2.4 The freedom of movement by the (young) offender and the protection of their rights must be tempered with the considerations of the victim's human rights to enjoy their safety and property and conducting business in the community of their choice.

3 Submission 2: Education for the public, police about victim's welfare.

A common problem arising for victims is their lack of understanding of their rights and options after a crime is committed. Often the victim is disadvantaged when they fail to choose an option.

- 3.1 VOCAL submits that the ACT Government should ensure that all police officers including new recruits have appropriate training and knowledge so as to communicate to the victims of crime their rights and options. This needs to be communicated when a victim makes contact with a police officer to seek their advice and intervention.
- 3.2 The police are the first point of call for a victim. We have received numerous criticisms from victims that no one informed them of their rights, which if acted upon could have prevented a crime from taking place.
- 3.3 Complaints about the lack of communication extend to the period during which the ACT Government (DPP) prosecutes the offender. Often the victim complains that they do not know what is going on and suffer a further sense of powerlessness for their lack of involvement and knowledge of the process.
- 3.4 While there are currently requirements that victims' liaison officers keep victims informed, VOCAL submits that sentencing should include penalties to relevant service providers to encourage better dissemination of timely information between victim and police or government. The extension of the application of the Victim Impact statement being oral or written is a positive step for the victim.

- 4.1 VOCAL would also support a system where the victim can indicate to the police, who in turn can communicate to the DPP, that if the offender was to receive bail, then the victim can instruct the DPP that they want the offender to stay away from them and their property.
At this stage it is only up to a prosecutor to make a judgement as terms of bail conditions. The prosecutor would only see the matter as one of many that he or she would be dealing with at the same time and hence this decision is often made in haste. If the prosecutor had clear instructions from the victim then it would give the prosecutor clear instructions as to the victim needs in terms of the offender to stay away from them and their property.
- 4.2 VOCAL would support the concept of Mandatory Sentencing, as it is understood only to be used when the perpetrator has displayed contempt for the community and for the judicial system. Mandatory sentencing should be used for persistent offenders who have a tendency to play the system. We see it as a part of looking after the rights of victims and preventing people from being revictimised, and for the relevant public officials to feel less disempowered in their line of duties with offenders.
- 4.3 VOCAL supports the use of Weekend Detention and other sentencing options. However we believe if the judiciary uses it, it must be properly administered. Persons who fail to fulfil their obligation under such provisions should be very quickly brought before the court, and when there is no good reason to the contrary should serve their sentence in a full time capacity (including Domestic Violence Orders).
- 4.4 We believe if people are ordered to undertake treatment whilst in prison or under other sentencing options, that there should be no option to ignore the judgement. If it becomes apparent that a person upon release has exhibited dangerous tendencies to the community there should be consideration given as to the type of emergency order curtailing the activity of such individuals.
- 4.5 It is further suggested that court orders could be implemented, (similar to emergency protection order, non-specific to an individual) more aimed at certain groups of people or activities.
- 4.6 VOCAL believes that laws in the ACT should be similar to NSW, especially in relation to penalties that are imposed. The ACT should not be seen as a soft option because our laws or courts consistently impose lesser penalties than NSW laws and applications of them. It has been noted over a period of time

that ACT sentences have been found to be consistently lighter for similar offences than the rest of Australia.

VOCAL would like the committee to note the research done by the Australian Institute of Criminology in relation to the ACT specific research.

“...Research conducted by the Australian Institute of Criminology has shown that targeting recidivist offenders and increasing their sentencing period can achieve a substantial reduction in burglary rates. The most recent 2002 Crime and Safety survey of victims of crime in Australia confirms that burglary is of major concern to the Australian community. Research has shown that the majority of burglary victims reported both financial and emotional impacts....” Makkai, T., Jerry Ratcliffe, Keenan Veraar and Lisa Collins, 2004. ACT Recidivist Offenders Research and Public Policy Series no. 54, Australian Institute of Criminology, Canberra. (<http://www.aic.gov.au/publications/rpp/54/index.html>)

- 4.7 Whilst VOCAL recognises that offenders fall into various categories such as: first offenders people of Torres Strait Island and Aboriginal backgrounds, and people from socially disadvantaged backgrounds – VOCAL supports the concept that these categories be given every opportunity for rehabilitation and for life changes. However, once an offender becomes habitual then it will be our submission that they be taken from the community and be imprisoned for the protection of the community and prevention of further Victims of Crime. VOCAL has no objections when an ACT Prison is built, that there be emphasis on rehabilitation. VOCAL would continue (as funding and invitation to participate in community programs permits) to increase its role in community education and rehabilitation. (i.e. talking with offenders, to Police trainees, youths and educational institutions).
- 4.8 In an organisation representing Victims Of Crime there is a perception by many victims that the judicial system is weighted against victims. VOCAL would suggest that there be attention paid to equalising services and a more balanced funding for rehabilitation programs for offenders, which does not reward offenders at the expense of victim’s rehabilitation. Currently there are many planned programs for rehabilitation and restorative justice programs for offenders.

Whilst there are benefits to the victims through the Restorative Justice Programs, in some situations this program cannot be accessed by victims i.e. of dangerous or serious crimes. These victims only have the Victims Services Scheme services to handle their emotional trauma through counselling, which ranges from a minimum of 2 hours, and medical attention through Medicare, and compensation only for the cost incurred for injuries which

required specialist intervention. The unemployed who have their injuries catered to by the public system have no recourse to programs, which equate to the same extent planned to restore offenders within the community. For crimes such as theft/burglaries, the uninsured victim whose life may have been shattered by the loss of their possessions or funds has no recourse to justice if the offender is not apprehended. Even if apprehended, often the stolen property and/or monies are unremedied. Such victims find that 2 hours of debrief/counselling is of little consolation when offenders are receiving help to improve their status in life.

- 4.9 The rehabilitation of an offender needs to occur in the context of the anguish of the victim who may also be suffering from depression; who may be unable to concentrate at work and may as a consequence lose their job, who may have to find child care at their own expense to attend to court proceedings, or are having difficulties parenting because of the nature of the crime and their trauma. The perception that the offender is rewarded can cause resentment and loss of respect/contempt for the law. This in turn may foster some form of retaliative behaviour for perceived injustice.
- 4.10 The rehabilitation of youths should never be done at the exclusion of parents (i.e. Jobs for Public Servants and Professionals only). Perhaps such programs could include the empowerment of parents, powers given to Family Services and Youth Justice tend to disempower parents. Most parents have the best interest of their child at heart and with appropriate resources and the right to intervene can contribute to the rehabilitation of their child. Home detention with appropriate support to the family may be an option when the young offender is unlikely to be conducting illegal activities from their computer or phone or unleash an unacceptable level of violence in the home.