

“ It’s like you’ve got no voice
and they’ve got no ears. ”

Victims’ Voices:

The Justice Needs and Experiences
of New Zealand Serious Crime Victims

Research report

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Victim Support
Manaaki Tāngata

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Executive Summary

Background

Decades of international research show that many crime victims feel sidelined, unheard, and let down by a justice system that is more focussed on offenders than victims. Victims' experience of the justice system not only affects their physical and emotional health, but also their likelihood of reporting crime and participating in the justice system, which is critical, given that past victimisation is one of the best predictors of future victimisation.¹

As New Zealand's leading and trusted gateway for victims, Victim Support is advocating to ensure victims are at the centre of any changes to our justice system. With the Government's announcement that it would reform New Zealand's criminal justice system, Victim Support wanted to provide a mechanism for victims' voices to be heard in these reforms and explore whether their voices echoed those of victims from overseas research. It is in this context that this report presents the findings of research on the justice experiences and needs of 32 victims of serious crime in New Zealand.

The research objectives were to:

- 1) Explore serious crime victims' lived experiences of the justice system, and to:
- 2) Identify what justice means to victims;
- 3) Identify victims' key justice needs;
- 4) Identify whether the justice system meets victims' needs and sense of justice.

With minimal data on victims' needs and experiences of the justice system in New Zealand, this was also an opportunity for Victim Support to contribute to the literature, and to promote evidence-based practice.

Methods

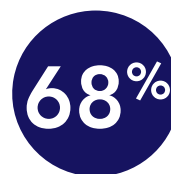
A mixed methods design² was chosen to obtain rich data of participants' lived experiences of the justice system, told in their own voices. This research employed semi-structured interviews with victims affected by family violence, homicide, sexual violence, road crashes, grievous bodily harm, and home invasion whose cases had all been to court in the last 12 years. There was also a quantitative component where participants

were asked to rate their satisfaction with key procedural needs and elements of the justice system discussed in the victimology literature and rank these in importance. Participants were recruited through Victim Support, Male Survivors Aotearoa, Canterbury Men's Centre, and social media. Qualitative data were analysed using thematic analysis.³

Findings

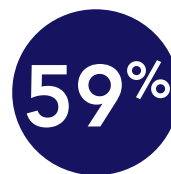
Sense of justice and faith in the justice system

Victims described justice as *righting the wrong*, *accountability*, and *fairness*. However, only a minority of victims felt justice had been served in their case and had faith in the justice system.



of victims in the study felt that justice had not been served in their case.

Despite **86%** resulting in a guilty verdict, and **52%** resulting in imprisonment



had no faith in the justice system.

Justice needs: satisfaction and importance

Victims rated their satisfaction with 13 procedural needs and elements of the justice system based on those identified in the victimology literature as being of most importance to victims: police, information, respect, voice, acknowledgment, compensation, accountability/responsibility, restorative justice, outcome, apology, Victim Impact Statements, speed, and support. The mean ratings, out of 10, ranged from 2.4 for accountability to 7.5 for both police and restorative justice, with an overall mean of 5.3.⁴ Voice, speed, compensation, outcome, apology, and accountability/responsibility were rated below the mean. Participants also ranked the three justice needs/elements that were most important to them. Support was most frequently cited as the most important need, ranked in the top three by more than one-third of participants (n=11), followed by voice (n = 10), and information (n = 8).

¹ G. Kilpatrick and R. Acierno, "Mental health needs of crime victims: Epidemiology and outcomes," *Journal of Traumatic Stress* 16, no. 2 (2003).

² Both quantitative and qualitative data analysed in the one study.

³ V. Braun and V. Clarke, "Using thematic analysis in psychology," *Qualitative Research in Psychology* 3, no. 2 (2006).

⁴ M = mean; SD = standard deviation; n = sample size

Barriers to justice

Thematic analysis revealed three overarching themes that can be described as barriers to justice, described below and in Table 1:

1. Fear

Victims often expressed fear about engaging with the justice system, primarily fear for their safety. There was fear for their *physical safety*, such as whether pressing charges or obtaining a Protection Order would spark retaliation; and for their *emotional safety*, such as the potential for intimidation in court, stress, fear of their own reactions towards the offender, and fear of the threat to their own reputation during cross-examination and media coverage. There was also *fear that justice would not be served*. However, fear was also a motivating factor for engaging in the justice system. Victims feared for the safety of themselves and their community, and felt a duty to report the crime in order to protect others.

2. Exclusion

One of the most common complaints was that victims felt they had *no voice* in the justice system. Preparing the Victim Impact Statement (VIS) was therapeutic and powerful for many, however the benefits were lost for those who were constrained by what they could say. There was also the feeling that the VIS was tokenism – that the opportunities for the victims’ voice were not genuine and were not heard. There was also a sense of *isolation and abandonment*: victims feeling like they were set adrift in a system where there was only room for the offender and the state, but not the victim.

3. Unfairness

Victims perceived it unfair that every step of the justice system appeared to be offender-focussed. There was a sense that the offender was looked after in court and in prison, while victims were left to their own devices, leaving them with the perception they had fewer rights and opportunities, and greater financial costs than their offenders. There was an overriding perception that there was *insufficient accountability* for offenders and *insufficient acknowledgment* of the harm done to victims. Victims were frequently disappointed in the sentence; however, this was often more to do with the safety of themselves and others, the message it sent to the offender and society, and that the sentence minimised the harm to the victim, rather than the desire to punish for punishment’s sake. It was especially common to believe that the sentence was too lenient in crimes resulting in death. Many victims received an apology from the offender but few felt it was genuine and valuable; typically the apology was seen as a self-serving attempt to reduce the sentence.

TABLE 1. JUSTICE BARRIERS

Barrier	Example
Fear	
Physical safety	Retaliation after pressing charges or obtaining Protection Order When offender on bail, parole, or released
Emotional safety	Stress of going to court Intimidation in court Own reactions toward offender Threat to reputation
Justice will not be served	No guarantee of guilty verdict No guarantee of appropriate sentence
Exclusion	
No voice, not heard	VIS often redacted Participation viewed as “tokenism”, “tick-box”
Isolation & abandonment	Few opportunities to participate in court Sense of being a bystander, loneliness
Dehumanising	Cold, mechanical, not genuine
Unfairness	
Offender-centred	Police seen to be siding with offender No official party status in court VISs redacted Trial location based on offender’s location Trials timed around & adjourned for offenders Victims told to be wary of offending the offender Judges’ focus on offenders’ good character Offender given opportunities for rehabilitation/education in prison while victims left to own devices (“see ya later” attitude post-trial)
Sentence not commensurate with crime/ lack of accountability	Perception that offender may not have learned lesson Perception that victims are the ones with the sentence
Lack of offender responsibility/ acknowledgement	Offender apology non-existent or perceived as self-serving Lack of genuine acknowledgement of the impact of the crime from offender & state
Financial hardship	Compensation/reparation insufficient to cover costs

Conclusions

- The current justice system is failing to deliver justice to victims and is eroding their faith in it;
- Victims' definitions of justice are more a set of values rather than an outcome, but these are largely absent from the current system;
- Victims face barriers of fear, exclusion, and unfairness to participation and finding justice in the system;
- Victims' needs are not consistently met in the justice system;
- Support was the most important justice need. While most victims were highly satisfied with the support from individuals and support agencies, there is an urgent need for support to be found *within* the justice system as a whole;
- Underpinning these barriers and unmet needs is a perception among victims that the justice system does not *genuinely* care about them.

Recommendations

Based on the findings and key barriers to justice as vocalised by victims, Victim Support's recommendations are to strongly advocate for:

1. Victims' voices to be listened to during the justice reform process;
2. The justice system to be based on victim-centric foundations *where victims genuinely matter* and feel supported by:
 - a) Improving education in the justice sector, including for police, support workers, judges, juries, prosecutors, and defence lawyers – and media – about victims' justice needs and the benefits of meeting these;
 - b) Eliminating barriers to justice to encourage greater reporting of crime, participation in the justice system, satisfaction with the justice system, and healing for victims; and
 - c) Improving education in the justice sector and the media of the potential for revictimisation through outdated myths and beliefs about victimisation, especially in relation to sexual and family violence, and male victims of family violence.

Acknowledgements

The impact of victimisation can be far-reaching and long-lasting. Victim Support gratefully acknowledges all participants who took part in this research and courageously shared their experiences with the hope of making positive changes for victims in the future.

Victim Support also thanks Male Survivors Aotearoa and Canterbury Men's Centre for their assistance in recruiting participants, and to Dr Elaine Mossman for reviewing our research proposal.

Victim Support would like to acknowledge the Police Managers' Guild Trust for its contribution toward the funding of this research.



**The pursuit of justice
is a fundamental
aspect of social life.⁵**

Introduction

The pursuit of justice is possibly no more critical than it is in the criminal justice system, however, research shows the system often fails to deliver justice for victims.

The problem: Victims' vulnerability compounded by an offender-centric criminal justice system

"There is a tendency to view victimisation by crime as a one-off event, somewhat similar to being struck by lightning."⁶ However, the initial crime or traumatic event is for many victims only the beginning. Victimisation may shatter a person's assumptions about themselves, others, and the world, creating a sense of loss of control and uncertainty about the future.⁷ By the time many victims reach the court stage, they may be experiencing posttraumatic stress disorder (PTSD) and other adverse psychological reactions, including depression and substance abuse; physical ill-health from stress and/or injuries; and financial losses. There is growing research that rather than finding healing in the justice system, victims instead face further stress, disempowerment, costs, and PTSD.⁸ Yet, research shows that victim satisfaction with the justice system is linked to confidence with it and may mitigate crime-related PTSD symptoms.⁹ Therefore, the one system that has the potential to help them, often revictimises them instead.

Adversarial system

It has been argued that the modern justice system is both depersonalised and dehumanised.¹⁰ Victims are often unprepared for the antagonistic and hostile atmosphere of the adversarial system, where offenders' rights take centre-stage, potentially giving victims the sense that the justice system rewards bullies.¹¹ Victims may also not understand that they do not have party status in court – the two parties in the adversarial system are the offender and the state. The state is the victim, while the individual victim's role is reduced to that of a witness for the state. Moreover, the assumption that the offender is innocent until proven guilty means that the victim enters the justice system as an *alleged* victim, and that official recognition of their victim status rests on a guilty verdict.¹²

⁵ D.T. Miller, "Disrespect and the experience of injustice," *Annual Review of Psychology* 52 (2001): p.545.

⁶ A Pemberton and I Vanfraechem, "Victims' victimization experiences and their need for justice," in *Victims and Restorative Justice*, ed. I Vanfraechem, D Bolivar Fernandez, and I Aerston (London: Routledge, 2015), p.19; Pemberton and Vanfraechem, "Victims' victimization experiences and their need for justice." p.19

⁷ R Janoff-Bulman, *Shattered assumptions: Towards a new psychology of trauma* (New York, NY: US: Free Press, 1992).

⁸ U Orth, "Secondary victimization of crime victims by criminal proceedings," *Social Justice Research* 15, no. 4 (2002).

⁹ Kilpatrick and Acierno, "Mental health needs of crime victims: Epidemiology and outcomes."

¹⁰ E. A. Fattah, *From crime policy to victim policy: Reorienting the justice system* (Springer, 2016).

¹¹ J.L. Herman, "Justice from the victim's perspective," *Violence Against Women* 11, no. 5 (2005).

¹² J.A. Wemmers, "Victims' experiences in the criminal justice system and their recovery from crime," *International review of victimology* 19, no. 3 (2013).

Why victims' justice experience matters

Victims' experience of the justice system not only affects their physical and emotional health, but also their likelihood of reporting crime and participating in the justice system, which is critical, given that past victimisation is one of the best predictors of future victimisation.¹³ The legal system is a high-risk environment for victims where they face psychological, safety and cultural barriers to participation.¹⁴ Many victims are not prepared to take these risks, preferring to not report crime rather than compromise their privacy, safety and mental health.¹⁵ For victims who take this risk, those who perceive a sense of control over the criminal justice process report greater satisfaction.¹⁶ In turn, satisfaction leads to greater participation in the justice system¹⁷ and greater willingness to co-operate with it, as well as a greater willingness to report future victimisation.¹⁸ Satisfaction with the criminal justice system may be linked to victims' ability to deal with the crime suffered and other psychological effects, including PTSD.¹⁹ In sum, the justice system plays a critical role in not only victims' emotional recovery, but also potentially in crime prevention.

What matters to victims

According to some victimologists, identifying victims' needs should be the starting point of justice,²⁰ however little attention has been paid to the accumulated knowledge about what victims really want. Evidence suggests that what often matters more to victims is *procedural justice* - the perceived fairness of the process by which the outcome is reached - rather than the outcome itself.²¹ Appraisals of both outcome

satisfaction (verdict) and procedural justice are known to be more influential than the offender's punishment in predicting victims' psychological stress.²² Positive evaluation of procedural elements may cushion a negative assessment of the outcome and vice versa.²³ Procedural justice needs include information, participation, voice, apology, accountability, validation, vindication, fairness/respect, material reparation/compensation, and repairing relationships.^{24 25 26 27}

Aim and objectives

The aim of this research was to examine the lived experiences of victims of serious crime in the justice system to help guide the Government's justice reforms.²⁸ The research objectives were to:

- 1) Explore serious crime victims' experiences of the justice system, and to:
- 2) Identify what justice means to victims;
- 3) Identify victims' key justice needs;
- 4) Identify whether the justice system meets victims' needs and sense of justice.

Scope

While data was also collected on victims' experiences with the parole board and coroner's court, for the sake of brevity, this was only included where it related to the overall themes.

¹³ Kilpatrick and Acierno, "Mental health needs of crime victims: Epidemiology and outcomes."

¹⁴ Herman, "Justice from the victim's perspective."

¹⁵ Herman, "Justice from the victim's perspective."

¹⁶ G.T. Hotaling and E.S. Buzawa, *Victim satisfaction with criminal justice case processing in a model court setting*, National Institute of Justice, Office of Justice Programs, U.S Department of Justice (2003).

¹⁷ P.S. Hudson, "The crime victim and the criminal justice system: Time for a change," *Pepperdine Law Review* 11 (1984).

¹⁸ R.B. Ruback, A.C. Cares, and S.N. Hoskins, "Crime victims' perceptions of restitution: The importance of payment and understanding," *Violence and Victims* 23, no. 6 (2008).

¹⁹ Orth, "Secondary victimization of crime victims by criminal proceedings."

²⁰ M Achilles and H Zehr, "Restorative justice for crime victims: the promise, the challenge," *Restorative and community justice cultivating common ground for victims, communities and offenders. Cincinnati, OH: Anderson* (2001).

²¹ K. Murphy and J. Barkworth, "Victim Willingness to Report Crime to Police: Does Procedural Justice or Outcome Matter Most?," *Victims & Offenders* 9 (2014).

²² Orth, "Secondary victimization of crime victims by criminal proceedings."

²³ E.A. Lind and T.R. Tyler, *Critical issues in social justice. The social psychology of procedural justice*. (New York, NY, US: Plenum Press, 1988).

²⁴ H. Clark, "'What is the justice system willing to offer?'" Understanding sexual assault victim/survivors' criminal justice needs," *Family Matters* 85 (2010).

²⁵ K Daly, "Sexual violence and victims' justice interests," in *Restorative Responses to Sexual Violence* (Routledge, 2017).

²⁶ Herman, "Justice from the victim's perspective."

²⁷ H Strang and L. W. Sherman, "Repairing the harm: Victims and restorative justice," *Utah L. Rev.* (2003).

²⁸ The first public engagement related to the reforms was the Criminal Justice Summit held in August 2018. Subsequently, Te Uepū Hāpai i te Ora - the Safe and Effective Justice Advisory Group was established to engage public discussion about what New Zealanders want from their justice system and how it can be improved.

Methodology

This research consisted of three stages:

- 1) A literature review;
- 2) In-depth interviews with 32 victims of serious crime between December 2018 and February 2019;
- 3) Release of preliminary findings at the two-day *Hāpaitia te Oranga Tangata Safe and Effective Justice: Strengthening the Criminal Justice System for Victims* workshop on March 4, 2019;
- 4) A final report.

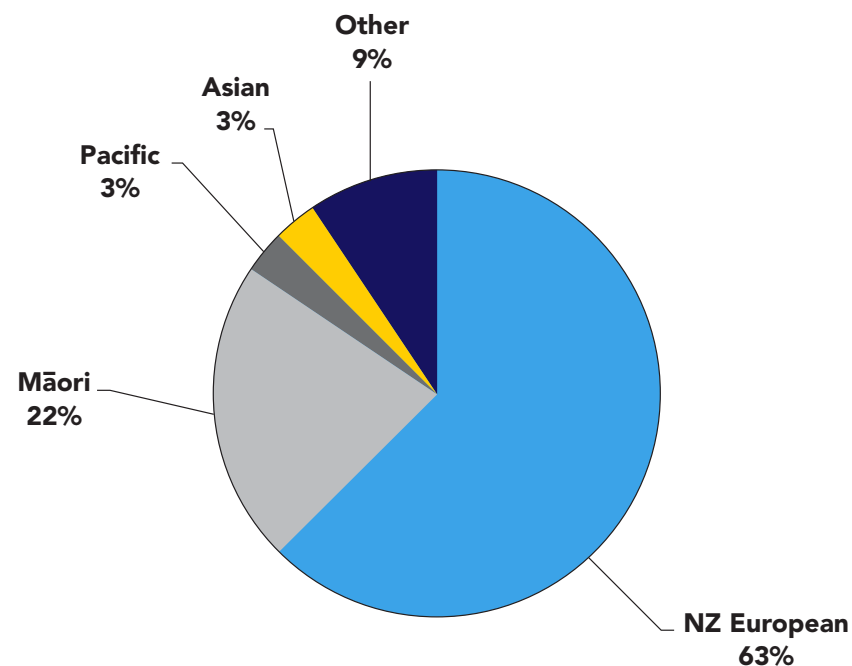
The first stage involved a comprehensive literature review of academic literature on victims' needs from 1998-2018 in the criminal justice system, with a focus on satisfaction with the justice system and revictimisation in the system. The review excluded child/youth victims or victims of child/youth offenders, as well as terrorism, and political, international, and state crimes. The review identified 10 justice needs,²⁹ which were used as the basis for this research to examine whether these needs were being met in New Zealand.

Participants

This study was based on in-depth interviews with 32 victims of serious crime and/or family violence whose cases had been to the family, district, or high court in the last 12 years. As shown in Figure 1, 31% of participants were victims of family violence, 19% had lost an immediate family member to homicide, 19% had been victims of sexual violence, 9% had been victims of both family and sexual violence, 6% had lost an immediate family member to a fatal road crash, 6% had been seriously injured in a road crash, 6% had a family member affected by grievous bodily harm, and 3% had been the victim of a home invasion.

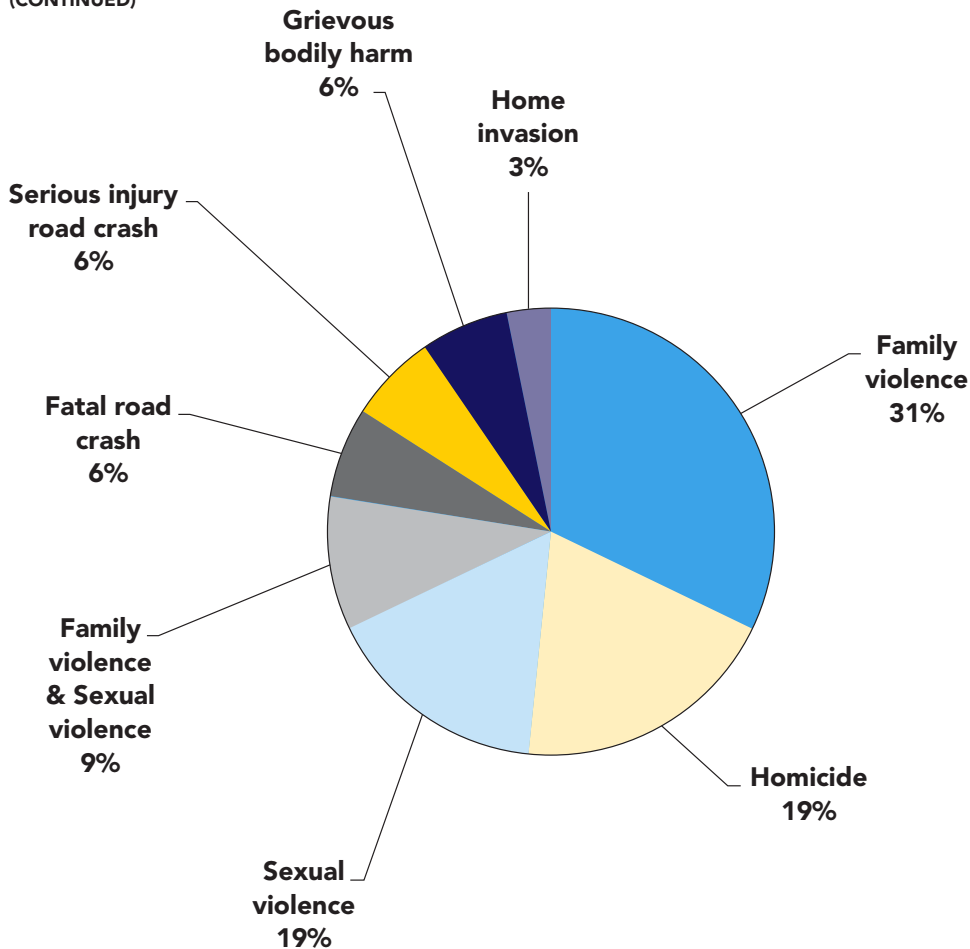
Participants were 62.5% female and 37.5% male, aged from 21 to 79 years (M = 49.9 years, SD = 12.02), with 50% living in major cities and 50% in provincial/rural areas. They were 63% New Zealand European, 22% Māori, 3% Asian, 3% Pacific Island, and 9% Other.

FIGURE 1. PARTICIPANT DEMOGRAPHICS



²⁹ See 20-23.

FIGURE 1. PARTICIPANT DEMOGRAPHICS
(CONTINUED)



Offending circumstances

The time since the crime occurred ranged from 10 months to 39 years ($M = 6.4$ years, $SD = 9.1$ years), and the time since sentencing (or verdict in the case of a not guilty verdict) ranged from 2 months to 12 years ($M = 3.7$ years, $SD = 3.5$ years). Nine participants were still involved with the justice system. Of the 22 cases resulting in a verdict, 19 (86%) resulted in a guilty verdict: 73% in the first trial and 14% in the second trial following a hung jury in the first. A further 5% each returned a hung jury followed by a not guilty verdict; a mix of guilty on some charges and not guilty on others; and a hung jury. Of the trials resulting in a verdict, 52% resulted in the offender's imprisonment.

Interviews and data collection

Interviews were confidential (participants could choose to be known by a pseudonym, however many wanted to be known by their real first names), with set questions (see Appendix 3) that were flexible enough to allow for topics to be explored as they arose. To help jog participants' memory of the justice process and to prompt discussion, they were shown cards with 13 procedural justice needs/elements of the justice process, and asked to rate their satisfaction with each. At the end, they were asked to sort through the cards and identify the three that were most important to them in their own experience.

Two interviewers, experienced in working with victims, conducted interviews in participants' homes, local police stations, public libraries, or at the Canterbury Men's Centre. The interview location was based on participants' preferences, along with consideration for participants' and interviewers' safety. Three were conducted by phone due to participants living in remote locations. Each interview took approximately one to two hours and was audio recorded with the participants' written consent.

Procedure

A purposive sampling method was used to recruit participants from four samples:

- 1) Victim Support clients known well to staff, who, in their professional judgement, were unlikely to be retraumatised by the interview;
- 2) family violence victims who had signed a national online petition via Victim Support's Facebook page;
- 3) male family violence victims recommended by Canterbury Men's Centre; and
- 4) male sexual abuse victims recommended by Male Survivors Aotearoa. Those that expressed interest in participating when contacted by Victim Support (n = 36) were emailed an information pack containing an introductory letter explaining the purpose and procedure of the research and a consent form (see Appendices 1 and 2). All 36 participants agreed to be interviewed, but four interviews were subsequently cancelled by participants, giving a final sample of 32.

Data analysis

Recorded interviews were transcribed by a research assistant and then coded thematically by the principal investigator. Given the small sample size, quantitative data were analysed descriptively only, with means and standard deviations. Data are rounded to one decimal place.

Limitations

This research was conducted during a limited timeframe in order to have preliminary results available at the March 2019 *Hāpaitia te Oranga Tangata Safe and Effective Justice: Strengthening the Criminal Justice System for Victims* workshop. Although it is recognised that the purposive sampling method in this study has inherent biases and may elicit findings that are not generalisable to the population, it was chosen due to time constraints and to limit the risk of retraumatising participants. An advantage of this method however, is that it avoids self-selection bias, thus reducing the chance that victims were drawn to participation to vent their anger at the justice system. It

should also be noted that while the small sample size (n=32) is acceptable in qualitative research and is in fact larger than similar well-known studies (e.g., Clark,³⁰ 2010 n=22; Herman,³¹ 2005, n=22), the quantitative component is restricted in its generalisability, especially since not all participants answered all questions.

While 22% of the sample was Māori, the participants did not voluntarily discuss justice from a Māori perspective, therefore this research is unable to draw conclusions about Māori justice needs. Likewise, the findings may not be applicable to other minority groups who were not part of this sample. The focus on serious crime also means that the experiences of victims of less serious offences such as theft and burglary are not represented.



³⁰ Clark, "What is the justice system willing to offer?" Understanding sexual assault victim/survivors' criminal justice needs."

³¹ Herman, "Justice from the victim's perspective."

Findings

Meaning of justice

When asked what justice meant to them, victims described justice as righting the wrong, holding the offender accountable, and fairness. Participants acknowledged the criminal justice system as the official path to justice and described it, in ideal terms, as a “pillar you can rely on”, a “safety net”, and “accountability for criminals”.

*Justice would be to hear both sides of a story... And to be treated fairly.
(Steph, family violence)*

*I think acknowledgement, accountability and responsibility for what happened.
(Alice, sexual violence)*

Well, I think of the fairness and... When it comes to domestic violence, we're treated totally differently depending on which sex we are. (Bill, family violence)

Someone getting held accountable for what they've done. (Jack, sexual violence)

*Sort of righting the wrong. He was never going to right it, but just to sort of move the post a bit to being a bit more close to a healing process.
(Terry, homicide)*

But hopefully at the end of the journey it's there to support you. And it's also there to teach people to hopefully behave in the right way. And it's there to keep us safe. (Rowena, sexual violence)

*I would say making someone accountable for what they've done.
(Jasmine, family violence)*

Justice for me is everybody getting a fair deal. The person who's responsible for the damage, they get a fair deal and that their issues that have brought them there get dealt with, but also they be made aware of the fact that what they've done is not acceptable... (Barry, serious injury road crash)

*Justice would be that the law acts appropriately and in a timely fashion to ensure that the victims don't continue to be the victims. They go from being the victim of their abuser to the victim of the one that's supposed to be helping them.
(Helen, family violence)*

Justice: Basically a safety net for people who have been wronged. And whether or not that net has holes in it you don't know until you've got on the journey.
(Rowena, sexual violence)

However, 68% of victims felt justice had not been served in their case, despite 86% of cases resulting in a guilty verdict and 52% resulting imprisonment for the offender. Victims also reported little faith in the justice system: 59% said they had no faith in the system.

I'm relying on a justice system that I don't have a lot of faith in.
(Belinda, family violence)

“

**The heart was already shattered...
there was no bringing it back together
in the justice system.**

(Terry, homicide)

Yes, I do have faith in the criminal justice system, or else I still wouldn't be in this job. But in terms of looking after victims, the justice system doesn't do that. (Winnie, sexual violence)

No-one cares, no-one listens, no-one's doing anything about it, nobody's going to make any changes to stop it happening for other people... I've done the right thing, I've sought help, and I'm no better off. (Helen, family violence)

What we all want for victims we can't get because the justice system doesn't allow for it... And if we really want to make it [about] justice, then we need to start making the penalties fit the crimes. (Rachel, homicide)

I've learned to move forward without him and I feel safe now but that's not through any system. Anyone in a situation like that, I would be fearful for them and I wouldn't trust the system to help them. (Elise, family violence)

“

**My faith in the justice system got
smashed to bits.**

(Nick, fatal road crash)

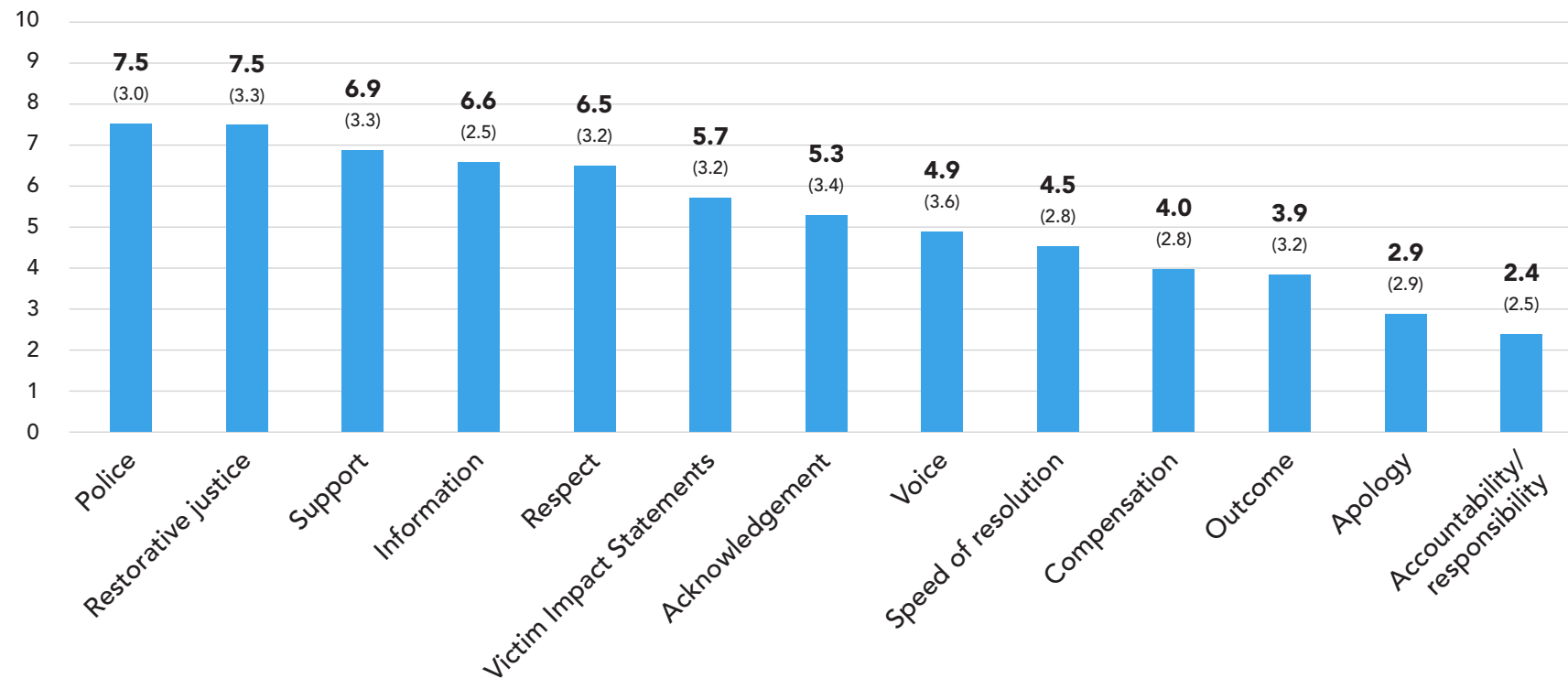


Victims' justice needs

Participants were asked to rate their satisfaction with 13 procedural justice needs and aspects of the justice system identified in the victimology literature as being of most importance to victims.³² As shown in Figure 2, the mean ratings, on a scale of 1-10 with 10 being the highest, ranged from 2.4 for accountability to 7.5 for police and restorative justice, with an overall mean of 5.3. With the exception of restorative justice, for which the lowest individual score was 3, ratings for all justice needs ranged from 1 to 10.

FIGURE 2. MEAN SATISFACTION WITH JUSTICE NEEDS AND ELEMENTS OF THE JUSTICE SYSTEM (OUT OF 10)

WITH STANDARD DEVIATIONS IN BRACKETS



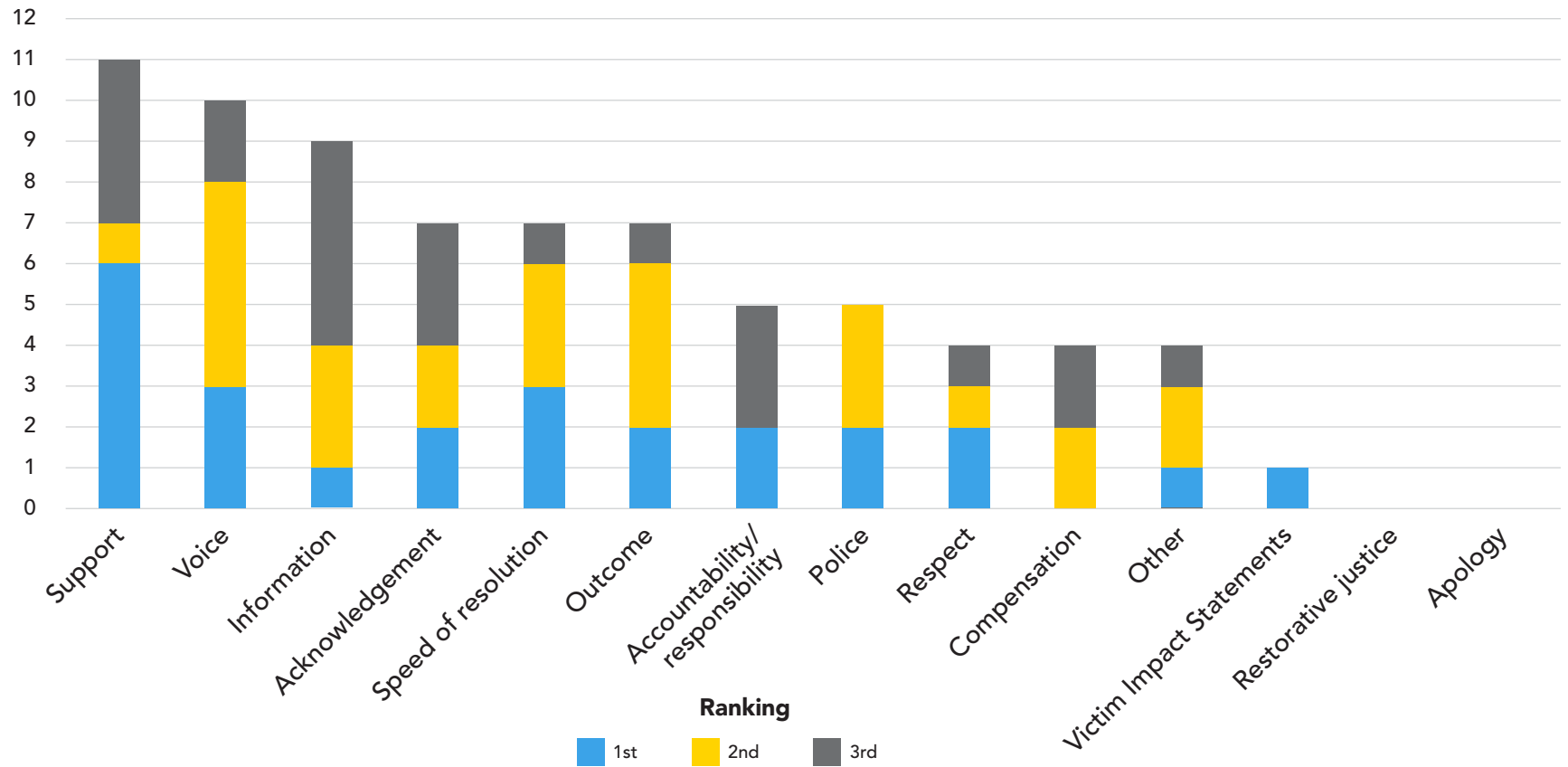
³² See 20-23.

Most important justice needs/aspects of justice system

Participants were asked to rank the three most important justice needs/aspects of the justice system from those with which they had rated their satisfaction. As shown in Figure 3, support was the most frequently rated top justice need (n=6) and was ranked among the top three justice needs by more than one in three participants (n=11), followed by voice (n = 10), and information (n = 8). It is important to note that low scores do not mean a particular need is unimportant, simply that it was not “top of mind” for victims when they reflected on their justice experience. Four victims identified additional needs, categorised as “other”, as most important: being believed, (which two sexual violence victims said was most important to them), reconciliation, and safety.

The procedural needs and elements of the justice system rated in this study are discussed in order of highest importance to the lowest as follows.

FIGURE 3. FREQUENCY OF JUSTICE NEEDS RANKED IN TOP 3 MOST IMPORTANT



Support

Emotional and practical support available from within the system and external agencies

Importance ranking

1st

Mean satisfaction

6.9
—
10

(Rated by 27 participants)

Social support is a well-established buffer of PTSD and stress among victims of trauma. It's been shown that even perceived social support³³ can be more beneficial than received support³⁴ among crime victims, although received informational support (receipt of guidance or advice) and tangible support (receipt of material aid) are especially helpful in protecting violent crime victims from fear.³⁵ Support was ranked the most important justice need in the current study and was rated the third highest in satisfaction. Victims were asked about their satisfaction with emotional and practical support available from within the system (e.g., court advisors) and external agencies (e.g., Victim Support, counselling). Although not all participants had been referred to Victim Support, among those who had, several chose to rate Victim Support separately, noting it stood out favourably from the general support they received. In these cases, the mean of both scores was taken.

*With Victim Support, we felt like we had someone in our corner.
(Nick, fatal road crash)*

Just getting an email now and then from Victim Support – 'how are you doing?', and this lady from the courthouse - she emailed me now and then – 'how are you doing? Just seeing how you're doing'. (Lesa, sexual violence)

³³ Perceived social support refers to satisfaction with support and the availability of it

³⁴ Received support refers to quantity of supportive interactions an individual receives

³⁵ K. Kaniasty and F. Norris, "Social support and victims of crime: Matching event, support, and outcome.," American Journal of Community Psychology 20 (1992).

“ Basically if Victim Support didn't exist the journey could have been a hell of a lot worse. It was traumatic to say the least. But her guidance really helped ease that... without her I wouldn't have made it through. It was pretty bloody hard.

(Rowena, sexual violence)

There's always a support for whatever victim you are. If you need support it's always there if you just get onto the right lines... There's definitely a lot of support out there. (Julia, family violence)

Often support from external agencies was important to victims because their personal support from family and friends had been eroded as part of their victim experience.

I think it was extremely disheartening and hurtful to see people that you've been friends with since childhood not believe you or find it easier not to... that was sort of the start of the unravelling of many friendships and friendship groups. I think that it's a lot easier to believe someone's a liar than believe someone's a rapist. (Alice, sexual violence)

I just bottle things up. I don't like bitching to friends: 'Oh fucking life, look what it does, ah what's the point?' I don't want friends to say, 'oh he's a winging bastard isn't he'. (Stephen, serious injury road crash)

My family is very disjointed and we actually didn't have enough genuine support. (Rowena, sexual violence)

Although most victims were positive about the support from police, Victim Support, and court victim advisors, some commented that the "system" was not supportive.

It was emotionally draining and felt like the New Zealand justice system did not support victims and victims' families but was more focussed on supporting the needs and wants of the defendant. No one's really there for you. The justice system's not really there for you, the defence certainly aren't there for you. So who's there for you? (Nick, fatal road crash)

I've been good all my life. And I'm going through that court because I'm the victim and I'm being retraumatized by the whole bloody system. (Helen, family violence)



You want to support the people around you as much as possible and attend to their needs rather than feeling like you're somewhat battling the system that should be designed there to support you..

(Nick, fatal road crash)

Victims also reported a need for support, especially from counsellors, to be tailored to the individual, built on trust, and to be a good fit.

It was hard to find people to relate to... unless they've actually experienced that, it's very hard to talk to someone. They don't know. And I don't want a textbook psychologist sitting there telling me how I'm going to feel. (Terry, homicide)

It's all about building up that relationship. You can't just, 'right, let's start counselling.' It's about building the trust. (Winnie, sexual violence)



Voice

The opportunity to participate, tell your story, be heard

Importance
ranking



Mean
satisfaction



(Rated by 28
participants)

Daly³⁶ defines voice as “telling the story of what happened and its impact in a significant setting, where a victim-survivor can receive public recognition and acknowledgement.” Through the cross-examination process, the victim’s story may be taken out of context or broken into parts to suit the defence to the extent that it is no longer the victim’s own narrative.³⁷ Victims in this study ranked having a voice in the justice system as the second most important need, yet they rated their satisfaction with it at 4.9 – below the average satisfaction across all needs/elements of the justice system of 5.3. Voice was perhaps the most discussed need among participants, with the majority expressing that very few opportunities existed for their voice to be heard. Participants wanted to have a voice on behalf of their family member who had been killed, or to have their victimisation acknowledged.

When you’ve got multiple layers of information, you’re actually being disadvantaged by only being able to present a small part of the story... then they’re making their assessments based on the skin of the apple without seeing how rotten the apple was inside. (Helen, family violence)

To participate, tell our story and be heard – that’s all we ever wanted. (Nick, fatal road crash)

When you’ve been through such trauma, to be shut down probably increases the trauma itself. Not being able to share it - going to counselling is not enough. You actually need the other people who are about to embark on the journey to understand. (Rowena, sexual violence)

Maybe if the judge had talked to me, got to know me, asked me to explain the situation that I am in since the accident. Since [the crash] I’ve felt like a worthless person. (Stephen, serious injury road crash)

More input, more listening to us because we’ve been through it. Just listening... (Lesa, sexual violence)

It was common to feel that when victims did have a voice, they weren’t being listened to and that the opportunities for having a voice were tokenistic.

I think for a victim to be heard and understood there has to be empathy for them. If there’s no empathy and it’s just another, a number in a book. Y’ know, victims can feel that. (Charlene, homicide)

You get to tell your story but nobody hears you. Because I don’t think the system actually hears victims. (Winnie, sexual violence)

The number one message is, it has to be around the victim’s voice. Be genuine when you are dealing with us... It’s the actual system they have to work in doesn’t allow anyone to listen genuinely to a victim. Because everyone is just so limited or there’s so many barriers in the way for that voice to be genuinely heard. (Terry, homicide)



It’s like you’ve got no voice and they’ve got no ears.... I’ve got the opportunity to participate but when I do participate they’ve all got their backs to me.

(Helen, family violence)

³⁶ Daly, “Sexual violence and victims’ justice interests.”

³⁷ M Hall, *Victims of Crime : Policy and Practice in Criminal Justice* (Willan Publishing, 2009).

Information

Being kept informed of the process and developments

Importance
ranking

3rd

Mean
satisfaction

6.6
—
10

(Rated by 29
participants)

Victims have a need for information about what exactly happened and why, to help them make sense of the situation and for reasons concerning self-protection and prevention of repeat victimisation.³⁸ In a Dutch study, victims who were notified of developments in their case were more likely to feel they had been treated fairly than those who were not notified.³⁹ Participants in the current study ranked information as the third most important justice need, and were generally satisfied with it, scoring it fourth highest in satisfaction. Most participants had no prior experience with the justice system, so being informed helped them understand the complexities of the system and prepare for the unfamiliar process. As one victim said, *"You're operating in this unfamiliar territory and this darkness."* Victims were generally satisfied with being kept informed of the justice process and any developments.

The Crown lawyer, he was actually really good. He did explain things really well, and he prepared us, told us what to expect. (Adrian, grievous bodily harm)

Every time before he goes back to court the victim advisor at the court rings me and makes sure that she's got a note for the judge on whether he's applying for bail or whatever and the police are keeping me really well informed about everything that's going on. (Jasmine, family violence)

Some victims expressed desire for a flow chart or way of informing victims of the various stages of the police enquiry and justice process. Dissatisfaction with the flow of information included having to ask for it, having to rely on other sources, and receiving inconsistent messages. One victim was told by police in one town that his mother could bring a photo of her late husband into court when she read her VIS – *"it was almost her only kind of hope that she was holding onto was that the defendant could see the photo of an amazing man that was killed"* – only to find out that at the court in another town this was not allowed. *"I saw something break inside her then."*

"Had to ask, had to almost feel like you're becoming a nuisance. I think you almost want to feel like a customer. And in this instance the customer is not someone purchasing a good or a service, the customer is someone who is there under tragic circumstances and they have completely different needs. So what are the needs of the customer?" (Nick, fatal road crash)

³⁸ A. Ten Boom and K. F. Kuijpers, "Victims' needs as basic human needs1," *International Review of Victimology* 18, no. 2 (2012).

³⁹ Wemmers, *Victims in the criminal justice system*.

They didn't tell me they were dropping the charges... And they didn't tell me why. (Barry, serious injury crash)

Victims understood the police were unable to release all details of the investigation but victims found this not knowing difficult.

I wanted to know more about what happened. If it hadn't been for basically one of the eyewitnesses there, being able to talk to them, and to explain what had happened, I would have been in the dark for six months. So you kind of need to have that. And I know they don't want to prejudice the case but they have to talk to us and say, in confidence, this is what's happened. (Tony, fatal road crash)

The first trial was obviously traumatic because it was the first we'd heard of actually what happened. We didn't know anything right up until that point. And that's hard, waiting so long to find out actually what happened. And I understand the police and prosecutors have a job and they can't release information for fear of jeopardising the outcome and stuff like that. (Terry, homicide)



Acknowledgement

Acknowledgement that you were wronged and that you were believed

Importance
ranking



Mean
satisfaction



(Rated by 27
participants)

The most important goal of sexual and domestic violence victims in Herman's⁴⁰ study was to gain validation from their community. This required an acknowledgement of the crime's basic facts and an acknowledgement of harm. Acknowledgement was also important to the victims in the current study, who ranked it fourth equal, yet their satisfaction with sat at the overall mean of 5.3. Many victims shared examples of why they felt they were not acknowledged or believed in the justice system, and the frustration, hurt, and fear this caused them.

“ I was always feeling I had to convince and justify. And you should be able to say 'this happened to me, I believe a crime happened, I believe it was wrong, and I believe something needs to be done about it.' If you can't even speak the truth and be believed, what is there? (Alice, sexual violence)

Acknowledgement that I'm heard and that it's worth knowing or worth doing something about. (Tracey, family violence)

Nobody wants to put their hand up and say 'we're really sorry that happened to you. We can see that it should never have happened.' (Steph, family violence)

Getting someone to believe my story, that's the biggest hurdle. (Belinda, family violence)

Some victims were satisfied with the acknowledgement they received in the justice system.

The first day that I came into this room the detective just put his book down and he said 'Lesa, I totally believe you, you're not a bad person and we're here to help you.' So... total acknowledgement... After years of dealing with them on the other side of things it was nice to get believed and treated with respect. (Lesa, sexual violence)

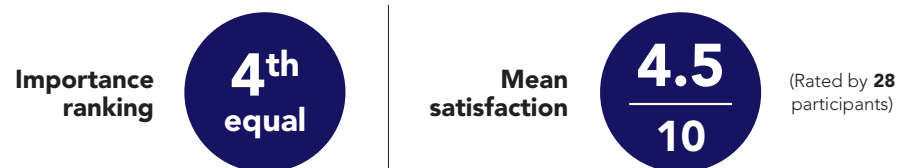
Even the defence lawyer came and spoke to me at the trial and apologised. And the victim court adviser told me that's the first time she's ever had that happened. He said, 'I'm sorry. I'm just doing my job.' (Ian, home invasion)

Afterwards I had a radio interview... He asked me, 'what's the main message you want to get across today?' And I said that my daughter was believed. So yeah, that is the most important message. (Rowena, sexual violence)

⁴⁰ Herman, "Justice from the victim's perspective."

Speed of resolution

How long it took for the justice process to start and conclude



It is common for victims to complain that the wheels of justice turn slowly, and that delays in the court system cause frustration.⁴¹ The speed of the justice process was of fourth equal importance to victims in the current study, however their satisfaction with it was below average. Most participants found the process too drawn out, and some were surprised at how long the police investigation took.

We knew that the system was slow. In Asian countries serious incidents get in before the normal ones. (Vicky, homicide)

I think it's the not knowing. The unknown which is quite unnerving. (Rowena, sexual violence)

It just dragged on and on, and just went on for so long. He [offender] was delaying so that made it more frustrating, (Alan, sexual violence)

Reduce the time a case takes to get to court so that the victim can get on with his or her life. In my case it took 18 months and is still ongoing. (Ian, home invasion)

And I understand it takes time but... they were very vague on how long [the investigation] would take. (Tony, fatal road crash)

Some suggested improved communication was needed for victims about the length of time the justice process would reasonably take so they could prepare practically and emotionally. Others felt it was important that the process was not rushed so that the facts of the case could be established and so that the victim had time to prepare.

I personally don't mind how long it goes on, as long as a thorough process is being conducted. It felt rushed. When you're a victim speed is not your friend. (Nick, family violence)

Well, it was pretty much a year, pretty much. And yeah, no, it was good. I think that you need a little bit of time as well, it's not like you'd want it to be like a couple of months down the track because you're too – it's too much. I had too much other stuff to get sorted first. (Charlene, homicide)

It will be probably next year that there's a trial date... it's given me time to go and have counselling and, yeah, look at a lot of things in my life too and change a lot of things. (Jasmine, family violence)

“ I still lack faith in the criminal justice system, simply because it took too long to get there... You're just left in limbo for so long... It takes ages, and all that time he was free.

(Adrian, grievous bodily harm)

⁴¹ Chief Victims Advisor to Government, *Strengthening the Criminal Justice System for Victims: Survey Report* (Wellington: Ministry of Justice, 2019).

Outcome

Verdict and sentencing

Importance
ranking



Mean
satisfaction



(Rated by 21
participants)

The importance of outcome (verdict and sentencing) for victims is more complex than simply wanting their offender punished. When victims do support incarceration, it is not simply for reasons of “just desserts”; some wish to protect potential victims or to protect themselves from repeat victimisation.^{42,43} A Ministry of Justice report echoes overseas crime surveys showing that crime victims are no more punitive than non-victims.⁴⁴

One study of violent crime victims showed appraisals of outcome satisfaction (verdict) and procedural justice predicted psychological stress.⁴⁵ These factors were more influential than victims’ perceptions of their perpetrator’s punishment.

Outcome was important to victims in the current study (ranked fourth equal), but it was rated third lowest in satisfaction. Although most offenders were found guilty and imprisoned, participants’ dissatisfaction was often that “the time didn’t fit the crime”.

*I tried to maintain a positive outlook and have everybody have a good outcome, but I feel the outcome for him was not commensurate with his mistake.
(Barry, serious injury accident)*

I was extremely disappointed in the outcome. I thought the judge had just made a precedent for anybody who wants to kill someone. (Dave, homicide)

⁴² Herman, “Justice from the victim’s perspective.”

⁴³ U Orth, “Punishment goals of crime victims,” *Law and Human Behavior* 27, no. 2 (2003).

⁴⁴ Ministry of Justice, *Public perceptions of crime 2016 - survey report* (Wellington, New Zealand: Ministry of Justice, 2016), <https://www.justice.govt.nz/assets/.../Publications/20161130-Final-PPS-report.pdf>.

⁴⁵ Orth, “Secondary victimization of crime victims by criminal proceedings.”

“

So there just seems to be a large gap between the law and what I think justice is... Three and a half years for a lifetime of pain and suffering? (Adrian, grievous bodily harm)

Some victims mentioned the outcome they wanted was not necessarily a punishment for the offender, but seeing them held accountable for the crime.

I mean 60 hours’ P.D. – that was just like, a slap in the face for me... And I think he thought he was smart because he thinks he got away with it... I still think that he learned nothing from that because, well, he went on to do it two more times to me... (Jasmine, family violence)

He’s only 17, he’s a smart young man, he’s well respected and he made a stupid mistake. And I didn’t want it to impact on him for the rest of his life, but he should have been held accountable for having no license and driving in those circumstances. (Barry, serious injury road crash)

I wouldn’t care if he got a slap on the wrist or 14 years in prison. That wouldn’t bother me. It would just be the fact that he was found guilty and held accountable and had to acknowledge. (Alice, sexual violence)

Our feelings were that he needed to go to jail. And it doesn’t really matter whether it was for three years, one year or two years, as far as I’m concerned... but I was happy with the outcome which was a jail term. If he gets out of jail after 12 months that’s fine by me as well. (Tony, fatal road crash)

Others saw the purpose of the offender's sentence as a deterrent to others or to keep themselves and the public safe.



It's not about making their life hard but it's about putting things in to protect other people. Would he ever be a risk to anybody else?... Does it change anything for me as a victim? No, but there's that possibility it will protect other people. *(Winnie, sexual violence)*

Someone's taken a life, that's one thing... Where's the learnings as a society? I guess, does the time and the crime link up? And what message does that send?... Effectively what it says is it's actually okay to kill people.
(Nick, fatal road crash)

But you still don't feel safe because you know one day that person is coming out.
(Rowena, sexual violence)

It was common for victims to feel satisfied if the offender received the maximum sentence but to feel strongly that offenders should serve their full sentence before being eligible for parole.

If that's as far as it [the sentence] can go with it, I'm more than happy with it. She can apply for parole within 12 years. Make no mistake about it. I mean that's where the justice system would fail me if that [parole] happened.
(Charlene, homicide)

In an Asian country this offender would be sentenced to death but we understand this [maximum sentence] is the best result we can get [in New Zealand]. *(Vicky, homicide)*

Some participants felt disempowered by the way in which the outcome was delivered, such as discounts given to the offender at sentencing and judge's comments about the offender's good character.

You sit there and she [judge] is talking about discounting for good behaviour, discounting for age. I was like, 'what the hell!', it's just so [insensitive]. It was looking at his life, not my son's life. *(Terry, homicide)*

It was a bit like sort of supermarket shopping you know, with discounts here and discounts there – just the language was a bit strange... A discount on sentencing. I think it should be a 'recognition'. 'As a recognition that he's been remorseful, we've reduced the sentence by...' Words like that.
(Tony, fatal road crash)



Accountability/responsibility

The extent to which the offender was held accountable/took responsibility

Importance
ranking



Mean
satisfaction



(Rated by 28
participants)

Victims in Herman's⁴⁶ study were often more outraged not at their offenders, whom they often believed knew how to "play" the system, but with the authorities who allowed them to escape accountability. In the current study, accountability/responsibility was the justice need for which participants were least satisfied. Many commented that even if the court had found the offender guilty, it was impossible for the victim to feel the offender was taking responsibility when he/she had pleaded not guilty.

He's pleading not guilty and he's making out that I've made this up and that things didn't happen the way they did. So yeah, he's not taking any responsibility whatsoever. (Jasmine, family violence)

He's taken no responsibility, it was all my fault. (Helen, family violence)

I don't know if the rules can be changed, I don't think the law makers will go for this but, do people actually need to be released until they are... until they take accountability and take some responsibility for what they've done? (Adrian, grievous bodily harm)

When the judge did the summing up for the sentencing he took into account that [the offender] had good character because there had never been a complaint made against him. And yet this was a man that devastated my family... to sit in the court and hear of his "good character"? You know, you're joking! Did anybody ever speak to any member of the family about the atrocities that he committed? (Winnie, sexual violence)

One participant who engaged in restorative justice emphasised the importance of hearing the offender take responsibility.



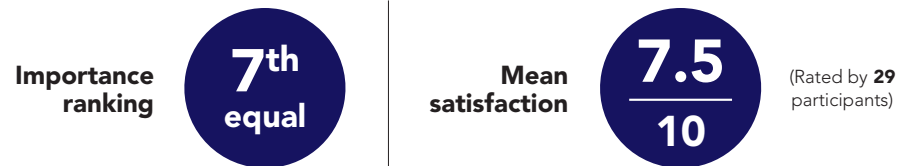
[The offender] did say that he was wholly responsible for it. And that was very important. Just hearing those words... It's mainly about responsibility. 'I was responsible for screwing up. I caused your wife's death.' Words like that are really important.

(Tony, fatal road crash)

⁴⁶ Herman, "Justice from the victim's perspective."

Police

Interactions with the police from start to finish



Research shows that victims are more likely than non-victims to hold negative views about the police and the criminal court system.⁴⁷ However, this was not generally reflected in the current study in terms of police. Participants rated their satisfaction with their interactions with police from start to finish the highest of all justice needs and elements, equal with restorative justice. Positive feedback included that police were respectful, thoughtful, sensitive, and kept victims informed of progress on their case and met with them regularly during the trial. Data relating to respect and information from police are discussed in subsequent sections. Although interactions with police were not ranked high in importance in this study, victims' narratives suggest the role of police is critical to whether victims felt respected and supported. Indeed, research suggests that there is a primacy effect in place, with victims who are more satisfied with earlier parts of the justice process – which usually starts with the police – being more satisfied with what comes later.⁴⁸

Where [my son] had fallen and died was in front of a fridge and a freezer. And this young policeman, until they had to move him... opened the fridge and the cool air kept Reece's body viable. And so just little things like that meant a lot to me because it meant that we could have an open casket. (Joy, homicide)

Even though I had a criminal record, they [police] didn't treat me as a criminal. They treated me as a genuine person who needed help. (Alan, sexual violence)

I actually thought the police were outstanding - the local police officer who told me the news, the police on the scene, the detective who took over. As people they were fantastic and certainly very good to deal with and made me respect the hard job that they've got. (Tony, fatal road crash)

They were very good, very supportive all the way through, even afterwards because they had my son's belongings, that he'd passed away in, and all his cuttings from the autopsy and all that sort of stuff. And they presented it back to me a couple of months after the trial. So they were great. They really were. (Terry, homicide)

They were very sensitive and they did what they promised. (Vicky, homicide)

Several victims felt the police became like friends to them.

And to this day, we actually still have contact, be it all through email or something, with one of the cops. He had a child of a similar age. (Adrian, grievous bodily harm)

We had a wonderful team and the thing was, you trust them... we still get messages from them every year at Christmas. (Joy, homicide)

However, family violence victims stood out from the rest of the sample as being generally unsatisfied with their interactions with police, mostly due to the police's lack of understanding about the nuances of family violence, including the fact that family violence doesn't always include physical injuries, there may be no witnesses, the victim may genuinely care for the perpetrator and want them to get help, the perpetrator may have shown remorse, and that victims need to be informed for safety reasons when charges or protection orders are going to be placed.

Sometimes police understand the family violence cycle and other times I've come across police tapping their pens, yawning, looking at their watch and basically saying, 'look, we could be out there catching real criminals'... The police need to be better trained, especially the men, because they just don't get it. (Belinda, family violence)

⁴⁷ J.A Wemmers, *Victims in the criminal justice system* (Amsterdam: Kugler, 1996).

⁴⁸ Wemmers, *Victims in the criminal justice system*.

So I guess as a victim in this situation I just haven't felt like it is taken seriously. I think that it's been considered that maybe that I was exaggerating because he was a nice guy and he was polite and uses good words. And because he was sorry... (Tracey, family violence)

I don't have faith in the police protecting me because they take so long. I remember shutting myself in the bathroom waiting for them to come and he was breaking down the door and they hadn't arrived. I had to run away from my own home because they took so long to come. I had to go to a stranger's house. (Elise, family violence)

There was a police lady that saw me with my social worker... she said that it's not that she didn't believe me, it's just that I should have known the man I married. (Josephine, family violence)

When I first had made the report I was pretty beside myself about it all. One, I was scared of his response, but two, I was feeling really upset because I actually really care about him. (Tracey, sexual violence)

The three male family violence victims were unanimous in feeling misunderstood and discriminated against by police, reporting that police officers refused to listen to their side of the story.

I was treated like I was absolutely the worst person in the world.... Just because I'm male. (Gary, family violence)

They are supposed to obtain testimonies from both partners, to not minimise any violence. And the officer just hadn't done any of this. Even though it says in [ex-partner's] statement, 'he wouldn't answer me so I hit him in the head.' (Bill, family violence)

It's easy to throw the blame on the man, or me. Because, y' know, by hook or by crook, you can't point the finger at the victim 'cause she's a victim 'cause she's got a protection order. And if one policeman had done it, a proper investigation into this and talked to my children or talked to some of the other people around this, they would've seen the holes in it three years ago and my daughter wouldn't have had to go through it. (George, family violence)

Several victims also noted that police officers' comments about the offender being "nice" made them feel the police were not on the victim's side.

Through my dealings with the police, the Constable and Senior Sergeant often said the defendant was a 'smart young man' and he was a 'nice guy'. It felt like at the time they were siding with him. (Nick, fatal road crash)

Then I get a phone call from a policeman who said, 'oh, we've met with Mr - and he is a charming chap, he's such a nice guy; in 20 years of policing I've never had a man that's admitted the allegations and that has been upfront and honest about it. And I know you've had a rollercoaster of a relationship, he's explained that, but he loves you very much.' This is the police officer! (Tracey, family violence)

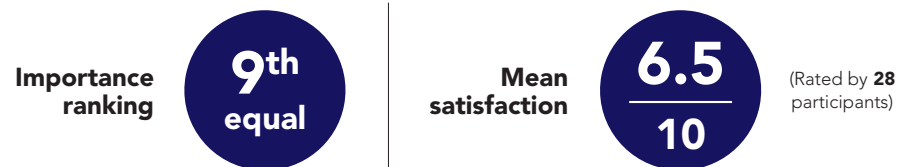


It almost felt like I was bit silly or a bit vindictive to want to pursue any charges... I just feel like I was a nuisance.

(Tracey, family violence)

Respect

Being treated respectfully, free of prejudice/discrimination



Victims desire respect not only from the police throughout investigations but also in their interactions with the prosecutor, judge, and defence counsel.⁴⁹ A robust finding is that victims who perceive fair and respectful treatment within the justice system are more likely to comply with the justice system.⁵⁰ Although there were exceptions, victims in the current study were generally satisfied with the respect from the justice system. Their comments suggest that both their early interactions with the police and the judge's comments at the end of the trial influenced their perception of respect.

Never once did I feel like [the police] questioned me or didn't believe me and it was right from the start, this has happened and we need to do something about it. (Alice, sexual violence)

[The judge] did commend me for my conciliatory approach, he said it's not very often he sees a victim be so amenable to and open to enabling the perpetrator to get forward with his life. So he commended me on that. (Barry, serious injury road crash)

And I actually felt the judge, because of the law, they can only do what is required, but I remember them saying, 'it's amazing that [grandson] survived' and they thanked us for all the work that we're doing with him. (Sheryl, grievous bodily harm)

There was no respect whatsoever. You're just another number. The judge hasn't even given me any respect by even having read anything at all in my affidavits. He hasn't read one word and knows nothing of my circumstances.... No, he can't even say my name properly. (Helen, family violence)

Several victims pointed at the adversarial nature of court being the reason they felt disrespected.

In terms of the actual trial process and being cross-examined, I know it has to be done, but the way in which it was done and the way in which I was treated in that respect, like, negative fifteen. (Alice, sexual violence)

When I found out he got to see three hours of my video [interview] I felt sick because it was like he got me all over again. He would have got heaps of satisfaction out of that. (Lesa, sexual violence)

The QC made the comment to the judge, 'these people aren't very well educated'. I felt like a naughty child in the classroom. (Janice, family violence)

Two victims felt they were discriminated against based on their identity.

I believe my son, because he was Māori and the offender was Pākehā, there was this thought that maybe he was looked at differently... If you believe that there's systematic racism, and that if [offender] was brown, I think the outcome could have been different. Like I said, they dressed him [the offender] up. Y' know, he looked lovely, like a nice young man. (Terry, homicide)

The police were talking to me like, 'oh, he's just a biker we don't need to worry about him.' That's the feeling I got. (Stephen, serious injury road crash)

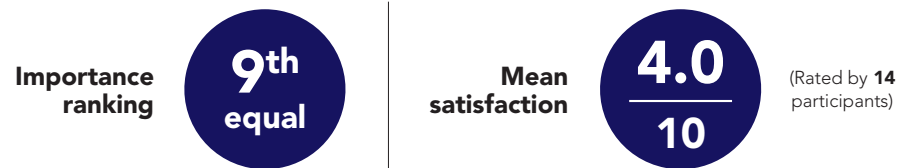
Note: Respect, compensation, and "other" are ranked 9th equal. See page 12 for description of "other".

⁴⁹ J.A. Wemmers, R. Van der Leeden, and H. Steensma, "What is procedural justice: Criteria used by Dutch victims to assess the fairness of criminal justice procedures," *Social Justice Research* 8, no. 4 (1995).

⁵⁰ Miller, "Disrespect and the experience of injustice."

Compensation

Compensation paid by the state or the offender



Research suggests victims do not ascribe the highest value to financial compensation and that rarely the full financial cost of the victimisation is repaid.⁵¹ Material or financial reparation may not be as important to victims as emotional reconciliation.⁵² However, compensation can have a symbolic value, which is why many victims prefer it to be paid by the offender rather than the state.⁵³ In the current research, victims expressed mixed views on the value of compensation, with some appreciating it, and others feeling it wasn't enough.

I've received compensation from ACC and from Victim Support. I was like shocked at the amount of not only emotional support but monetary support. And that's a huge thing when you're going through something like this and there's no way that you're gonna be able to work because, y' know, life still goes on and bills still come in. (Charlene, homicide)

It would have been nice for the judge to say, 'your victim has lost so much, are you prepared to help him?'(Stephen, serious injury road crash)

The swings and balances are all going the other way. There's no compensation or paying for what was damaged, there's no paying for the repairs to the house, there's no payment for the psychological and physical abuse, and I'm the one who's paying. (Helen, family violence)

All I've had is ACC but I've had surcharges on top of that. And, of course, my doctor's bills. So, a doctor's visit, \$40; \$38 for a surcharge to the physio I was going to twice a week. So, I don't think I was paid sufficiently by the state and nor the offender. (Barry, serious injury road crash)

Some participants believed the most appropriate compensation was not monetary, but simply acknowledgement that they had been wronged or non-financial support.

I think we should be entitled to some huge compensation. But it doesn't need to be monetary compensation... Acknowledgment. Voice. And respect. They would be great. (Steph, family violence)

I was given money and a letter to say, 'I'm sorry this happened,' but it felt wrong. If I'd just received the letter and said, 'yes, we could have done a better job and I'm sorry we failed you; and as a result of your story, we've learned from that and we're going to do better with other children,' that would be great. But I was given money, and it just felt wrong. And you know what? It's not about the money. (Winnie, sexual violence)

I thought, my wife's just died, ACC's going to be giving me money, Justice is going to be giving me money, but I don't want any of that – I want... I want my wife back. You know, it's kind of like... there's something insensitive about it. Whereas I think your emotional needs should be looked after first. (Tony, fatal road crash)

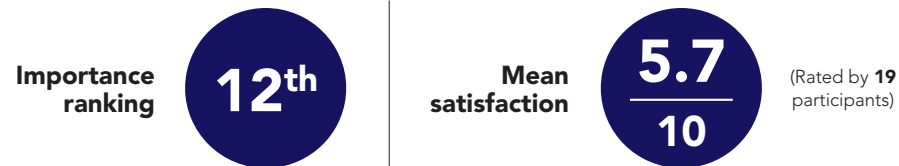
⁵¹ Pemberton and Vanfraechem, "Victims' victimization experiences and their need for justice."

⁵² H Strang, *Repair or revenge: Victims and restorative justice* (Clarendon Press Oxford, 2002).

⁵³ J. Shapland, J. Wilmore, and P. Duff, *Victims in the criminal justice system* (Aldershot: Gower, 1985).

Victim Impact Statements

The process of preparing and delivering a VIS



Victim Impact Statements (VIS) are one of the few formal opportunities for victims to have a voice in the justice system. VISs can be therapeutic for victims and may help them foster positive attitudes towards the criminal justice system. However, when constraints are placed on language appropriate for court, victims may have negative perceptions of the justice system, which may hinder their emotional recovery.⁵⁴ Participants in the current study had mixed views about the benefit of the VIS, with some finding it therapeutic, while those whose statements were redacted tended to find it disempowering.

It enabled me to get up and look at her in the eye and tell her how I felt. (Charlene, homicide)

My daughter Becky read it out to the court and you could hear a pin drop... So that was our voice, that was our opportunity to be heard... we gave it to the judge beforehand but the judge didn't change anything and I think that's very beneficial... I think it has a huge amount of emotional impact if it's given from the family. (Tony, fatal road crash)

It takes a lot of courage but afterwards I'm proud of myself. I spoke out for my mum. (Vicky, homicide)

“ It's almost if it's going to be watered down and someone else is going to contribute to it then it's not really your statement. It's not really your words, it's someone else's... your only ability to communicate and say what you want to say and for it to go on record is taken away from you.

(Nick, fatal road crash)

However, others felt the VIS didn't capture what victims really experienced and those whose statements were redacted felt it wasn't their voice.

How can you put everything you feel on one side of paper? (Joy, homicide)

Very hard reading out a watered down version that someone else has written after personally spending months writing them, which was probably one of the hardest things we have ever had to do. (Nick, fatal road crash)

You need to have a Victim Impact Statement there but I don't think it really captures what's happening for the victim. And I think it would take quite a skilled person, and quite a long time – because you need to build up the relationship with the victim - to get her to be brutally honest, to actually do it justice... it's a real specialist role. (Winnie, sexual violence)

Other criticisms were that the VIS was “tokenism” and wouldn't make a difference to the sentence or to the offender; that police rushed victims unnecessarily to complete the statements, adding to victims' distress; and that rules about the VIS were inconsistent.

⁵⁴ C James, "Victim impact statements: Understanding and improving their use," in *Routledge Handbook on Victims' Issues in Criminal Justice*, ed. Cliff Robertson (2017).

I chose not to [read it out] because... some things I wasn't allowed to say... She [judge] had already done all her discounting and all that sort of... It had no point. It was like a tokenism. (Terry, homicide)

I didn't rate it highly because I didn't think it was going to make much difference... It may have made a difference to the jury but it wouldn't have affected the [offenders]. (Ian, home invasion)

Victim court advisors, Victim Support, police officers/prosecution all need to be on the same page about VIS guidelines. This is a highly emotional time for families and uncharted territory for many families who are thrust into an awful situation. Police were rushing to get Victim Impact Statements from us, where reality was we had weeks/months to complete as a family. This was unnecessary pressure at a traumatic time. (Nick, fatal road crash)

“

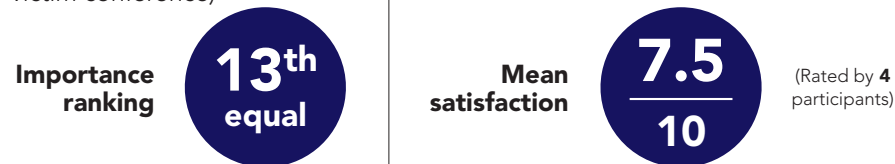
When we had to do our impact statements, there was so much we couldn't say because you had to be mindful of the offender... The impact it had on everyone else in our family, that wasn't even allowed to be acknowledged the way we wanted to acknowledge it.

(Sheryl, grievous bodily harm)



Restorative justice

The opportunity to meet the offender (Restorative justice/mediation/offender-victim conference)



A large-scale Australian study found victims' key reasons for participation in restorative justice were to explain the loss and harm that resulted from the offence (93%) and to express their views (88%).⁵⁵ In that study, roughly 90% of victims who participated in restorative justice felt they had been treated with fairness and respect.⁵⁶

Only four (14%) of the current participants engaged in restorative justice with the offender (two family violence victims, one fatal road crash, one serious injury road crash). Another five (three homicide, one fatal road crash, one home invasion) were offered it but declined. However, although victims ranked it last in importance alongside apology, the few who experienced restorative justice were highly satisfied. One victim whose wife was killed in a road crash chose to engage in restorative justice despite being unsure of the offender's motives and being afraid of his own reactions, but was pleased he took the risk.

And just the strangeness of meeting someone that's killed your wife, you know? I didn't want to shake hands, but we ended up shaking hands... You realise that they are a human being, and I'm glad that I got to know that the person had some redeeming features. That he had a – what sort of life he had. And that he's trying hard to change... I have to say it was an amazing experience, I was very reluctant and fearful to go in to it... I think it's a good process and should be supported. So, 10 out of 10 – but boy, it's difficult. (Tony, fatal road crash)

Another victim who chose to engage in restorative justice underestimated how difficult it would be and regretted not having support at the meeting.

He turned up with six family members and I was on my own. And in the end I said 'look, I only want three in there' and they were all really nice to me but I wasn't aware that I was allowed to take anybody with me. And I thought 'I'm strong enough', y' know, I've always looked after myself... But in fact I didn't cope properly. I definitely needed someone. (Barry, serious injury accident)

A common reason for declining restorative justice was distrust of the offender's motives. Victims could not see the point when the offender had pleaded guilty and refused to take responsibility.

I think even if he was found guilty he would still not be accepting of that at all...It would be a disingenuous meeting. (Alice, sexual violence)

Another reason for declining restorative justice was the victim not trusting his or her own emotions when face-to-face with the offender.

I said, 'I'll tell you right now, you will not put me in the same room as him, where there's no open space and I could –' (Terry, homicide)

I wouldn't be able to contain myself if I was in the same room with her. (Charlene, homicide)

“ Because restorative to me is restoring something. What, he was gonna come in there and pretend he was sorry? He wasn't. (Terry, homicide)

⁵⁵ Strang and Sherman, "Repairing the harm: Victims and restorative justice."

⁵⁶ Ibid.

Apology

Apology from offender

Importance
ranking

13th
equal

Mean
satisfaction

2.9
—
10

(Rated by 16
participants)

Evidence suggests emotional reconciliation outweighs material or financial reparation in importance to victims, probably because emotional harm can only be repaired by emotional compensation.⁵⁷ Daly⁵⁸ argues that the quality of apology is more important than whether the offender gives an apology or not. There was poor satisfaction with the offender's apology in the current study, and it was given low importance, possibly because most victims who were offered an apology felt it was insincere, especially if the offender had pleaded not guilty.

[The offender] offered an apology but we refused because he did that to try to get a lesser sentence. I think an apology is only good for him, not for me. (Vicky, homicide)

There just wasn't the sincerity. It almost reeked of self-preservation. (Nick, fatal road crash)

I didn't get an apology. I don't think it would have meant a lot to me. He didn't give me an apology because he didn't believe he'd done it. I think these people give more apologies to the Parole Board. (Alan, sexual violence)

Some victims, however, felt they would have valued an apology if they had been offered one.

It would mean something to me if he was accepting responsibility from the start. (Jack, sexual violence)

It would have meant something, yes. It would have meant a great deal. (Bill, family violence)

It wasn't something that an apology could fix... It's sort of one of those like reprehensible wounds that you can't really plug. (Alice, sexual violence)

⁵⁷ Strang and Sherman, "Repairing the harm: Victims and restorative justice."

⁵⁸ Daly, "Sexual violence and victims' justice interests."

Discussion and Themes

By exploring the justice experiences of serious crime victims, this study revealed a system that victims believed failed to deliver them justice and in which they had little faith. Despite most offenders being found guilty and sentenced to imprisonment, only 32% of participants felt justice had been served, and 41% reported they had faith in the justice system. Participants' ratings and descriptions of their satisfaction with justice needs and elements of the justice system generally reinforced this lack of faith. This supports 1) overseas research showing that procedural justice may be more important than outcome in determining victims' satisfaction; and 2) the need to understand what justice means to victims and the barriers to achieving that justice.

Procedural justice needs and elements of the justice system

Victims rated their satisfaction with procedural justice needs/elements of the justice system, ranging from 2.4 out of 10 for accountability to 7.5 out of 10 for police and restorative justice. As intended, the rating task prompted broad discussion about what mattered to victims. It could be concluded that victims' needs for voice, speed, compensation, outcome, apology, and accountability/responsibility were unmet, as these scored below the overall mean of 5.3. Four of these six unmet procedural needs were also ranked in the top 50% of needs that victims said were among their three most important: voice, speed, outcome, and accountability/responsibility. This suggests that the justice system is not only failing to meet some of victims' needs, but failing to meet some of the needs that they value the most.

With the exception of restorative justice, for which the lowest rating was 3, all other needs ranged in individual scores of 1 through to 10, and this was reinforced by narratives that highlighted both ends of the satisfaction spectrum. This wide variation in satisfaction, both within needs and between needs, highlights 1) that not all needs are equally met, and 2) that the experience of these needs differs depending on the victim. This speaks to the importance of tailoring needs to the individual victim, and allowing them to define how these needs can best be met.

Victims also ranked which needs were among the three most important to them in their justice system experience. Support was most frequently cited as the most important need, ranked in the top three by more than one-third of participants. This was also rated high in satisfaction: many victims couldn't fault the support they received from individual police officers, Victim Support workers, and court victim advisors. However, there was

a perception that the system was unsupportive, and that support needed to come not only from individuals and support agencies but from the system as a whole.

Voice was the second most important need for victims in this study, however it was also one of the needs with which victims were least satisfied. It was common for victims to feel they had no genuine opportunities to speak or be heard in court. They described feeling as though they didn't matter. The VIS was applauded as a means of having a voice for those whose statements were not redacted, but it was widely regarded as tokenism for those who were unable to express the true impact of the crime in their own words.

After information, outcome was the fourth most important justice need in this study, equal with acknowledgement and speed. Yet it was rated third least favourably in terms of satisfaction. Given that most offenders were found guilty and imprisoned, this suggests that satisfaction with outcome is more complex than a "successful" verdict and sentencing. Victims' narratives suggest that at the heart of a guilty verdict and what they deem an appropriate sentence is not necessarily a desire to punish but a need for safety. As discussed in the qualitative analysis, protecting the safety of themselves and others was a key motivation for engaging in the justice system in the first place. Victims viewed the type of sentence as instrumental in achieving this, either through sending a message to the offender and society that certain behaviour was unacceptable or through incapacitation.

However, a gap appears to exist between an offender pleading not guilty and a subsequent guilty verdict. Victims typically found that even with a maximum or near maximum sentence, poor satisfaction ratings showed that unless there was genuine remorse, they were left with a sense of insufficient acknowledgment of their victimisation, offender accountability/responsibility, and apology value. This also relates to the low uptake in this study of restorative justice – victims could not see the point in this process when the offender refused to take responsibility. It cannot be overstated how important it is for victims to seek justice outside of the outcome. Indeed, when victims described what justice meant to them it was clear that justice was more a set of values rather than an outcome.

Meaning of justice

This research reveals not only the importance of victims' justice needs, but the values behind these needs that help us understand what justice means to them. In broad terms, victims described justice as *righting the wrong*, *accountability*, and *fairness*. However, it is clear that the justice system is not delivering these definitions of justice to victims, as most victims in this study felt justice had not been served. This failure to meet victims' sense of justice is further explored in the thematic analysis of qualitative data. The analysis revealed three key themes that can be described as barriers to justice: fear, exclusion, and unfairness.

Themes: Barriers to justice

1. Fear

Nearly all victims described a deep fear of engaging with the justice system. Most had no prior experience with the justice system, and that unfamiliarity led to fear of the unknown and anxiety about what the process would involve, and whether they would achieve the desired outcome.

It could just be horrendous and it could just ruin that victim and not even have a good outcome. It could be a not guilty verdict at the end of it.
(Winnie, sexual violence).

Victims described going to court for the first time as "really daunting", "freaky", "horrible", and "horrific". "I literally couldn't eat," said one victim. "For me it was quite a scary place". Commonly victims found that their fears were realised to some degree during their justice system experience. Those who had less fear about the process were often shocked at how stressful it was.

Even for someone like me who works in the system I thought, 'oh this is a walk in the park, I know what we're doing.' But no. It was pretty horrible.
(Winnie, sexual violence)

Even those who were satisfied with the experience found it stressful. "It's overwhelming and anxiety-inducing," said one victim. Others were reluctant to recommend engaging in the justice system but felt they had done the right thing.

“As much as it was the hardest thing I’ve ever had to do I still believe I did what I needed to. But it’s not an easy process at all. It’s not something I would be encouraging at all... The process was still pretty horrific. (Alice, sexual violence)

Safety fears were paramount for victims. While protecting themselves and others from future victimisation was a motivator for seeking justice, they also feared for their safety within the justice system. They discussed the fear for their physical safety - that pressing charges or obtaining a Protection Order could spark retaliation.

“It’s a big gamble. I think that might be why a lot of people don’t feel like they can go to the police. Because it’s not worth the risk on themselves and others around them.
(Jack, sexual violence)

I didn't want to go to court 'cause I was scared of him. (Mary, family violence)

The law doesn't really protect us even if we have a Protection Order in place. (Belinda, family violence)

People can't go through it. They'd rather see the perpetrator out because they don't want to go through the court. (Alan, sexual violence)

However, some victims felt they had a duty to take the risk of pressing charges in order to protect themselves and others.

If I knew it had happened to someone else and I didn't say anything, that would be on my conscience. (Alice, sexual violence)

Victims' safety fears extended to after the offender had been released from prison, with several commenting that they could no longer live normal lives.

We don't go out together, like, we don't feel safe to leave the house by itself. It's taken away a lot of the freedoms, confidence, trust. (Rachel, homicide)

I have never taken it this far and this is the first time he's been to jail for this, and I know what he's done in the past when we've split up, and so, yeah, what is going to happen in the future? I don't know. And I mean, I've got an alarm in my house, I now have a solid front door. (Jasmine, family violence)

But it's still an unnerving journey because it doesn't matter when he comes out, I know I will always be on edge. You only feel safe when they are away... It might sound ridiculous but [with ankle bracelets] then they always know where he is. Therefore, if they know where he is, I feel safer. (Rowena, sexual violence)

You know, he's free... if he gets in to another relationship, there's nobody watching him. He was only monitored for six months, afterwards and then that's it. And to me that's disgusting. (Sheryl, grievous bodily harm)

There was also fear for their *emotional safety* - intimidation in court, stress, fear of their own reactions towards the offender (which was commonly cited as a reason for declining restorative justice: victims were fearful of how they'd react to being in the same room as the offender), and fear of the threat to their own reputation during cross-examination and media coverage.

And actually facing him, it's the thought of, 'what am I going to do if he says something or he smirks'... (Rachel, homicide)

2. Exclusion

Victims described a system that prohibited genuine opportunities for participation and for their voice to be heard. They experienced a sense of *isolation and abandonment*, using terms such as "bystanders", "on an island", and "lonely". Denied official party status, they often felt they were shut out of the consequences of perhaps the most significant and distressing event of their lives, which had the potential to compound the harm they had already experienced and undermine their experience.

Just the terribleness of what happened doesn't just end. In fact, [when you enter the justice system] the journey begins. (Nick, fatal road crash)

And the involvement that we had with it was so little that we didn't feel like we had a voice. Yeah, like I said, a bystander to the whole event. (Rachel, homicide)

Dare I say it, I know full well the whole justice system is set up for a fair hearing and it's all around the offender. Everything's put in place for the offender. And it's almost like the victim gets an afterthought. 'Oh, actually this is about the victim.' But it's not. Victims get left out in the cold. It's not a process for victims, at all. (Winnie, sexual violence)

One of the few formal opportunities for a voice was the Victim Impact Statement (VIS). Victims described the difficulty of confronting their emotions and recording them on paper, but for many, the process was cathartic and the chance to read it in court was empowering. However, many victims thought the VIS lost its value when they had to amend their statements for using language and emotion that was too strong. For these victims, the VIS was seen as tokenism, and rather than aiding their healing, actually re-victimised them because they couldn't express the true impact of the crime in their own words. Overall, victims found the justice system didn't allow them to genuinely have a voice, be heard, or be involved.

“ In our experience, it almost felt like you were, ‘okay, well, here is the voice of the victims now. Tick, move on.’ It almost felt like this big expectation of just almost having a voice, having a part. But you were almost just brought in, let out, and kind of, ‘oh, yeah. Onto the next thing.’ It just didn’t feel genuine. (Nick, fatal road crash)

As a result of constraints on their participation, most victims found the justice system disempowering and dehumanising, and described feeling a lack of genuineness, lack of empathy, tokenism, and like boxes were being ticked. As one victim said, *“There was no warmth. It felt very cold and mechanical.”*

3. Unfairness

Participants emphasised that justice meant fairness, and that currently the scales of justice were tipped in favour of the offender at all stages of their justice journey. Right from the start, some victims felt that police seemed to be siding with the offender. There were comments from police that the offender was a “nice guy”, and that they weren’t taken seriously. In court, the fact that they were denied party status and lacked a genuine voice was another example of unfairness, expressed by nearly all participants in the study. One victim noted that the location for the trial centred around what was convenient for the offender, despite it being inconvenient for the victim’s family. Trials were frequently adjourned or delayed due to the offender’s needs. Another victim whose son was murdered said her whānau were told to remove t-shirts they had printed with her son’s name on them because the accused’s family found them intimidating. Yet, nearly all victims described the intimidation of facing the accused and his/her supporters in court as one of the most stressful parts of their justice experience. Some victims also found the judge’s comments at sentencing about the offender’s good character

insensitive. In sum, victims felt the justice process tiptoed around the offender, and in doing so, added to victims’ sense of unfairness.

A further example of unfairness was an overriding perception that the sentence didn’t fit the gravity of the crime, especially in homicides and fatal road crashes, and that irrespective of the outcome, there was *no accountability and no responsibility* for offenders. For some victims, accountability meant a maximum sentence, as opposed to a “slap on the wrist”. However, even with a maximum sentence, victims reported it was cold comfort unless the offender took genuine responsibility for the harm caused. Many victims received an apology from the offender but few felt it was genuine and valuable.

Victims also commented that they were left worse off financially than their offender, and described a “see ya later” attitude, whereby they perceived they were left to their own devices after the trial ended. Several victims whose children had been murdered, were left raising their grandchildren. They had to give up careers to do so and face financial hardship, while the offender was furthering his/her education from prison, funded by the taxpayer.

“ After it’s all finished he’s got all the support he can want or need and we’re left just picking up the pieces. ‘The trial is over, see ya later,’ and that’s it...

(Terry, homicide)

There’s just so much catered to them, for the perpetrator to be looked after but there’s not much for us. Like, you’re sort of like, ‘that’s it, it’s a hung jury, see ya later.’ (Lesa, sexual violence)

This was echoed by Winnie, a sexual violence victim: *“Everything’s put in place for the offender. And it’s almost like the victim gets an afterthought.”* Compensation was appreciated by many, but for others it wasn’t enough to cover costs of the crime including medical bills, legal fees, and funerals.

There was also the sense that when victims had lost so much, it was unfair that offenders were able to enjoy privileges that their victims had been denied. One victim, who had been sexually abused by her father, a keen gardener, had heard he was enjoying tending to plants in prison. Victims described feeling like they were the ones with the sentence.

“ He might’ve lost his freedom for three years. We still got the sentence and we’re still doing it. (Rachel, homicide)

He served his complete sentence but now he’s free, he gets to move on with his life, it’s done. But we don’t. (Adrian, grievous bodily harm)

I feel like I’ve had infinite repercussions and things from it and it’s sort of hard to see him with any. (Alice, sexual violence)

Some victims expressed concern that the media were insensitive to victims. While some victims said speaking to the media was their only opportunity for a genuine voice, others found the media attitudes and coverage compounded their stress.

And I just felt their whole attitude towards my trial, it was like vultures is how I would describe them. They wanted to be in there videoing and filming and it was just to sell a story. There was no empathy to it... That was something that definitely frustrated me a lot and added to the stress. (Alice, sexual violence)

Finally, several victims questioned the fairness of the jury system. One victim said it was hard to have faith in the jury after the first jury returned a hung verdict after several days and the second jury returned a not guilty verdict in under an hour.

To then expect [the jury] to understand a crime of that enormity and the mens rea⁵⁹ and the actus reus⁶⁰ and all the different elements that play in, and then to make a decision on someone’s life, is quite a big thing. And it sounds awful but some of the, I don’t know how to say this without sounding... it’s quite shocking that people still believe certain things. (Alice, sexual violence)

See it’s difficult when you don’t really want to tell your story. And you don’t want people to hear it... In front of twelve jury members. You feel like there’s twelve random people. (Jack, sexual violence)

Lay people don’t understand a lot of the technical stuff that comes out of doctors’ mouths, where judges tend to understand a little bit more. (Adrian, grievous bodily harm)

It only takes one person and they can get it all wrong. I reckon they should be qualified to be jurors... because they’re talking about a person’s life. (Alan, sexual violence)



⁵⁹ The accused's mental intent to commit the crime or knowledge that their action/inaction would result in a crime being committed

⁶⁰ The physical act of the crime

Conclusion and recommendations

The lived experiences of serious crime victims in this study paint a picture of a justice system that is generally failing to meet victims' needs consistently, and one that denies victims justice and erodes their faith in it. The experience of victims in this study was that through a lack of genuine concern for the victim and their needs, the justice system exacerbated the loss of power and control central to their victimisation, leaving them disempowered and further from their definition of justice – righting the wrong, accountability, and fairness – and further from healing.

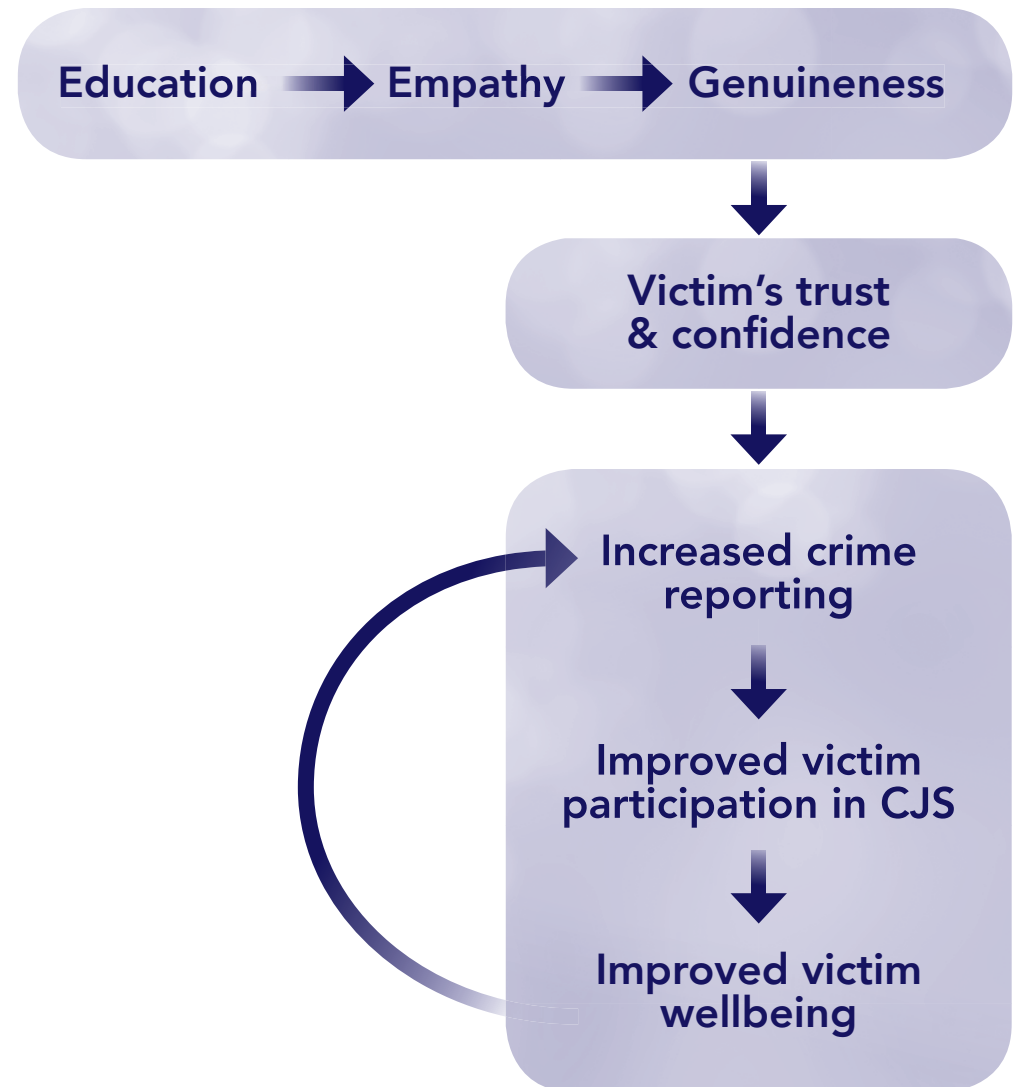
Given that fear was a key barrier to justice in this study, this highlights the courage and risk involved for victims who journey through the justice system. The enormity of this courage is underscored by the fact that victims are already in a marginalised position as a result of their victimisation. Unfortunately, evidence suggests that the current system exacerbates their marginalised status, and at times revictimises them, through barriers of fear, exclusion, and unfairness. It is no surprise therefore, that victims named support as their most important justice need. This research bolsters the growing recognition that there are benefits to both victims and society if victims' needs can be met not only by supportive individuals, but within the justice system itself. It is argued that this requires a commitment to developing a justice system that is founded on victim-centric principles.

What is a victim-centric justice system?

It is widely considered around the world that the criminal justice system needs to be victim-centred and to achieve this will require paradigm shifts. Fattah⁶¹ argues for a new paradigm of criminal justice, which instead of focusing on punishment, has as its purpose to "heal the injury, repair the harm, compensate the loss and prevent further victimisation". He states, "If we genuinely care about crime victims and truly want to substantially improve their lot, then we will need much more than hollow slogans (justice for victims), symbolic gestures (victim impact statements), punitive measures (fine victim surcharge), and political palliatives and placebos (victim compensation schemes)."

A victim-centric justice system is one in which the starting point is the *genuine* understanding and meeting of the needs of individual victims. It is recommended that education about victims' needs and the nuances of the victimisation experience (e.g., the loss of power and control, the dynamics of family and sexual violence, recognition of male family violence victims) can promote the sense of support and genuineness

FIGURE 4. FLOW-ON BENEFITS OF A VICTIM-CENTRIC JUSTICE SYSTEM



⁶¹ E. A. Fattah, "From crime policy to victim policy: The need for a fundamental policy change.," *Victims of Crime and the Victimization Process* 75 (2013): p.159.

that appears to be lacking in the current system. As shown in Figure 4, genuine understanding, which can be facilitated through education for all players in the justice system including police officers, support workers, judges, juries, prosecutors, defence lawyers – and the media, will promote empathy for victims and improve their perception of support – the justice need of highest importance in this study.

Increasing the focus on victims doesn't mean diminishing the rights of offenders. Although frequently discussed in political rhetoric, there is no evidence that this is a zero sum game whereby increasing the rights of victims diminishes the rights of offenders.⁶² In fact, victims and offenders share mutual justice needs, including the desire for a prompt and efficient trial, to be informed about the procedure, and to be heard.

Benefits of a victim-centric justice system

A victim-centric justice system is a supportive justice system, and meeting victims' needs is an important harm reduction measure. There is the potential for the justice system to aid victims' healing rather than inhibit it, and therefore to reduce traumatic stress, emotional harm, and revictimisation. Indeed, New Zealand's Victims' Code states that victims should be treated on the principle "that [their] safety and the reduction of harm [is put] first".⁶³

When participants in the last three New Zealand Public Perceptions of Crime surveys were asked what would increase their confidence in the justice system, the most common answer was if victims' interests were put at the heart of the justice system. The justice system relies on victims reporting crime, however participants in this study often felt they were disadvantaged rather than rewarded for doing so. Research suggests that victims may be more likely to report crime and participate in the justice system if they thought the justice system might meet their needs and their ideas of justice. Otherwise, participation is a risk, a gamble, and, as some victims in the current study have described, an ordeal.

While this research showed some general themes common to many victims, it equally highlighted that victims and their experiences of the justice system are heterogenous. It is important to note that, in relation to every need, there were victims who rated their satisfaction 10 out of 10 and stories shared of positive experiences alongside the negative.

Victims had contrasting views on the value of an apology, compensation, the offender's sentence, and the VIS in particular. Victims bring to the justice system myriad experiences, and during the justice process vary in the degree to which they place importance on various needs. A victim-centric criminal justice system means genuinely understanding the individual victim, not simply ticking the box or putting them in a box. However, the problem is that currently there is not even a box for victims – they are excluded from official party status.

Whatever shape our justice reforms take, we must get the basics right first: the foundation of our justice system must be built on a genuine commitment to victim-centricity. With such a foundation, the justice system has the potential to be part of the support system victims say is important to them, and therefore facilitate their recovery rather than hinder it. It has the potential for victims to have faith in the system to protect them and to deliver justice, which must be the bare minimum requirement of a justice system. If we are able to reverse the three barriers to justice identified in this research: instead of fear, offer victims confidence in the justice system; instead of exclusion, allow victims' voices to be genuinely heard; instead of unfairness, focus on giving victims a fair deal; we may have a justice system that instead of compounding the harm victims have already suffered, seeks to be part of their healing.

“ I think that if they listen to us before they start making these changes to the system or making laws, just actually genuinely listen. (Terry, homicide)

⁶² J Doak, *Victims' Rights, Human Rights and Criminal Justice: Reconceiving the Role of Third Parties* (Bloomsbury, 2008).

⁶³ Ministry of Justice, *Victims Code*, (2015).

Appendix 1: Participant Information Sheet

PARTICIPANT INFORMATION SHEET

Victims' Voices research

Kia ora,

Thank you for registering your interest in being interviewed for Victim Support's research into victims' justice needs.

As New Zealand's leading and trusted gateway for victims, Victim Support regularly advocates on behalf of victims to ensure their voices are heard. The Government is committed to reforming our justice system, and in March 2019 it will hold a workshop to hear what victims want in the reforms. This is a rare opportunity for us to advocate for victims' needs to be at the heart of changes to our justice system.

We believe that in-depth interviews are the best way to represent the voices of our victims at the workshop. By telling us about your experience with the justice system, you will help us understand what the issues are that are broken and need to be fixed, and provide us with real life examples we can use. It's also important for us to know what is working well in the justice system so we can argue to protect or enhance it. We hope your voice will help capture the needs of victims in the justice system and help other victims in the future.

Who is eligible to take part?

To be part of this study you must be aged 18 or over, have experienced a serious incident, and attended court as a result of this incident in the last 12 years.

What happens if you take part?

You will be interviewed either face-to-face in your own home or at your local Victim Support office, or by phone – whatever you are most comfortable with. At the time of the interview you will be asked to sign the attached consent form. The interview will be semi-structured, covering specific topics including restorative justice, Victim Impact Statements, sentencing and parole (if applicable). You will also be asked about broader topics such as whether you felt you were able to participate actively and be heard; and if there is anything you would change, if you could, for you to feel justice had been done.

The interviewer will be a Victim Support staff member, communications contractor or Support Worker. Interviews will be audio-recorded and will last approximately 60 to 90 minutes.

Participants will be offered a written copy of the research findings.

Ethical considerations

We acknowledge that talking about these topics may be distressing. You may request a Support Worker from Victim Support to be present with you during the interview and/or to talk with you after the interview. Wherever possible, we will accommodate your preference for a Māori interviewer or a request by gender. You may stop the interview at any time, refuse to answer a particular question and withdraw from the study at any time.

Confidentiality

Your name will not be used in any of the published results – your information will only be used anonymously or, if necessary, by a pseudonym of your choice. No one outside the Victim Support research team will have access to the original recording of your interview.

What happens after the interview?

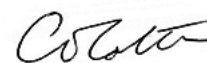
The interview will be transcribed by your interviewer or a Victim Support staff member or contractor. The data will be analysed looking for overall patterns or themes in the dialogue across all interviews. Specific extracts from your interview may be used in an oral and written report to Government for this workshop and may be shared in Victim Support publications, relevant reports, submissions, journal articles, conferences or workshops.

Further information

If you have any questions about this study please contact us at cam.cotter@victimsupport.org.nz or on 0800 842 846.

Thank you for your consideration in being part of this study. Remember, Victim Support is a free and confidential service, available 24 hours by ringing our freephone 0800 842 846. Our website is www.victimsupport.org.nz

Thank you,



Cam Cotter
General Manager



Appendix 2: Participant Consent Form

VICTIMS' JUSTICE NEEDS: Consent Form for Interview

Thank you for reading the information sheet about Victim Support's interview study. If you are happy to participate, please complete and sign the form below.

I confirm that I have read the information sheet about this study and had the opportunity to ask questions.

I understand that my participation is voluntary and I am at liberty to withdraw any information provided, without having to give any reasons, within two weeks of my interview.

I am free to decline to answer any particular question(s).

I understand that my responses will be confidential and that I will be identified only by a pseudonym (not my real name) in the report, and in any further Victim Support publications, relevant reports, submissions, journal articles, conferences or workshops.

I agree for this interview to be audio-recorded and that the recording will be used only for analysis. I understand that no other use will be made of the recording without my written permission and that no one outside the Victim Support research team will have access to the original recording.

I understand that if the researchers thought that I, or someone else, was at risk of serious harm they may have to break confidentiality. Should they need to, they will discuss this with me first.

I agree to take part in this interview.

Name of Participant

Date

Signature

Name of Interviewer

Date

Signature

To be counter-signed and dated electronically for telephone interviews or in the presence of the participant for face to face interviews



Appendix 3: Interview Questions

VICTIMS' VOICES IN THE JUSTICE SYSTEM: INTERVIEW QUESTIONS

- Thank you/introductions/our role with VS
- Purpose of research
- Structure of interview (first I'm going to ask you to discuss specific aspects of the justice system and then some broader questions about justice, should take approx 1-1.5 hours)
- Check they've read information sheet
- Any questions
- Sign consent form (a copy each),

Start recording...

- 1) Can you start by telling me a little background about the event(s) that happened that led to you being involved in the justice system?
- 2) Can you tell me about your experience in the justice system now. What were your expectations of the justice system?
- 3) What would you say was the most challenging part of your experience with the justice system?
- 4) Can you rate out of 10 (with 1 being the lowest, 10 the highest) your satisfaction with the following aspects of the justice system (where applicable) and tell me about your experience with them? (Get them to hold cards & flip through one by one)
 - a. Police: Interactions with the police from start to finish
 - b. Information: Being kept informed of the process and developments
 - c. Respect: Being treated respectfully, free of prejudice/discrimination
 - d. Voice: The opportunity to participate, tell your story, be heard
 - e. Acknowledgement that you were wronged and that you were believed
 - f. Compensation: paid by the state or the offender
 - g. Accountability/responsibility: The extent to which the offender was held accountable/took responsibility
 - h. Restorative justice: The opportunity to meet the offender (Restorative justice/mediation/offender-victim conference)

- i. Outcome: Verdict, sentencing
 - j. Apology from offender
 - k. Victim Impact Statement: The process of preparing and delivering a VIS
 - l. Speed of resolution: How long it took for the justice process to start and conclude
 - m. Support: Emotional and practical support available from within the system and external agencies
- 5) What would you say were the THREE most important aspects of the justice system for you? It could be things on the cards or things we haven't talked about yet.
 - 6) Have you had any experience with the parole board? Can you elaborate?
 - 7) How about Coroner's Court?
 - 8) Do you feel justice has been served in your case? Why/why not?
 - 9) If not, what do you think would need to change for you to feel justice had been done?
 - 10) What would you say justice means to you?
 - 11) Do you have faith in the criminal justice system? Why/why not?
 - 12) What role do you think victims should play in the criminal justice system?
 - 13) Based on your experience of the justice system, what is the number one message you'd like to share to help other victims?
 - 14) Do you have anything else you wish to add about your experience, or what worked/didn't work/needs to change?

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- This study is confidential, so would you like to choose a pseudonym (a fake name) to be known by?
 - Collect missing demographics – age/age range (e.g., 50-59), ethnicity
 - How did you find talking about this? Refer them to our contact details on Information Sheet if they wish to follow-up with a Support Worker.



