

Dear Megan,

I wanted to sincerely thank you for the opportunity to meet with you and discuss some of the issues raised in my letter regarding my family's recent experience with the criminal justice system. Your empathy, understanding and interest in the judicial process surrounding my father's case was heartening and very much appreciated.

I have recently attended a meeting with Mr John Pesutto, the Shadow Attorney General. This was quite productive where we spoke at length about Victim Impact Statements and their application within the criminal justice system. He would like to see some form of legislation introduced addressing the current guidelines and the treatment of VIS' by the courts.

I believe that the very nature of the guidelines allows for VIS' to be viewed as legal documents and open to dissection and cross examination by defence councils and judiciary. I'm sure this was not the original purpose or intent of the VIS.

When victims are able to read their own VIS, the court witnesses and senses the emotions, pain, vulnerabilities and even the physical effects the crime has had on them. Their VIS', have greater potential to influence sentencing. The presence of the victim in court and their courage and resolve to read their statements should be respected and not censored. The VIS is a personal and emotional account of the impact of a crime that no doubt has changed their life. How can legal parameters and constraints be applied to such a personal testament?

Our family's situation and that of many others is different in that the victim has lost their life as a result of crime. This scenario possibly contributed to the conflicting treatment of our VIS'. Our father, became a victim when he lost his life as a result of a Hit Run Crime. The lack of reference to him and the disrespect and disregard for the value and dignity of his life throughout the court processes drove many of my emotions when writing my VIS.

Our father not only became a victim through the criminal actions of the perpetrators but also became a victim of the criminal justice process. He was unable to physically present to the court his account of the impact the crime had on his life. The court was unable to see the measure and dignity of the man who would have suffered so much. I needed then to present my father to the court. Subconsciously, I was writing part of my VIS on behalf of my father. My focus was on him as a victim rather than on myself.

If the Prosecution's role is to act on behalf of the State and public interest and not the victim, this only reinforces my view that a VIS should be free from legal guidelines and judgements. If the prosecution is not representing the victim, the VIS becomes the only form of representation for that victim, and, or their family.

Having read the VLRC consultation paper, a reform option I would support is the introduction of community impact statements. In our father's situation where he was a much loved, respected and renowned athletic coach, mentor and friend, his tragic loss devastated many athletic and school communities.

We had been led to believe that the VIS' written by friends from our father's athletic community were admissible, however, as revealed to you Megan, these were disallowed. We were never given reasons.

I provided you with a copy of one VIS written by [REDACTED], [REDACTED] [REDACTED]. His was a poignant account of the impact our father's loss had, not only on the Club but also on his daughters whom Dad had coached.

Where personal references made to the stature of the deceased victim are edited from a VIS, a suggestion I raised with you Megan was the possibility of commencing a plea hearing with a brief account of the victim and their life. This could be compiled in consultation with the victim or the family of the victim where a life has been lost as a direct result of a crime. This would also provide a meaningful way of respecting and validating the victim rather than just the criminal justice process.

The police brief would then follow.

Our father's loss, not only caused a devastating personal impact on the athletic community but also a financial one. Dad was quite a unique man who devoted and donated his time and broad coaching expertise at Club, State and National levels. The Doncaster Athletic Club has been unable to fill his enormous shoes and consequently they have lost in excess of 15% of their membership. To replace our father's proficiency and knowledge, the club would need to employ and remunerate at least two coaches. I would therefore support a judge's discretion to issue a compensation or restitution order in addition to sentencing an offender.

Mr Pesutto also spoke briefly about restorative justice processes. We both agreed that this may only be suitable and cathartic in certain cases and again would probably need conditions and protocols attached. The process could be quite limiting and possibly only relevant in the case of younger offenders. As I mentioned in our case where the perpetrators were in their 60's and 70's, and where I saw no remorse only cool detachment, restorative justice process would have served no purpose. In the case of young offenders committing this crime where emotions and remorse were evident in their demeanour, as a mother of young adults, I would have considered restorative justice mediation.

This process should never be offered as an alternative to the VIS but could be considered as an addition or option for victims and their families.

The more considerations and measures available to a victim and their family, the more empowered they feel and the more inclusive and meaningful the justice process becomes.

It could also be advantageous if victims and families of victims have access to free legal advice at plea and sentencing hearings.

The prosecutions role seems to be one of securing a conviction and then negotiating sentencing with defence council and the judiciary. This can be seen as an expedient process and may interfere with the delivery of a just sentence. Sadly, the majority of victims and families are ignorant of the criminal justice process and how to navigate ones way through it and what it all means.

Our family were provided with very little information as to the processes involved. The legal professionals are all very busy with increasing workloads and as a result there was a revolving door of prosecutors responsible for our father's justice process. The police investigators have often moved on to another case. The victims and their families who are suffering and grieving their loss and trying to deal with lives changed forever could benefit from a support person independent of the prosecution team and one who is available throughout the process. In our situation, [REDACTED], a wonderfully caring social worker was appointed to our family.

Due to her heavy case load, however, she was only in court with us briefly on a couple of occasions. She always tried to make herself available to us to discuss elements of the case but without a legal background she was unable to provide valuable legal insights.

In conclusion, thank you for all the information and links you have provided in relation to VLRC consultation paper, and sentencing guidelines. Knowledge and being informed is empowering.

If I had have had access to this information or been directed to it prior to my father's plea and sentencing hearings, I may have been able to ask and provide valuable and constructive questions and feedback for the prosecution team.

Having read the sentencing guidance consultation paper issued by the Sentencing Advisory Council, I believe the prosecution may have had grounds for an appeal based on a sentencing error made by Judge [REDACTED].

I would have liked the opportunity to explore this with the prosecution or with an independent legal advisor.

I apologise Megan for another lengthy email, but having spoken with Mr Pesutto and read the information you kindly provided I felt I needed to expand on some of the issues we discussed and comment on others arising from the consultation paper.

Thank you again for this opportunity.

I sincerely hope that your work and that of the Commission provides positive and much needed reform where the role of victims of crime in the criminal justice process becomes more inclusive and meaningful.

Warmest Regards

Colleen Murphy (Kelly)