

Article

Victim Impact Report Guidelines

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The justice system has traditionally been unsympathetic toward the plight of criminal victims. Fortunately, several reforming legal powers have gradually been introduced into the sentencing process to enhance victims' rights. For example, victims across various jurisdictions are now allowed to give evidence, in both capital and non-capital cases, pertaining to the harm they have endured as a result of indictable crimes (Myers & Greene, 2004). Such personal accounts, often referred to as Victim Impact Statements (VISs), have been permissible in Ireland since 1993 and are now considered an integral part of the country's restorative justice system (Guiry, 2006).

Tendering a VIS in court allows victims to participate actively in court proceedings by articulating the pain, anguish and devastation they have experienced as a consequence of the crime in question. Simultaneously, VISs aid criminal justice personnel in their decision-making regarding appropriate sentencing and entitled compensation. While victims and/or their families are entitled to provide VISs, it is common court practice to request a Victim Impact Report (VIR) submitted by participating professionals acting on their client's behalf (e.g., social worker, psychologist). The use of VIRs still provides indirect participation, but enables victims to avoid the distressing nature of having to personally recall their harrowing experience in court, as VISs can themselves be viewed as a form of re-victimisation. Furthermore, it can be argued that professionals are better resourced to report adequately the suffering of troubled victims than the victims themselves, particularly psychologists with access to standardised measuring instruments and a thorough understanding of emotional trauma. Unfortunately, the existence of Irish data pertaining to the proportion of psychologists regularly engaged in VIR write-ups is scarce, and we are not aware of any formal training on offer regarding the formulation of such. However, it appears that VIR write-ups have

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come to form part of the job role of at least some psychologists working in Ireland.

A number of jurisdictions now provide Victim Impact (VI) templates to aid documentation (e.g., Texas, Minnesota). Although the particulars of such templates may differ among jurisdictions, they typically contain reference to the physical, psychological and financial sufferings of the victim (Myers & Greene, 2004). Unfortunately, unlike jurisdictions where victim evidence is a more established practice, no such VI template exists within the Irish context. The absence of such guidelines poses one major threat to the Irish VI process. The courts will ignore VIR proceedings if one is not submitted, and they will not be privy to a crime's impact during sentencing if there is no evidence to review (Wells & Wendelborn, 2008). If VIR information is inaccessible – or, in Ireland's case, non-existent – professionals may fail to reflect, and thus report, their clients' suffering adequately. Likewise, a lack of appropriate recording material may deflect some professionals from presenting such statements. Consequently, our use of victim evidence in this country may decline if suitable guidelines are not constructed and made readily available (Wells & Wendelborn, 2008).

Therefore, to address this oversight, the authors wished to devise a set of proficient guidelines with the purpose of aiding psychologists presenting

a VIR in Irish courts. These parameters are based upon existing templates from other jurisdictions. For the purpose of this article, only general guidelines pertaining to non-capital cases will be proposed. However, the article will include recommendations for how such a template may be altered in order to fit the needs of capital cases, whereby the primary victim is deceased, or for the needs of children submitting victim evidence.

Procedure

Based on established instruments from other legal systems, including models from American and Australian jurisdictions, it was proposed that the following template be as straightforward as possible so as to maximise VIR efficiency. The use of concise language, clear instruction and the absence of legal terms or bureaucratic undertones are intended to further facilitate the engagement of professionals when completing these often lengthy reports (Wells & Wendelborn, 2008).

First, professionals are advised to provide introductory information to their clients as one would within a clinical setting. In this way the competent professional is likely to equate VIR arrangements to clinical contracts and adhere to the guidelines of such. For example, it is professionally unethical to deceive clients and such conduct should take precedence in VIR engagements also. Thus, before initiating the



documentation process acting professionals need to make their clients aware of the voluntary nature of victim evidence, as well as its purpose, intended use, confidentiality limitations and supporting government agencies (e.g., Victims Support). Much of this information can be accessed through local Citizen Information Offices.

Formal Requirements

VI templates from other jurisdictions firstly ask for the statement’s formal requirements. These include an identification of the primary victim, the offender and nature of the offence. The full name of the individual submitting the report should be provided, as well as the nature and duration of the relationship between the victim and the victim’s representative. Furthermore, the report should state that the victim does not object to its use in court, although it may be good practice to present this agreement in writing, either by means of a signature or written account from the victim, rather than simply stating such.

Personal harm

Following these formal requirements, the VIR should include a description of any personal harm suffered by the victim as a result of criminal activity. Australian law defines personal harm as any physical, psychological, financial or emotional suffering brought about by offensive conduct. Pregnancy or the contraction of a sexually transmitted disease may be considered as harm if it resulted from a sexual crime (Crimes Amendment Bill, 2006, Item 1, Subsection 2). Suggestions for appropriate victim evidence are included in the template below. Based on several other VI templates, the proposed instrument divides personal harm into three categories: the emotional, physical and financial impact of the crime.

Emotional Impact

Any non-physical trauma, including behavioural and cognitive changes, should be noted in this section. Professionals may describe feelings their clients have experienced as a result of the offence (e.g., shock, confusion, ambivalence, fear, grief, distress, embarrassment, etc.). Similarly, they should report upon any physio-psychological reactions brought about by the crime (e.g., troubled sleep, disturbed eating, low self-esteem, difficulty concentrating, PTSD, etc.). The permanence and severity of these reactions should be stated and any appropriate evidence supporting such effects should be included. For example, the results of psychometric measures would provide sufficient evidence, such as the Trauma Symptom Inventory (TSI; Briere, 1995) or the Posttraumatic Stress Diagnostic Scale (PSD; Foa, 1995).

In addition, representatives may wish to reflect upon how the offence has changed the victim’s

life and report on such effects. How does the victim now relate to others around them? Has the victim's social, professional or family life been restructured? Has the victim suffered any emotional trauma due to safety or security issues and had to move as a result?

Physical Impact

With regard to the physical aspect of a crime's impact, professionals should describe any physical trauma their clients have suffered and the necessary medical treatment these injuries required. Such treatment can also include any dental, physio or occupational treatment. The seriousness and permanence of these injuries should be noted (Myers & Greene, 2004). Moreover, professionals should describe how this bodily harm has affected other aspects of their clients' lives (e.g., ability to play sports, ability to work, run a household or go to school etc.). If possible, attach any medical reports verifying these injuries.

Financial Impact

With regard to financial suffering, professionals will need to work in conjunction with their clients in order to provide a list detailing expenses incurred since the crime. It is appropriate to state how the crime has affected the victim's employment status and ability to earn a living, or state an estimated value of lost income due to annual leave or a general inability to work. A letter from their employer confirming this loss can be included. In addition, the report may need to include a list of any property damage that may have occurred, as well as any damage to the victim's personal belongings (Wells & Wendelborn, 2008). Furthermore, the cost of any medical, dental, psychological, prescribed medication or physiotherapy bills etc. should be noted. Doctor expenses, hospital stays and counselling bills can also be included and, where possible, copies of bills, receipts, estimates of value or any other appropriate evidence to verify these costs should be attached. A list of anticipated future costs should also be noted. If accommodation, transport or safety measures have been affected, their cost can be included here. Insurance details covering these costs should also be provided.

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Victims' Wishes

The Texas jurisdiction asks victims to state any wishes they may have pertaining to the offender's post-conviction status. For example, victims may wish to be notified of any early release dates or may request that the offender does not contact them after sentencing. As a representative, your client should be given the opportunity to voice such wishes, following which you may need to include these details in the VIR. However, Irish legislation does not confirm that a sentencing court will consider such particulars.

Personal Opinions

Several jurisdictions now allow victim evidence to include the victim's personal opinion regarding appropriate sentencing. However, there is little evidence to suggest that this practice exists within Irish courts. Due to a lack of current legislative provision on the matter, it may be advisable to avoid such opinions within VIRs.

Inappropriate Material

A VIR should avoid any detailed descriptions of the crime. At sentencing, the court is already aware of such details. It is advisable to avoid any vilification of the offender as this is often viewed unfavourably by the courts. Furthermore, the Department of Criminal Justice, Virginia, recommends that a VIR should avoid introducing new evidence. Such was the media frenzy in the recent case of DPP vs. Wayne O'Donoghue in

Table 1: Victim Impact Report content

Emotional Impact	Physical Impact	Financial Impact
Behavioural & cognitive changes Emotional reactions Severity & permanence of physio-psychological symptoms Security issues Lifestyle changes incl. family / social restructuring Psychological therapy / psychometric measures	Severity & permanence of symptoms Medical, dental, physio, occupational treatment Pregnancy & STI contraction Lifestyle changes due to physical impact	Employment status / lost income Property damage Treatment bills Accommodation expenses Transport / safety expenses

which the introduction of unheard evidence during victim evidence was deemed inappropriate. Victims should be made aware that the listed particulars will not appear in the VIR before documentation.

Recommendations for Alternatives

The above template pertains to a non-capital case only and is not appropriate for use in capital cases where the primary victim is deceased. Unfortunately, the Criminal Justice Act of 1993, which allows the provision of VI evidence in Irish courts, provides little information regarding VI requirements in capital cases (Criminal Justice Act, 1993, Section 5). If faced with such requests, professionals may wish to provide a report on the emotional and psychological sufferings experienced by the family, with particular emphasis on the additional grief and trauma the offence has caused by bringing about the untimely death of their loved one. Funeral costs may also be included in the financial section of this VIR (Wells & Wendelborn, 2008).

Similar to capital cases, current legislation with regard to the requirements of children submitting VI evidence is lacking in this country. However, several other jurisdictions modify their existing templates to fit the cognitive needs of children, and professionals are advised to use alternative methods of documentation when working with children. For example, the South Australian jurisdiction encourages the use of art and poetry when providing a minor's evidence. The use of cartoon faces in order to describe a child's emotions is also a widely accepted practice. Professionals are advised to present such documentation to a sentencing court, in addition to their own VIRs, in order to convey adequately the child's emotional reactions. Furthermore, professionals may feel the need to report on parental emotions and how such sentiments may affect the child's life and overall family structure.

Conclusion

The table above provides a brief summary of the article's recommendations for what constitutes appropriate VIR material.

Based on existing VI templates from several other legal jurisdictions, the authors wished to devise similar parameters which could potentially be used within an Irish context. Currently no such template exists within the Irish legal milieu. Their lack might deter some professionals from submitting a VIR but, more importantly, might hinder the adequate documenting of victims' sufferings. Therefore, it was deemed important that proficient guidelines be constructed and made readily available, so as to provide much needed information to professionals submitting a VIR to an Irish court.

However, current legislation provision regarding the official requirements of a VIR is lacking in this country, making it difficult for the proposed guidelines to be of full benefit to those who find themselves in the VIR process. Several issues need to be clarified with regard to VIR content so as to avoid any inappropriateness within our courts. Furthermore, only a general template has been proposed here and it will need several modifications if it is to be used within a wider legal context.

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