

A Study of The Policies and Procedures Implemented by the Probation Service with respect to Victims of Serious Crime

A STUDY OF THE POLICIES AND PROCEDURES IMPLEMENTED BY THE PROBATION SERVICE WITH RESPECT TO VICTIMS OF SERIOUS CRIME

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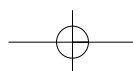
Abstract

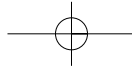
Traditionally the probation service's main function has been the rehabilitation and resettlement of offenders. It is only in recent times that the organisation has been required to work with victims of crime, a group that has traditionally been marginalised within the criminal justice system. With the introduction of the *Victim's Charter* (Home Office, 1990) this requirement was to contact the victims, or the families of victims, of life sentence prisoners to give them information about the offender's sentence, find out if they have any anxieties about the offender's release, and to ask if they would like to request that certain conditions be placed on the offender's licence. The requirement was extended in 1995 to include victims of serious violent or sexual offences where the offender is serving four years or more in prison, and again in April 2001 by *Probation Circular 62/2001* to include 'all victims of sexual and violent offenders sentenced to a custodial sentence of 12 months or more' (National Probation Directorate, 2001).

This article appraises the extent to which the policies and procedures implemented with respect to victims (in two probation areas) help to decrease their marginalisation. It is suggested that this is dependant upon whether or not their needs are being met by the probation service, which in turn may be related to how well the different probation areas cope with the complex issues involved.

Introduction

This article considers the effectiveness of the victim contact services provided by the probation service and its aim to reduce the well documented peripheral and marginalized status of victims within the criminal justice decision making process (Walklate, 2002; Williams, 2002). Due to victims lack of involvement in the criminal justice system it has been suggested that a significant number of them may experience feelings of powerlessness, uncertainty, fear, and disappointment with the workings of the criminal





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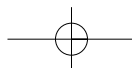
justice system (Zedner, 1997). For this reason over the last decade and a half successive Conservative and Labour governments have made numerous attempts to take into account the diverse needs of victims of crime at various stages of the criminal justice process (Crawford and Enterkin, 2001). Traditionally the probation service's core function was the rehabilitation and resettlement of offenders, and it is only in relatively recent times that the organisation has been required to work with the victims of crime, initially with the victims of prisoners serving life sentences, followed by the victims of serious violent or sexual offences. In April 2001 the National Probation Directorate (2001) issued *Probation Circular 62/2001*, which made it a statutory duty for the probation services to contact victims of offenders serving a sentence for a violent or sexual offence who have been sentenced to 12 months or more in prison. Although there is some research focusing on the work of the probation service before the 2001 changes, there is thus far no published research examining the impact of *Probation Circular 62/2001*.

The procedures and policies implemented by the probation service with respect to victims will be referred to here as victim contact services. These services have not been put into operation in the same way across the country but all probation areas are required to follow the recommendations of the *Victim's Charter* (Home Office, 1996), and the procedures outlined in *Probation Circular 62/2001*. The *Victim's Charter* states that:

In life sentence cases and other cases involving serious sexual or violent offences, the probation service will get in touch with you within two months of sentence being passed to ask if you want to be told about any plans for releasing the prisoner. They will explain what happens during the sentence and especially how any decision to release the offender will be made (Home Office, 1996).

This summarises the work the probation service undertakes with respect to victims in general. However, the central concern is with developments in the aftermath of April 2001. Since then, all 'victims of sexual and violent offenders sentenced to a custodial sentence of 12 months or more' (National Probation Directorate, 2001) must be contacted by probation service staff. This has significant resource and training implications and can be related to a conflict between the interests of the state and the needs of individual victims (Sanders and Young, 2000). For example, if the probation service is not provided with enough resources to meet the needs of all the victims it is now required to contact, it might be suggested that victim contact services are a token gesture to citizens, with the aim of furthering the interests of the state.

This paper refers to a research project which was concerned with the aforementioned issues. The study examined the contribution of victim contact services in two probation areas, and aimed to ascertain whether or not the probation service's new responsibility for certain victims contributed towards minimising their marginalisation. In short, it is argued that the reduced marginalisation of victims within the criminal justice system is



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dependent upon the ability of the probation service's victim contact service to respond appropriately and to meet the needs of victims.

The bulk of previous research focusing on the probation service's contact with victims was undertaken prior to April 2001 and therefore the research discussed below will look, for the first time, at the effectiveness of the victim contact service after this new major responsibility was placed upon the probation service. Crawford and Enterkin (2001) mentioned the difficulties involved when the requirement was thrust on the probation service in the first place. After the responsibilities of the probation service were broadened to address the needs of victims for the first time in 1995 further problems arose due to local interpretations about the circumstances under which victims should be contacted, and implementation of the service proved to be patchy and slow (Williams, 1996). Different providers of victim contact services also interpreted the policy in different ways, as highlighted by Nettleton et al (1997) in their research, and the implementation of different models of service delivery were dependent on the organisational priorities evidenced in different probation areas. At present there are still a number of different models of service delivery in place throughout England and Wales but it is beyond the scope of this research to assess the effectiveness of each of these. Instead this project looked at two particular service areas who employed models of delivery involving specialist probation staff working in partnership with Victim Support. It focussed on the effectiveness of these particular services a year after the introduction of the requirement for the probation service to contact all victims of violent and sexual crimes whose offenders have been sentenced to 12 months or more in prison. Part of the research was undertaken by obtaining the views of victims, as this had not been done at all since April 2001. Crawford and Enterkin (1999), and Rogers (1999) included the views of victims in their research but this now needs reviewing with regard to the situation as it stands at present.

The findings from this study defy any simplistic conclusions, but on the whole appear to suggest that the probation service's attempts to meet the needs of victims perform a significant part in making the latter's standing in the administration of criminal and community justice less marginal. Many positive aspects of the service are highlighted, particularly through specific cases where victims have benefited from their contact with the probation service. It also becomes clear that some victim's expectations are often met, that they feel that they have been given the chance to become involved in the day to day operations of the criminal justice system, and that they feel less afraid as a direct result of the victim contact service. Areas for improvement are also highlighted, including improved communication between criminal justice agencies, and more training and guidance for staff involved in the delivery of victim contact services. Finally, the results demonstrate that there is a need for further research to determine how the probation service can continue to improve the victim contact service, with the aim of meeting the needs of more victims, and hence reducing further their marginalisation and exclusion from criminal policy.

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Background

During the last two decades there has been much debate amongst politicians and criminal justice practitioners about the treatment of victims in the criminal justice system (Crawford and Enterkin 2001). The marginal position of victims has been noted and the government has introduced various initiatives to improve the 'plight of the victim'. The first *Victim's Charter* (Home Office, 1990), took a significant step forward, and outlined the service victims could hope to expect from various criminal justice agencies. The probation service, for example, were required to contact victims (or their families, in the case of murder victims) of life sentence prisoners (Crawford and Enterkin, 2001), in order to identify any anxieties that the victim may have about the offender's release (Johnston, 1995). The victim was able to request that certain conditions be placed on the offender's licence if this would help relieve their anxieties (Johnston, 1995). The implementation of this requirement proved difficult because no funding was put aside for the task and guidance for the Service's work with victims was slow to be produced. By the time *Probation Circular 61/1995* was produced, which gave a clearer statement of the responsibilities of the probation service with respect to victims, the organisation's responsibilities have been augmented to include victims of serious violent or sexual offences (Enterkin and Crawford, 2000).

It was therefore recognised that the *Victim's Charter* was vague and lacking in enforceable commitments (Sanders and Young, 2000), and the emphasis was on individual rather than collective action (Williams, 1999). By the time the second *Victim's Charter* (Home Office, 1996) was published, there were some mechanisms in place to ensure enforcement by criminal justice agencies of its requirements. For example, the probation service was required to follow government circulars and National Standards (Williams, 1999), but it was up to the individual citizen, as a potential consumer of its services, to ensure that standards of service were adhered to. In an adversarial system such as the one in Britain, it is apparent that more attention is given to the rights of the offender, and that there is no room for a third party interest such as that of the victim (Sanders and Young, 2000). It may be stated that in the UK the victim's rights continue to be subordinated to the nature and goals of the criminal process and the public interest.

The policies and procedures implemented by the probation service with respect to victims are complex for three main reasons. Firstly, there is a conflict of interest between the needs of victims and the rights of offenders. As noted earlier, the probation service was traditionally concerned with the rehabilitation and resettlement of offenders (Johnston, 1995) but must now re-examine its priorities and ensure that time and resources are set aside to provide effective services for victims. Secondly, there is the sensitive nature of contacting victims of serious crime requiring highly skilled staff and support from specialist agencies working for victims (Nettleton *et al*, 1997). Thirdly, there is the constantly changing political climate with respect to the needs and rights of victims. Recent changes have meant that the probation service have had to implement services for victims, often without sufficient government guidance or funding (Johnston, 1994).

The Victim Contact Service

Before moving on to discuss the current research it will be helpful to provide a brief account of how the victim contact service is run in the two specified areas.

The Crown Court Liaison Officer of the local Crown Court is the first person involved in the victim contact service. They are required to identify the victims who they think meet the requirements specified in *Probation Circular 62/2001* (National Probation Directorate, 2001). Names, ages (where possible), and addresses (obtained from the police), are then forwarded to the victim liaison officer covering the area in which the victim lives. The victim liaison officer must then contact Victim Support in order to arrange a date for a joint visit to the victim. Once this has been done Victim Support, wherever possible, hand-deliver a standard letter explaining the service and offering the victim a firm appointment at their home address. There is a proforma for the victim to return to the victim liaison officer, on which they can indicate if they would prefer a different meeting place, or time, and if they have any special needs. If the proforma is returned the joint visit takes place and the victim is given information about the offender's sentence and the functions of the criminal justice system. They are asked if they wish to be kept informed of future changes to the offender's sentence, and if they wish to give their views on proposed conditions surrounding the offender's release. The issue of confidentiality is explained and the victim liaison officer asks the victim if they consent to their views being used in future sentence planning and work with the offender. After the visit the victim liaison officer writes a short report for the attention of the offender's home probation officer (also known as the resettlement probation officer), which remains in a separate file until it is required for sentence planning purposes. If the victim wishes the contact to continue they will be contacted by the victim liaison officer at relevant points in the offender's sentence, given the appropriate information, and asked their views about release conditions where this is applicable.

The Research

This research was conducted using left realist theory in that it focussed on two sides of the 'square of crime', namely the victim and agencies of social control (Lea, 2002). The provision of information to victims necessitates a relationship between the victim and the probation service, and this is a relationship that works both ways. For example, the victim is provided with information, protection, and given the chance to put forward their views, and the probation service gain information (if the victim agrees) that can be used for the rehabilitation of offenders and to aid public protection. The probation service also benefit because they are seen to be working for victims as well as offenders with the result that their image is changed for the better in the eyes of the public. Left realist values are also apparent in the methods used in this study. For example it is a small scale, localised survey, and includes a questionnaire distributed to victims to elicit their views about the victim contact service. Finally, it focuses on the impact of crime upon victims by assessing whether the harmful effects of crime may be reduced with the help of the victim contact service. One of the central questions is, does the service help to reduce the victim's fears about an offenders release from prison?

A number of different methodological approaches (known as triangulation (Denzin, 1970)) were used in this study, which produced some theoretical insight into the probation service's contribution towards reducing the marginalisation of victims. Self-completion questionnaires were left with three victims to try and establish whether or not their needs and expectations had been met, and sent to five probation officers to assess the effectiveness of the victim contact service. These interviews were also conducted with five victim liaison officers and nine Victim Support representatives. Finally the researcher looked at all probation service records of victim contact (281 in total) that had taken place since April 2001 in a specified area, in order to begin to look at whether all victims were being given an equal chance to benefit from, or to become involved in, the victim contact service.

Findings

The results of this survey will now be described, beginning with a look at some victims' experiences of the victim contact service.

There were a number of cases mentioned where the victim contact service has been of particular help to the victims concerned, thus demonstrating a positive contribution. All questions addressed to the victims were directly related to the idea that more involvement and information helps to reduce their marginalisation by making them feel less afraid and more empowered, and it was also considered important to ensure that they are able to make an informed choice about whether or not they take up the offer of contact from the probation service. With this in mind, victims were asked if they were pleased to receive the offer of contact, and if they found that the letter explaining the service was clear and easy to understand. The responses obtained were very positive, with all respondents stating that they were pleased to receive the offer, and that they did find the letter clear and easy to understand.

It is clear, however, that there are a large number of victims who do not take up the offer of contact from the probation service, but without further research it is impossible to tell if this has anything to do with how the victims feel upon receiving the offer of contact, or how well they understand the letter explaining the service.

It was also suggested in the survey that fear and a lack of involvement in the criminal justice system would increase the marginalisation of victims. Therefore victims were asked if the victim contact service had made them feel less afraid, neither more nor less afraid, or more afraid, and also whether they felt that they had been given the chance to have their say. Only one victim said that the service had made them feel more afraid, which was because the offender's parole date was much sooner than expected. The other victims said that the information given to them by probation officers had made them feel less afraid. All of the victims stated that they did feel like they had been given the chance to have their say, which was encouraging. For example, one of the victims said, 'Being able to say that I wished the offender to be kept away from the workplace where the incident

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took place was a relief', and another said, 'because I know people are listening to me, they care about what I feel. I feel like I have got my say'.

Some cases were mentioned where the service had a negative effect on the victims, which highlighted the need for improvements in communication between criminal justice agencies. For example, one member of Victim Support described a case where the offender was released before the victim liaison officer, and therefore the victim, had been warned. The victim was left in fear and at risk because there had been no time to implement the appropriate licence conditions. This particular example demonstrates the need for more effective communication both within and between criminal justice agencies, and in fact, one of the main suggestions from victim liaison officers about how the victim contact service could be enhanced, was that there should be improved liaison between the police service, the courts, and probation service in order to encourage a more efficient transfer of information from the latter to the victim. This would help to ensure that the victim does not miss out on any information that they are entitled to and which may be of benefit to them. In fact, the timely and accurate passing of information to a victim should enable them to feel more involved and possibly empowered about their role in the criminal justice system, and therefore decrease their feelings of marginalisation.

On a positive note, the following statements made by victim liaison officers demonstrate some very helpful inter-agency working:

Our involvement went over and above the requirements in the circular. We liaised with Women's Aid and the police, got panic buttons put in, made sure the police had flagged it as a genuine case.

There was quite a lot of multi-agency work, in fact she got her MP involved and called us all in to a meeting. I think between us all we made sure she was as well protected and as well informed as she possibly could be.

The aspects of the service, which victims found to be valuable, were, on the whole, in agreement with the reasons why they took up the offer of contact in the first place. This, along with the fact that all victims involved in this study were pleased to receive the offer of contact from the probation service, and found the letter explaining the service clear and easy to understand, demonstrates that some of the needs of these victims have been met. Two of the victims also stated that the service had made them feel less afraid, which is very important because this has been identified as a significant factor in helping to reduce the marginalisation of victims. However, after examining past records it becomes apparent that 61.2% of victims do not take up the offer of contact in the first instance. This demonstrates that research must be done about whether the probation service is meeting the needs of all victims, and not just those who have taken part in the victim contact service. In this survey, an attempt was made to identify factors affecting whether or not victims take up the offer of contact from the probation service. The variables of age, gender, type of offence, and length of sentence given to the offender were cross-

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tabulated against whether the victims took up the offer of contact. The results can be summarised as follows:

- Just under half of the female victims took up the offer of contact from probation staff, whereas only about one quarter of males took up the offer.
- Exactly half of the victims aged 0-17 took up the offer of contact, just over half of the victims aged 18-39 took up the offer, about one fifth of victims aged 40-59 took up the offer, and about one fifth of victims aged 60 and over took up the offer.
- Just over a third of victims who had experienced a violent offence took up the offer of contact from the probation service.
- Well over half of the victims had been the victim of a sexual offence took up the offer of contact by the probation service.
- About a third of victims who had experienced an offence that was classified as neither violent nor sexual took up the offer of contact from the probation service.
- When the offences were categorised more specifically, it is interesting to note that victims who had experienced rape were by far the most likely to request ongoing contact from the probation service (most of the rape victims were female so this could be contributing to the fact that there are so many more female victims taking up the offer of contact), and victims who had experienced unlawful wounding were the least likely to request ongoing contact.
- Just over a quarter of victims whose offenders had been sentenced to less than four years in prison took up the offer of contact from the probation service, and almost half of victims whose offenders had been sentenced to over four years took up the offer of contact.

These results suggest that people under 40 years of age, who are female, have experienced a sexual offence, and whose offender has been sentenced to over four years in prison are the most likely to take up the offer of contact from the probation service. They also suggest that males who are over 40 years of age, who have not experienced a sexual offence, and whose offenders have been sentenced to less than four years in prison are the least likely to take up the offer of contact from the probation service. There does not appear to be a significant difference in the number of male and female victims contacted by the probation service, but it can be seen that males are more likely to experience violent offences, and females are more likely to experience sexual offences. The difference in offence type could therefore be a major reason why there are more females taking up the offer of contact from probation personnel. In future research, it may be beneficial to look at the reasons why male victims of violent offences do not want to take part in the victim contact service because there may be a large number of male victims who are missing out on a service that could be of benefit to them. If this is the case it could be that improving this situation would help to decrease the marginalisation of victims in general. It may also be important to look at why there are so many victims whose offenders have been sentenced to less than four years declining to take part in the victim contact service. As mentioned already, the victim contact service was expanded in April 2001 to include victims of offenders who have been sentenced to less than four years (12 months and

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over). If this was done to help to meet the needs of victims then why are so many of these victims turning down the chance to receive information and have their say? What can be done to ensure that all victims are given an equal chance to access the victim contact service?

This survey went on to examine the nature of training received by victim liaison officers and probation officers, with respect to victim work, because the quality of service is likely to be reduced if inadequate training is received by those involved. It was difficult to come to any firm conclusions about the amount and nature of training that probation officers and victim liaison officers have received in the two areas under study, but it was apparent that most individuals said that they would benefit from further training. Most probation staff (including victim liaison officers) included in this study also said that the main guidance (National Probation Directorate, 2001) about the victim contact service was not clear and easy to understand. When comparing the amount of training received by victim liaison officers and probation officers, victim liaison officers seem to have received more training which is to be expected considering the nature of their work. However, probation officers, traditionally concerned with the rights of the offender, need to be aware of their responsibilities towards meeting the needs and rights of victims. The fact that probation officers do not receive a great deal of training with respect to victims suggests that putting time aside for the victim contact service is not a high priority, except for victim liaison officers working directly with victims.

As already mentioned, one of the main aims of this survey was to examine how well the probation service meets the expectations of the victims who take part in the victim contact service. With this in mind, it also looked at how often conditions requested by victims are placed on the offender's licence. It was found that there are some instances where these conditions cannot be implemented, and in cases where these conditions are instigated they are often difficult to enforce, meaning that, in both of these situations, some victims may be left feeling afraid and therefore marginalised, with their needs not having been met. This is something that cannot be completely controlled by the probation service (with the Prison Governor making the final decisions), so it is important that all these issues are made clear to the victims by the victim liaison officers to avoid creating false expectations. On the other hand, there were a few cases when conditions were successfully implemented, and which seem to have gone a long way towards meeting the needs of the victims involved. Probation officers stated that the condition that an offender should not seek to approach or contact the victim is usually operationalised, probably because it is easier to enforce, but in these cases it is important to advise the victims on what to do if the offender breaches the condition.

The needs-versus-rights debate was also of relevance to this survey as it could be suggested that a needs based approach to crime victims encourages discretion and distinctions between 'deserving' and 'undeserving' victims (Mawby and Walklate, 1995). The views of Victim Support and victim liaison officers as to whether victims should have legally enforceable rights did not imply that this would be the case. In general they felt that

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giving victims more legally enforceable rights would result in more problems than benefits. Most respondents felt that victims should have legal rights up to a point, and that the rights that they have currently, namely to put forward their views and receive certain information, through victim impact statements and the victim contact service, are adequate. However, not all victims of crime have access to the victim contact service and the majority of respondents in this study (probation officers, victim liaison officers and Victim Support representatives), felt that all victims of offenders serving 12 months or more in prison should be informed of their release (assuming that the resources were made available). At present, because the probation service is only required to contact victims of violent and sexual crimes, there is considerable scope for discretion when decisions are made about which victims should be contacted. If all the victims of offenders who have been sentenced to 12 months or more in prison were contacted by probation officers, surely this would minimise the opportunities for this kind of discretion and thus help to reduce the marginalisation of victims in general.

In the two areas studied here, Victim Support were the only agency supporting victims involved with the victim contact service. Finding out whether Victim Support is always the most appropriate agency to use was important regarding whether or not the victims' needs are being met. Would a victim find it more beneficial to see a specialist agency such as SAMM (Support After Murder and Manslaughter), Women's Aid, or Rape Crisis for example? From the results it appears that Victim Support are well trained in working with victims of violent and sexual crimes, and there were mixed ideas about whether victims would benefit from the probation service establishing partnerships with other agencies supporting victims. The practical difficulties of establishing partnerships such as these were mentioned, but it was suggested that if the victim had already received help and support from one of these agencies then it should be the same agency working with the probation service to provide victim contact services. If this were to be the case it would necessitate close working relationships between the probation service and the other agencies concerned.

Conclusion

It is apparent that the probation service initially struggled to cope with their ever increasing responsibilities with respect to victims, but with time and experience have strived to improve the quality of the services they deliver.

The results from this survey show that the areas studied now provide many victims with information and opportunities to be more involved in the criminal justice system, than they would not have had a few years ago. It may be that there is now a little more room in the contest between the state and the suspect (or the offender), for the third party interest of the victim. The procedures and policies implemented by the probation service with respect to victims do appear to be much more than symbolic, but the service could be improved still further in the following ways:

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- Improved communication within the probation service and with other Government agencies.
- More training for members of staff involved in the victim contact service.
- Closer working relationships between the probation service and other agencies supporting victims.

These improvements would further reduce the marginalisation of victims, and it is also possible that the needs of even more victims would be met if all victims of offenders who have been sentenced to 12 months or more in prison were contacted by members of the probation service.

More research, however, needs to be carried out relating to the following points:

- Why is there sometimes a lack of communication between various criminal justice agencies, causing delays and problems for some victims, and what can be done to rectify this situation?
- Would it be feasible to set up closer working relationships with other agencies supporting victims, with the aim of these agencies becoming involved in the victim contact service?
- Exactly which parts of *Probation Circular 62/2001* do victim liaison officers and probation officers struggle to understand, and why is there a lack of general awareness on the part of resettlement probation officers about this circular?
- Is there anything else that resettlement probation officers and victim liaison officers can do to increase the chances of licence conditions requested by the victim being implemented?

It is also relevant that the only victims involved in this study were those who did take up the offer of contact so it follows that there is a need for research about why some victims do not take up the offer of contact, especially regarding the following points:

- Why do so few males take up the offer of contact? Is this to do with the type of offence or are their other issues involved?
- Why are there proportionately less victims whose offenders are sentenced to less than four years in prison taking up the offer of contact than victims whose offenders are sentenced to more than four years? Is there anything that can be done to improve the take up rate?
- Why are there fewer victims over the age of 40 taking up the offer of contact?

It becomes clear from the above that more research must be carried out to find out why certain victims are not taking up the offer of contact from the probation service, and a satisfaction survey such as this one needs to be conducted with a larger number of victims in order to reach some more concrete conclusions about whether their needs are being met by the probation service.

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