

Victims of Offences Symposium

Friday 13 June 2003

Speech notes for Hon Phil Goff

Minister of Justice

INTRODUCTION

Kia ora katoa. I am pleased to have the opportunity to speak at this Victims of Offences Symposium. I am also very pleased to be back at AUT. I very much enjoyed my sabbatical from Parliament teaching here for three years in the early 1990's.

More than fifteen years have passed since the Victims' Task Force was created to oversee the implementation of the *Victims of Offences Act 1987* and the development of victims' policy. It is over 10 years since the Task Force submitted its final report.

So it's time to assess our progress in meeting the needs of victims over the past decade. This symposium provides an invaluable opportunity not only to assess how well we have done but also to identify what remains to be done in the future.

How have things changed for victims of offences since 1992?

1. PREVENING VICTIMISATION

The best possible action we can take for victims, of course, is to take effective action to prevent them from becoming victims in the first place.

Family Start is a programme that identifies high-risk families at the time of child birth, where children are at risk of poor health, educational under-achievement, abuse and future offending. It provides the assistance of a dedicated family worker, who assesses the family's needs, teaches parenting skills, and makes appropriate referrals. This assistance enables families to take responsibility for helping themselves and particularly their children. The Family Start programme operates in 16 sites around New Zealand and is having positive results.

A comprehensive new Youth Offending Strategy, announced last year, is designed to ensure that we not only respond effectively to

youth offending after it occurs but also intervene early before offending behaviour becomes entrenched.

The strategy is based on the report of a Ministerial Taskforce on youth offending, chaired by the then Principle Youth Court Judge, David Carruthers.

The key measures are:

- The creation of local youth offending teams to ensure a properly integrated and coordinated response to youth offenders across government agencies.
- New programmes targeted at high risk serious young offenders, inadequately catered for under the current youth justice system.
- Programmes aimed at early intervention for children and youth at risk, aimed at tackling the causes of offending.
- Tackling deficiencies in family group conferences.

The taskforce found that a plethora of agencies involved in youth justice often operated independently of each other with inadequate coordination.

This increased the risk of duplication and of gaps in the systems.

Thirty local Youth Offending Teams, drawing together personnel from Child Youth and Family, Police, Education and Health were established at the end of last year to provide coordinated service delivered at a local level.

The new system includes a holistic approach to dealing with factors contributing to offending, joint training and adopting best practice policies to address problems identified in current programme delivery.

The taskforce also identified a gap in effective response to serious young offenders between adult sanctions and procedures and programmes designed for less serious offending in the Youth Court.

The new policy provides for

- i. Te Hurihanga residential programme

This pilot will target recidivist offenders providing them with intensive rehabilitation programmes in a closely supervised environment. The pilot is designed as an alternative to prison for serious young offenders, aged between 14 and 16 years, and is being established in the Waikato area. It should be opened in the first half of next year.

It will replace failed programmes such as Corrective Training.

ii. Reducing Youth Offending Programme (*formerly known as Day Reporting Centres*)

These community based programmes are being piloted in Auckland and Christchurch. They are now operational, having started receiving clients in the last few months.

These will target the next level of offenders with individualised programmes of up to 6 months, that are goal-focussed and are provided in the context of the family/whanau existing environment.

The centres, administered by Corrections and CYF, will work with 14-18 year olds at high risk of progressing to chronic adult offending.

The two centres are expected to cater for approximately 130 offenders per year.

iii. Youth Drug Court

A pilot programme has been initiated in Christchurch, using the judicial process to refer young offenders with serious drug and alcohol problems to a treatment plan under intensive judicial supervision. A Youth Drug Court Team involving a health clinician, special education services, Police, CYF and a youth advocate ensure an holistic and integrated approach and that available drug and alcohol services are targeted at the highest risk youth requiring treatment.

3. Intervention Programmes for Children and Youth at Risk

A range of programmes dealing both with at-risk families with very young children and children and young persons who have offended or are at risk of offending have been developed in recent years and are being evaluated.

In education, there will be specific focus on reviewing truancy services, an initiative for reduction of suspensions which in targeted areas has for example led to a 26 per cent reduction in Maori suspensions, and alternative education.

Last month I announced yet another education based initiative. Project Early is a successful early intervention programme for children with behavioural problems piloted in Christchurch, is to be established in Auckland.

Project Early involves trained specialists in early education working with teachers and parents to identify and remedy behavioural problems in children aged four to eight, when the problems first become obvious.

The key lies in its holistic approach, recognising that students need support outside the school setting. By assisting students and their families at home, we provide a stronger basis for better participation at school and it helps these children stay engaged in education.

Formal evaluation of the project found that it was successful in dealing with, and permanently resolving, behavioural problems in 80 percent of its interventions.

John Langley, one of the five school principals who started Project Early and now Chief Executive of the Auckland College of Education, will assist with establishing the Auckland cluster. Work will shortly begin to identify schools that could be involved.

Funding of \$600,000 over the next three years will see Project Early operating in a cluster of Auckland primary schools and early childhood centres from next January. The funding also secures the on-going programme in Christchurch.

4. Improving the Effectiveness of Family Group Conferences

The taskforce endorsed family group conferences as an effective and internationally renowned mechanism for dealing with serious young offenders.

There are however inadequacies in practice, particularly in effectively implementing the plans agreed to at those conferences.

CYF is implementing changes to ensure timely hearings and effective monitoring and follow up to ensure FGC recommendations are implemented.

The problem of uneven workloads and inadequate training is being addressed.

A new structure to support and monitor the work of Youth Justice Coordinators has been established, and joint training programmes have been provided for Coordinators and Police Youth Aid Officers.

Another problem identified was that too often, the FGCs have been making decisions without sufficient information to ensure that their decisions are the most appropriate ones, and that they will be effective.

Police and CYF have developed an Adolescent Risk Needs Inventory to assist Police in deciding how best to address a child/young person's offending within the youth justice system, and to identify and address the factors contributing to the offending. ARNI is now being piloted

in several areas before full implementation. This will improve the information informing FCGs.

Funding of \$4.62 million, spread over four years, has been set-aside in this year's Budget to develop education and health assessments for high-risk young offenders appearing at Family Group Conferences, and begin regional implementation.

The availability of education and health assessments for the young offender will help make the conferences more effective by identifying underlying problems which are often associated with repeat offending.

The assessments will be for youngsters identified as most likely to engage in serious and persistent offending. Effective intervention is therefore likely to have significant impact on overall offending levels.

Attendance and success at school is a strong factor in stopping offending. Many high-risk youngsters, however, are unlikely to be attending or achieving in the education system, having been suspended or excluded from school.

Education assessments will be carried out with children aged between 10 and 14, who are attending their first Family Group Conference and have been identified as having significant education problems.

The emphasis is on younger children because early offending is an indicator of those at risk of going on to life-long offending. This is the group that is also most open to change or intervention.

Health problems are also a factor with many high-risk young offenders. These include mental health disorders, drug and alcohol abuse or dependence, ADHD, conduct disorders, undiagnosed intellectual disability, or physical health difficulties such as eyesight or hearing difficulties.

All of those issues can impact on offending behaviour, and the assessments will identify what action is needed to address any health issues a young offender may have.

As with the education assessments, a health assessment resulting in an appropriate intervention could have a significant impact on reducing a youngster's likelihood of re-offending.

The Youth Offending strategy focuses on the area where the next generation offenders will otherwise come from. It will ensure a significantly better and more effective response to offending by young people. Very good progress is being made in implementing that strategy and I am confident that if we build on these developments, we will be successful in achieving a substantial reduction in the number of victims.

We still have a long way to go, particularly in the development of effective early intervention strategies, but we are on the right path.

2. RESPONDING TO VICTIMS' NEEDS

For those who do become victims, it is critical that the system responds adequately to their needs.

Today we have a better capacity to meet those needs, through the efforts of committed service organisations, such as Victim Support and Women's Refuge. Victim Advisers are now available at all District and High Courts to give help and information to victims throughout the court process. Victim Advisers provide information and assistance to victims during the Court process, which can be

confusing and potentially intimidating. Advisers can explain what's going on in a case and ensure that a victim knows that their rights are at every stage.

Government has also put much greater funding into the provision of victim support services, with a further \$500,000 announced in last month's budget. This funding will allow Victim Support to introduce a regionally-based professional management structure to improve the quality and consistency of the services it offers to victims of crime. New district managers will be responsible for ensuring that victims get the assistance they need, delivered by properly trained and professionally supported volunteer workers. They will also be responsible for organising local fundraising.

The second National Survey of Crime Victims published last month shows that this additional resource is producing dividends - although there are still too many victims needing assistance who were not getting it, there were significantly fewer victims in that category than there had been 5 years earlier.

Most importantly of all, we are now in a new era for victims' rights, with the Victims' Rights Act having been in force for nearly 6

months. The new Act addresses the concerns clearly expressed by the public in the 1999 referendum that the criminal justice system has not been sufficiently responsive to the rights and needs of victims. In brief:

- The Act for the first time creates explicit enforceable rights for victims, with corresponding mandatory obligations upon specific government agencies to uphold those rights.
- It requires that they be informed of available programmes, services and remedies to meet their needs and be kept informed of the progress in the case against the offender.
- It sets out detailed procedures to ensure that every victim has the opportunity to submit a victim impact statement to the court about the effects of the offence upon them, which can be taken into account by the sentencing judge. Victims may if they choose read that statement orally to the court.
- It enables all victims to be consulted on any application for name suppression brought by the offender, and the victims of serious offences to be consulted about applications for the offender's release on bail.
- It extends the victim notification scheme not only to those who are the victims of serious violent or sexual offending but also to those who have reasonable grounds to fear for their safety.

- Both the Victims Rights' Act and the new Parole Act also enable victims to make submissions to the Parole Board.

I welcome the support of the New Zealand Council of Victim Support Groups, which has described the legislation as a huge leap forward for victims. The Ministry of Justice has prepared material which is available to all victims, and to those who deal with victims, so that they are properly informed of the rights available under the new Act and of the support services available to victims. Although the Act has still to be systematically evaluated the anecdotal feedback I have received suggests that it is, by and large, working well.

However, putting rights into legislation does not by itself guarantee that those rights are delivered. Just this week we had the example of a victim not being advised of a hearing of a case on appeal relating to an offender who has lost control of his car while speeding and killed her young daughter. A junior member of staff had forgotten to tell the Victims Adviser - a simply human error but with unacceptable consequences. Courts have now been asked to devise a system where the supervisor must check off the fact that the victim has been informed of the hearing date before the hearing proceeds.

In regard to the same case, the Sentencing Act requires the Court to take account of the remorse and willingness to make amends as a factor in mitigating the wrong done. However, in the same section, section 10, it also requires the Court to take account of whether the victim considers the offender's action as mitigating the wrong. We have asked Police prosecutors to ensure that where this case is made out by the defence, the action to make amends is verified and that the victim's view on this is made available to the Court.

3. CONFIDENCE IN THE CRIMINAL JUSTICE SYSTEM

Effective crime prevention programmes, and effective measures to respond to the needs of victims, are essential, but they are not enough. New Zealanders must also have confidence in the fairness and effectiveness of the criminal justice system and its ability to keep the community safe. The 1999 referendum was a reflection of the fact that the public has lost that confidence. That is why a major priority of the government during its last term was the passage of the new Sentencing and Parole Acts, which came into force on 30 June 2002.

The legislation has significantly increased the punishments available for the worst offenders:

- A life sentence, with a non-parole period of 17 years, must ordinarily be imposed for a murder involving any aggravating factor.
- The maximum penalty must generally be imposed for the most serious offending, and sentences near to the maximum for offences which are close to the worst offending.
- Release on parole is now determined on the basis of the offender's risk: offenders will not be released until the end of their sentence unless the Parole Board is satisfied that they do not pose an undue risk to the safety of the community.
- The indeterminate sentence of preventive detention for offenders who have demonstrated that they pose an ongoing high risk to the community, is now available for a greater range of offenders.
- And I have just signalled an intention to introduce a bill amending the legislation later this year, so that high risk child sex offenders who are released from custody can be subject to monitoring, supervision and treatment conditions for up to 10 years - much longer than current parole arrangements permit.

The Sentencing Act also makes reparation available in a wider range of circumstances where a victim suffers harm, and the Court is required to impose it unless it would result in undue hardship or other special circumstances would make it inappropriate. If not imposed, the Court must state why not. There are also provisions to ensure that the sentencing judge receives information about the offender's financial circumstances and his or her ability to pay reparation.

These provisions in the Sentencing Act complement measures to improve the collection of reparation over the past ten years.

Legislative amendments in 1998 gave the Department for Courts additional powers to share information with other agencies (such as IRD and the Work and Income Service), new enforcement powers, and power to make compulsory deductions from a wider range of income, including benefits.

CONCLUDING REMARKS

In the last 10 years much has been done. We have substantially enhanced crime prevention efforts; we have improved victims' services and legislated for victims' rights; and we have reformed the sentencing and parole systems. These are important steps forward,

but preventing crime is a dynamic not static process. Further innovation will be needed to build on what we have achieved so far.

Three particular areas of further work which have implications for victims are already being undertaken.

First, despite the improvements in the collection of reparation over the last few years, I am not satisfied that we are doing all that we should to ensure that victims are properly compensated for their loss, damage or harm. The Ministry of Justice is therefore looking at what other measures we can take to increase the amount of reparation collected and the speed with which it is paid by offenders.

Secondly, I have asked the Ministry to work with Victim Support to ensure that the funding available from government for victims is properly targeted to areas of greatest need.

Thirdly, I have asked the Ministry of Justice to develop a framework to guide the future development and funding of restorative justice processes. This work aims to support the emphasis placed on restorative justice in the Sentencing, Parole and Victims' Rights Acts.

I believe restorative justice has the potential to meet the needs of many victims more effectively than the formal criminal justice system is able to do. However, I am also aware that restorative justice processes carry risks for those who participate in them. For victims, a face-to-face meeting with an offender can be a significant challenge. This meeting needs to be conducted in a safe and appropriate way so that victims do not come out of the process feeling worse than before.

The Ministry of Justice is currently developing principles of best practice for when and how restorative justice processes should be used in conjunction with the criminal court process. The principles identify those safeguards that need to be in place to protect the rights and needs of participants. They recognise the central role victims play in restorative justice processes and the need to fully involve victims from the time restorative justice is first suggested until after a restorative justice conference has been completed.

Consultation about draft principles has recently been completed. I understand that feedback has been generally positive and useful suggestions have been made about how the draft principles can be improved. They will be finalised in the coming weeks and the

Ministry will then begin work on their implementation. This will include the identification of roles and responsibilities, particularly of government agencies, and consideration of funding issues.

All of these initiatives will benefit from discussion and debate and I would welcome your input. We can achieve more by working together to identify areas for improvement and change. The symposium today is an excellent opportunity to do that.