

Victims of Crime Commissioner submission to *Improving victims' experience of summary criminal proceedings: Issues Paper*

10 August 2021

Importance of a comprehensive review into victims' experience of summary criminal proceedings

As outlined in my previous correspondence to the Department of Justice and Community Safety (DJCS) on 3 May 2021, issues experienced by victims in the summary jurisdiction can impact the highest proportion of victims in Victoria given the Magistrates' Court of Victoria (MCV) deals with 95 per cent of all crimes against the person in Victoria.

Accordingly, this review provides an important opportunity to comprehensively consider all barriers and issues experienced by victims of crime in this jurisdiction.

The *Victims Charter Act 2006* (Vic) requires 'a review to be conducted into legislative and non-legislative changes that are necessary and appropriate to improve the experience of victims participating in summary proceedings for criminal offences'.

While I appreciate the prioritisation of key issues as identified in the Issues Paper, I reiterate my previous advice that the limited scope of the review is a missed opportunity to provide a comprehensive 'point in time' picture of victims' experiences in the summary jurisdiction.

The Victims' Charter—a framework for reviewing laws, policies and processes for victims in the summary jurisdiction

The *Victims' Charter Act 2006* (Vic) (Victims' Charter) sets cultural and behavioural obligations for justice and victims' services agencies. The objectives of the Victims' Charter also provide a framework for reviewing the extent to which laws, policies, processes (and actual practice) meet Parliament's expectations about the treatment of victims.

The Victims' Charter provides a sound basis for considering the extent to which laws, policies, processes as they apply to victims' experience of the summary jurisdiction meet the objectives of the Victims Charter which are to:

- recognise the impact of crime on the victims of that crime

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- treat victims with respect
- enable victims to access appropriate services to help with the recovery process
- recognise that a victim of crime has an inherent interest in the response by the criminal justice system to that crime
- acknowledge the victim's role as a participant in criminal proceedings
- help reduce secondary victimisation by the criminal justice system.

Prioritisation of court efficiency over victim entitlements

The Issues Paper states that 'the review will consider the balance of rights and interests of victims, accused persons and the community in the context of the high volume, fast-paced summary proceedings'. In my experience, the interests and entitlements of victims are often only considered as an 'afterthought' in the summary jurisdiction rather than placed on equal footing with the rights of accused and court efficiency. As also stated in the Issues Paper, 'victim experience [in summary proceedings] is often secondary to the need to ensure cases are finalised efficiently.'¹

When recommending victims be recognised under the Victims' Charter as participants in criminal proceedings in 2016, the Victorian Law Reform Commission (VLRC) intended 'to foster cultural change across the criminal justice system in order to instil greater respect for victims and wider recognition of their rights and entitlements'.² Although the VLRC's review only related to criminal matters in the indictable stream, changes to the Victims' Charter recognising victims as participants apply to all victims in Victoria, regardless of jurisdiction.

However, victim entitlements, particularly in the summary jurisdiction, are too often regarded as 'aspirational' or 'best practice'—adherence to them is contingent on them not inconveniencing the court, prosecution, or defence (or impacting case throughput). As noted in the Issues Paper, a clear example of this is in the case of Victim Impact Statements (VISs) where a victim's entitlement to make a VIS is stymied in the summary jurisdiction by prioritisation of court efficiency and case throughput.

Having regard to the objects of Victims' Charter, and the Government's commitment to 'putting victims first',³ it is no longer appropriate for victim entitlements to be secondary to court efficiency and case throughput.

¹ Department of Justice and Community Safety, *Improving victims' experience of summary criminal proceedings: Issues Paper* (Issues Paper, 2021) 10.

² Victorian Law Reform Commission, *The Role of Victims of Crime in the Criminal Trial Process: Report* (2016) ('*The Role of Victims of Crime in the Criminal Trial Process*') 104.

³ Australian Labor Party (Victorian Branch), *Platform 2018* (2018) 76.

Inequality in victim entitlements under the Victims' Charter

Under the Victims' Charter, victims in the indictable stream (prosecuted by the Director of Public Prosecutions) (DPP) are entitled to more specific information and consultation than victims in the summary stream (prosecuted by Victoria Police).⁴

The differing information and consultation requirements under the Victims' Charter effectively create two tiers of victims in Victoria.

When approaching the Victims' Charter entitlements from a trauma-informed and victim-centred lens, it is evident that there is no sound policy rationale for maintaining two tiers of victim entitlements.

As outlined in further detail below, I advocate for consistency and equity in victim entitlements under the Victims' Charter, regardless of jurisdiction or prosecuting agency.

Given the seriousness of crimes heard in the Magistrates' Court (which can include sexual assault, stalking and serious cases of assault), it is simplistic to suggest such crimes are perceived as 'less serious' by victims (or cause 'less harm' to victims) than those crimes heard in the indictable jurisdiction.⁵

While I appreciate the differing volume and speed of cases in the summary jurisdiction, the Victorian justice system must adapt to better accommodate victims. Practices of the court, prosecution and defence must evolve so that victims' entitlements are respected and implemented in practice, regardless of jurisdiction or speed of the process.

Enhancing victim information and consultation entitlements under the Victims' Charter

A substantial body of literature demonstrates that a lack of timely and accurate information during the justice process remains one of the biggest causes of victim frustration and dissatisfaction.⁶

⁴ For example, the Director of Public Prosecutions must seek the views of a victim before the DPP makes a decision to modify charges, discontinue the prosecution, accept a guilty plea to a lesser charge, appeal a sentence or acquittal. These requirements don't apply in the summary jurisdiction where Victoria Police prosecutes. See *Victims' Charter Act* (Vic) 9B (1).

⁵ Research also suggests that the impacts of crime do not always correlate with crime types. For example, Cook et al note that the impacts of crime victimisation vary with the individual and that each victim will react differently according to their life experience. See, for example, Bree Cook et al, *Victims' Needs, Victims' Rights: Policies and Programs for Victims of Crime in Australia* (Research and Public Policy Series No.19, Australian Institute of Criminology, 1999) x.

⁶ Elaine Wedlock and Tapley, Jacki, *What Works in Supporting Victims of Crime: A Rapid Evidence Assessment* (Victims' Commissioner and University of Portsmouth, March 2016) 13. See also, Victorian Law Reform Commission, *The Role of*

Similarly, a lack of consultation with victims during the justice process has been associated with victim disenchantment. Victims of crime often describe having limited or no opportunity to participate or have their voice heard during the criminal justice process.⁷ Conversely, with increased participation and voice in the criminal justice process, victims perceive a more equitable justice system.⁸

In this submission, I support reforms that improve provision of information and enhance victim consultation entitlements through:

- a new obligation under the Victims' Charter that requires Victoria Police explain charging practices and potential outcomes to victims when an accused person is charged
- extending Victims' Charter consultation entitlements to all prosecutor agencies
- a new obligation under the Victims' Charter requiring all prosecuting agencies to seek the preliminary views of victims in advance of possible plea discussions.

Such reforms would support the cultural change needed to instil greater respect and recognition for victims across the justice system.⁹

A new obligation to explain charging practices and potential outcomes

I support the introduction of a new obligation under the Victims' Charter that requires Victoria Police to explain charging practices and potential outcomes to victims when an accused person is charged.

While the Issues Paper proposes that a new obligation to explain charging practices might be an alternative to extending Victims' Charter consultation requirements, I support the introduction of both initiatives (as outlined further below).

In my view, explaining charging practices (and potential outcomes) to victims should be articulated as a basic entitlement for victims under the Victims' Charter and is consistent with Victoria Police's policy commitment to provide victims with 'adequate and timely information throughout the criminal justice process.'¹⁰

Victims of Crime in the Criminal Trial Process: Report (2016) ('*The Role of Victims of Crime in the Criminal Trial Process*') 107.

⁷ Arie Freiberg and Asher Flynn, *Victims and Plea Negotiations: Overlooked and Unimpressed* (Palgrave MacMillan, 2021) 44.

⁸ Centre for Innovative Justice, RMIT University, *Communicating with Victims about Resolution Decisions: A Study of Victims' Experiences and Communication Needs* (Report to the Office of Public Prosecutions, Victoria, April 2019) 9.

⁹ As envisaged by the VLRC following their review of victims' role in the criminal trial process. See: Victorian Law Reform Commission, *The Role of Victims of Crime in the Criminal Trial Process: Report* (2016) ('*The Role of Victims of Crime in the Criminal Trial Process*') 104.

¹⁰ Victoria Police, *Future Directions for Victim-Centric Policing* (2015) 5.

Extending Victims' Charter consultation entitlements to all prosecutory agencies

All victims, regardless of the jurisdiction in which their matter is progressed, should have the same rights and entitlements enshrined in the Victims' Charter.

Consultation with a victim of crime during the criminal justice process is one of the few participatory entitlements granted to victims. It is unjust that such a basic entitlement is currently limited to a small proportion of victims in Victoria.

The existing information and consultation requirements outlined in the Victims' Charter (as applicable to the DPP) should be extended to the summary jurisdiction. As noted in the Issues Paper, the Victims' Charter already provides an exception to mandatory consultation requirements where it is not practical to contact a victim due to the speed or nature of the proceedings.

Given advances in technology, communication methods and IT infrastructure in courts since the introduction of the Victims' Charter (and more specifically, since COVID-19), further work should be done to explore how victims can be better accommodated during decision making in the summary jurisdiction while not unduly delaying the court.

I do not support the extension of consultation requirements to limited victim cohorts (e.g. only victims of sexual assault) as suggested in the Issues Paper. Victim impact and harms caused by crime are not crime dependent.¹¹ Such an approach would further entrench inequality in victim entitlements in Victoria.

A victim's entitlement to participate, and be consulted, at key stages of the criminal justice process should be extended to all victims, rather than reserved for a select few.

A new obligation to seek preliminary views of victims

I support a new Victims' Charter obligation requiring all prosecuting agencies to seek the preliminary views of victims in advance of possible plea discussions. However, it should not be accepted that in all cases, the speed of the summary jurisdiction means it is not possible to accommodate victim consultation during the plea process. I caution against any blanket assumptions that victims cannot be consulted during plea discussions in the summary jurisdiction.

¹¹ Research also suggests that the impacts of crime do not always correlate with crime types. For example, Cook et al note that the impacts of crime victimisation vary with the individual and that each victim will react differently according to their life experience. See, for example, Bree Cook et al, Victims' Needs, Victims' Rights: Policies and Programs for Victims of Crime in Australia (Research and Public Policy Series No.19, Australian Institute of Criminology, 1999) x.

Accordingly, a new obligation to seek preliminary views of victims should work in parallel with extended Victims' Charter consultation requirements outlined above, rather than in lieu of facilitating victim consultation during plea discussions.

While it is accepted that the pace of proceedings does differ in the summary jurisdiction, it is also the case that matters in the summary jurisdiction may be adjourned or delayed pending advice relating to an accused (e.g. to undertake an assessment or seek a report). It should not be accepted that in all cases, the speed of the summary jurisdiction means it is not possible to accommodate victim consultation.

More effective provision of court hearing information to victims

Despite the Victims' Charter information entitlements, victims consistently raise issues in Victoria about:

- not being kept informed in relation to their case
- not receiving crucial information
- feeling under constant pressure to chase information about their matter.¹²

I support initiatives that would expand and automate the availability of court hearing information for victims, such as providing victims with access to an online portal to obtain hearing dates. However, any increased access to court hearing information should not be used to abrogate responsibility by police or other justice or victims' services to keep victims informed about the progress of a case. Any increased provision of online information should complement information provision by police and prosecutions, which would ideally provide more context to the court hearing information.

Consideration should also be given to whether court hearing information should also be able to be accessed by victim support workers to reduce the burden on victims having to seek information and updates themselves.

Victim Impact Statements

Victim impact statements are significant for victims. They represent one of the few opportunities for victims' voices to be heard during the criminal trial process. All victims are entitled to make a VIS under the Victims' Charter,¹³ regardless of jurisdiction.

¹² Ellard, R. & Campbell E., (2020), *Improving Support for Victims of Crime: Key Practice Insights*, Centre for Innovative Justice, RMIT University 14.

¹³ And according to the requirements set out in the *Sentencing Act 1991* (Vic).

However, research in Victoria has previously found significant issues with victims' access to victim impact statements in the summary jurisdiction, despite the seriousness of matters now being heard in the Magistrates' Court.¹⁴ As part of a Department of Justice review of VISs in 2014, the following statement was made:

The research findings highlight a significant gap for victims of crime in the Magistrates' Court with respect to VIS use. This is clearly a complex issue, but the same circular problem that was highlighted in A Victim's Voice continues to exist and needs to be addressed, i.e. – prosecutors say they do not obtain VISs because magistrates do not ask for them, whilst magistrates say they do not ask for them because prosecutors never have them.¹⁵

While Victims Assistance Program (VAP) workers are experts at supporting victims to make a VIS (including progressing VIS preparation as part of a case management or therapeutic relationship), VIS availability in the summary jurisdiction is dependent on:

- victims being kept up to date with court hearings (so they are aware of when their VIS may be needed)
- matters being adjourned, where appropriate, so that a VIS can be sought where a victim has not attended court (or may not have been aware of a court hearing).

Adjourning matters for VIS submission

Given the risks posed to victims by submitting their VIS in advance (e.g. risk of cross-examination on its content), the most effective approach for increasing VIS use in the summary jurisdiction is for magistrates to more routinely ask for VISs and adjourn cases where a VIS has not been provided, particularly where police prosecutors cannot indicate whether a victim has been made aware of their right to make a VIS.

Previous research and policy development undertaken with police and courts as part of a Department of Justice review of VISs in 2014 suggested little improvement could be made to enhancing VIS accessibility for victims in the MCV unless the court was willing to adjourn matters so that enquiries could be made with a victim about the availability of a VIS.

The review also spoke to the need for a cultural shift in the summary jurisdiction to facilitate VISs given the right to make a VIS is not a right restricted to victims only involved in matters in the indictable stream:

...there is also a need for a cultural shift within the magistracy to one more in line with that which prevails in the higher courts where judges routinely enquire about VISs if they are not submitted.

¹⁴ Department of Justice, *A Victim's Voice: Victim Impact Statements in Victoria* (Evaluation Report, 2009) 43–45; Department of Justice, *Victim Impact Statement Reforms in Victoria: Interim Implementation Report* (2017) 55.

¹⁵ Department of Justice, *Victim Impact Statement Reforms in Victoria: Interim Implementation Report* (2017) 54.

Despite the acknowledged challenges this presents to the Magistrates' Court, the VIS provisions in the Sentencing Act and the Victims' Charter do not limit the right to make a VIS to victims whose cases are heard in the higher courts, but apply to all victims.¹⁶

At the time, the Department of Justice noted the extent to which Magistrates were willing (or legislatively compelled) to adjourn matters to seek reports or receive assessments relating to an accused:

A significant amount of flexibility has been incorporated into Magistrates' Court proceedings to implement a range of specialised programs and diversions for offenders...That there is such flexibility for adjournments to enable consideration of appropriate sentencing dispositions according to the offender's rehabilitation prospects indicates that there is potential for a similar level of flexibility to incorporate the provision of a VIS in serious cases where the impact on the victim is likely to be significant.¹⁷

Enhancing VIS processes for victims in the summary jurisdiction requires commitment and cultural change across Victoria Police and the MCV. Victims' views and experiences need to be at the heart of such cultural change. For this reason, DJCS should develop a time-limited VIS reference group, with representatives of (and reporting obligations to) the Victims of Crime Consultative Committee. This reference group should drive cultural change in relation to VISs and advance the 'multifaceted' approach to improving VIS processes recommended in previous research.¹⁸ It should use the benchmarking data outlined in *Victim Impact Statement Reforms in Victoria: Interim Implementation Report* to measure the impact of any procedural changes and improvements over time.

Sentence indications

As with VIS processes discussed above, sentence indication processes in the summary jurisdiction risk victims missing out on the opportunity to be heard during a significant part of the criminal trial process. Sentence indications also risk further trauma, with victims hearing about a proposed sentence that may not fit with their expectations. This is particularly the case because they are yet to provide a VIS and may query how a sentence indication has been reached without (in their view) consideration of the harms caused to them.

The proposal in the Issues Paper that victims be able to make a preliminary statement about the impact of the offending requires further exploration. While this may be of benefit for some victims, for others, preparing an early statement might:

¹⁶ Department of Justice, *Victim Impact Statement Reforms in Victoria: Interim Implementation Report* (2017) 55.

¹⁷ Department of Justice, *Victim Impact Statement Reforms in Victoria: Interim Implementation Report* (2017) 55.

¹⁸ Department of Justice, *Victim Impact Statement Reforms in Victoria: Interim Implementation Report* (2017) 54.

- risk additional distress or trauma (due to proximity to victimisation experience)
- be too superficial (given the impacts of the crime may not yet be known)
- give rise to similar issues relating to early preparation of a VIS (e.g. inconsistencies between the 'preliminary statement', a victim's witness statement and a later VIS).

Provision of an initial statement might also undermine efforts to enhance victims' access to VISs in the summary jurisdiction, with initial statements being used in lieu of a more comprehensive or substantial VIS because it is more readily available. Victims may be just as disappointed by the court using an outdated or less detailed statement as they are with missing out on an opportunity to make a VIS.

Further research is required to assess the benefits of early statements for victims. For example, regard should be had to victim experiences in the United Kingdom where victims can make Victim Personal Statements (VPS) at the same time as giving a witness statement to police. DJCS should consider victim experiences in the UK, including any benefits of early provision of personal statements as well as any unintended consequences.

Such a proposal requires further development and should be considered as part of the remit of the broader VIS reference group discussed above.

Lack of data on victim experiences of sentence indications

There has been little research to date that has considered the effects of sentence indications on victims of crime. The Sentencing Advisory Council's 2010 report on Victoria's pilot sentence indication scheme found no adverse effects on victims, however, the sample size was too small to draw conclusions and there were no consultations directly with victims of crime. Of particular importance is the impact sentence indications have on a victim's right to provide a VIS as discussed above.

The Sentencing Advisory Council should undertake a further review of the sentence indication process, with a specific requirement to comprehensively assess any impacts on victims, including through transcript analysis and trauma-informed victim engagement.

Support services for victims (and witnesses) in the summary jurisdiction

One of the objectives of the Victims' Charter is that victims 'should be offered information to enable them to access appropriate services to help with the recovery process'.¹⁹

Victoria's existing victim support system overseen by DJCS²⁰ has been found to be a 'one-size-fits-all' system and 'falling short' for most victims of crime.²¹ Victims consistently point to the need for a single point of contact throughout the justice process²² but the system is not currently configured to provide this consistency. As one victim stated in recent research, they wanted to access a 'one stop shop' as they navigated the justice system:

*That was probably the most frustrating bit, understanding that process for someone that never had to be in that situation before. And understanding who to call and who was responsible for what. The police were good in terms of pointing us in the right direction, but there wasn't a one stop shop.*²³

RMIT's Centre for Innovative Justice (CIJ) proposed a strengthened victim support model in their 2020 report *Strengthening Victoria's Victim Support System: Victim Services Review*. While implementation of the strengthened victim support system outlined in the RMIT CIJ review would undoubtedly improve support for victims, and I am broadly supportive of the strengthened support system proposed in that review, there may also be merit in DJCS undertaking a broader review²⁴ of victims' access to:

- victim support²⁵

¹⁹ *Victims Charter Act 2006* (Vic) s4(1)(b)

²⁰ The 'victim support system' in Victoria is overseen by Victim Services, Support and Reform (VSSR) in DJCS. It includes the Victims of Crime Helpline, Victims Assistance Program, Victims Register and restorative justice services. See Centre for Innovative Justice, *Strengthening Victoria's Victim Support System: Victim Services Review* (RMIT - University, November 2020) 9. Victims of certain crimes might also access more specialised victim support, such as victims of sexual assault who may access a Centre Against Sexual Assault (CASA) or family violence victims who may access specialist family violence services.

²¹ C, R. & Campbell E., (2020), *Improving Support for Victims of Crime: Key Practice Insights*, Centre for Innovative Justice, RMIT University' 7.

²² Centre for Innovative Justice, *Strengthening Victoria's Victim Support System: Victim Services Review* (RMIT - University, November 2020) 9.

²³ Centre for Innovative Justice, *Strengthening Victoria's Victim Support System: Victim Services Review* (RMIT - University, November 2020) 34.

²⁴ This review focused on the client-facing services provided by Victim Services, Support and Reform (VSSR): Centre for Innovative Justice, *Strengthening Victoria's Victim Support System: Victim Services Review* (RMIT - University, November 2020) 24.

²⁵ Victim support in Victoria is overseen by Victim Services, Support and Reform (VSSR) in DJCS. It includes the Victims of Crime Helpline, Victims Assistance Program, Victims Register and restorative justice services. See Centre for Innovative Justice, *Strengthening Victoria's Victim Support System: Victim Services Review* (RMIT - University, November 2020) 9. Victims of certain crimes might also access more specialised victim support, such as victims of sexual assault who may access a Centre Against Sexual Assault (CASA) or family violence victims who may access specialist family violence services.

- witness support²⁶
- at-court support.²⁷

In addition to the current shortcomings in victim support (as already highlighted in the RMIT CIJ review), both witness support and at-court support for victims in Victoria is fragmented.

As can be seen in **Figure 1** below, witness support and at-court support services are overseen by different organisations and agencies, with varying levels of service provision, specialisation, eligibility and scope. Sometimes service provision is entirely separate to victim support.²⁸ Other times different types of support are integrated in the one service.²⁹ In some instances, there is crossover between one type of support and another type of support.³⁰

Figure 1: witness support and at-court support for victims in Victoria

| Type of service | Agency / organisation | Accessibility / scope |
|------------------------------------------------------------|-------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------|
| Child witness service | DJCS | Limited by age |
| Children's Court Support Coordinator (for all court users) | Children's Court | Limited by jurisdiction Not a specialised victim / witness service (but available to all court users) |
| Court Network | Non-profit community organisation | Across all jurisdictions – not a specialised victim / witness service (but available to all court users) |
| Intermediaries Program | Intermediaries are officers of the court Panel of intermediaries managed by DJCS | Limited by age / disability status and crime type Program is not a victim 'support' program—intermediaries are officers of the court. |
| Koori Court Officers (various courts) | Court Services Victoria | Available for Aboriginal and Torres Strait Islander court users. |

²⁶ Witness support services provide support to those required to give evidence at trial. In Victoria, witness specific support is only available to child witnesses (by the Child Witness Service overseen by VSSR) and witnesses in the indictable stream (by the Victims and Witness Assistance Service overseen by the OPP). Witness support may be more time-limited than 'victim support' because it is focused on the process of giving evidence. However, it is usually more intensive than 'court support' which is often limited to practical or emotional support 'on the day' at court.

²⁷ At-court support is support specifically targeted to court-users but is often generalist in nature, rather than provided specifically for victims or witnesses. 'Court support' is often limited to practical or emotional support 'on the day' at court.

²⁸ For example, the Child Witness Service supports child *witnesses* only.

²⁹ For example, the OPP's Victims and Witness Assistance Service assists both *victims* and *witnesses*.

³⁰ For example, VAPs, who provide generalised victim assistance can also provide at-court support for clients required to give evidence. But this is also distinct from 'witness support' which is a specialised type of service targeted at providing support related to the task of giving evidence.

| Type of service | Agency / organisation | Accessibility / scope |
|----------------------------------------------|------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------|
| | | Not a specialised victim / witness service (but available for all Aboriginal and Torres Strait Islander court users) |
| Family violence applicant practitioners | Court Services Victoria | Limited to family violence-victim survivors Limited by court location |
| Sudanese Cultural Support – Children’s Court | Children’s Court and Court Network partnership | Limited by jurisdiction Available for Sudanese court users Not a specialised victim / witness service (but available for all Sudanese court users) |
| OPP’s Victims and Witness Assistance Program | Office of Public Prosecutions | Limited by jurisdiction |
| Victims Assistance Program (VAPs) | Various community-based organisations funded by DJCS | At-court support provided on an ‘as needs’ basis by individual VAP case managers (and subject to overall case load / resources) |

As noted in the Issues Paper, there may be benefits in service delivery targeting specific cohorts, particularly in the context of creating cultural safety for particular court users, providing age-appropriate support and understanding the gendered impact of certain crime (like family violence). However, as also noted in the Issues Paper, fragmentation in service delivery may create confusion for victims, inconsistency in level and scope of support and in some circumstances, gaps in service provision entirely.

For example, witness support for adults in the summary jurisdiction is a key gap. Although adult witnesses in the summary jurisdiction can access Court Network, this is a volunteer-based, generalised service and is not a witness support service.³¹ Court-based volunteers may not have access to case-specific information (like the Child Witness Service or the OPP’s VWAS might) so may not be able to tailor support to a victim’s specific needs. Victims and witnesses, if attending court for multiple hearings, may interact with different volunteers each time without any case management or continuity. Despite the value provided by Court Network, it aims to complement other services within the court system;³² it does not provide the level of service provided by a specialised witness support service.

The lack of integrated witness support for adults in the summary jurisdiction places an increased onus on police prosecutors to directly support vulnerable victims and

³¹ Although, it is noted that Court Network may be funded by the Victorian Government to deliver more targeted victim-related support, such as the ‘Enhanced Family Violence Support Model’ which operates in some specialist family violence courts. Court Network, *Court Network Annual Report 2019/20* (2020) 16.

³² Court Network, *Court Network Annual Report 2019/20* (2020) 7.

witnesses, including in serious sexual assault cases. This has been raised with me as a significant cause for concern, with some victims experiencing significant distress giving evidence in the summary jurisdiction without the witness support available in the higher courts.

Victims of crime, including those required to give evidence, value a single point of contact—they do not want to transfer from service to service as their case progresses through the justice process.³³ Accordingly, consideration should be given to DJCS undertaking a comprehensive review of victim, witness and at-court service provision across Victoria with a view to identifying opportunities to create a more holistic, streamlined and comprehensive network of support and eliminating service gaps.

Safety in court

Under the Victims' Charter, so far as is reasonably practicable, a prosecuting agency and the courts should, during the course of a court proceeding and within a court building:³⁴

- minimise a victim's exposure to unnecessary contact with the person accused of the criminal offence, defence witnesses and family members and supporters of the accused person
- protect a victim from intimidation by the accused person, defence witnesses and family members and supporters of the accused person.

Although the availability of special measures and court infrastructure more broadly have been highlighted as specific areas outside the scope of this review, I am aware of the continued safety issues raised by victims in the summary jurisdiction and the shortage of appropriate remote witness facilities for vulnerable witnesses.

Safety in court has been raised in a number of reviews relating to victim and witness experiences in Victoria.³⁵ In 2008, the Victims Support Agency, with assistance from Victoria Police, conducted a survey of victims who reported crime. The survey found that over one-quarter (151 of 605) of victims and witnesses whose crime was dealt with in the Magistrates' Court did not feel safe in court.³⁶ A follow up survey in 2013 found

³³ Centre for Innovative Justice, *Strengthening Victoria's Victim Support System: Victim Services Review* (RMIT - University, November 2020) 38.

³⁴ *Victims' Charter Act 2006* (Vic) s12.

³⁵ See, for example, Victims Support Agency, *Information and support needs of victims and witnesses in the Magistrates Court of Victoria* (Report, January 2013) 5; Centre for Innovative Justice, *Strengthening Victoria's Victim Support System: Victim Services Review* (RMIT - University, November 2020) 128.

³⁶ See, for example, Victims Support Agency, *Information and support needs of victims and witnesses in the Magistrates Court of Victoria* (Report, January 2013) 5.

that over half of the victim / witness respondents 'did not feel safe' at court.³⁷ The importance of safe places for victim-survivors in court spaces was raised again in RMIT's research relating to family violence intervention orders in 2021.³⁸

Significant progress has been made to alter court infrastructure to accommodate the features and dynamics of family violence through specialist and dedicated family violence courts. Specialist family violence courts have been designed with victims' wellbeing and safety in mind, providing separate court entrances for victim-survivors, safe waiting spaces and interview rooms, remote witness facilities, child-friendly spaces and culturally safe spaces. Court staff undertake specialised professional development to ensure they meet the needs of victim-survivors and other court users.

While the operation of courts during the COVID-19 pandemic has changed the ways in which victims can participate in court hearing, some victims may still want to attend court in person but don't currently feel safe to do so. While flexible use of online and remote ways of participating in a court hearing should continue based on a victim's choice, victim-centric court environments, including safe entries, exits and safe waiting areas, should not be dependent on crime type. All court infrastructure should accommodate the needs of all victims—regardless of crime type, or what court they are attending.

Critical and foundational infrastructure and IT fixes must be prioritised if victims and witnesses are to be appropriately supported in the summary jurisdiction.

³⁷ See, for example, Victims Support Agency, *Information and support needs of victims and witnesses in the Magistrates Court of Victoria* (Report, January 2013) 18.

³⁸ RMIT Centre for Innovative Justice, *More than Just a Piece of Paper: Getting Protection Orders Made in a Safe and Supported Way* (RMIT University, February 2021) 98.