

**VICTIMS OF CRIME ASSOCIATION OF QUEENSLAND  
NATIONAL CONFERENCE: “EMPOWERMENT AFTER TRAUMA”  
HOTEL GRAND CHANCELLOR, BRISBANE  
30 MAY 2002, 9.00AM**

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**The Honourable Paul de Jersey, AC  
Chief Justice**

Speaking today from the perspective of the judicial system, I say at once that the position of the victim is central to criminal justice. Comparatively few crimes are victim-less. In most cases, the position of the victim defines the consequences of the crime. Come sentencing, the Judge or Magistrate must therefore give those consequences primary consideration. Unfortunately, sometimes, human nature being what it is, a Judge may be unduly swayed by the miserable personal circumstances of the offender. But compassion goes both ways. We Judges also recognize that imposing appropriate penalty can operate in a palliative way in relation to the victim. The position of the victim must be a primary judicial concern come the time for sentencing.

Ten years ago the Queensland parliament sought to codify matters relevant to the sentencing of criminal offenders. Section 9 of the *Penalties and Sentences Act* set up that codification, and it obliges courts to have regard, among other things, to “any physical or emotional harm done to a victim”. The victim had, naturally, been part of the picture to which courts traditionally had regard. But it was interesting to see legislative recognition of the appropriateness of that course.

Then in 1995, the parliament again intervened, on this occasion with the *Criminal Offence Victims Act* 1995, which revised the way in which compensation for victims of crime should be assessed. Significantly, that Act included a statement of “fundamental principles of justice for victims of crime”, not legally enforceable, but nevertheless of great value in advancing the cause of full recognition of the impact on the victim. I believe that consistently with the associated “declaration of fundamental principles”, the prosecution and police services are now astute to do their best to keep victims informed about court proceedings and the movement of violent offenders especially in and out of custody; the courts do their best, also, to ensure that comprehensive information about the position of the victim is presented and properly taken into account; the police service and other agencies are reminded of the role they may beneficially play in attending properly to the position of the victim.

It is undoubtedly the position that consideration for the victim is much more substantial now than it was when I was first appointed to judicial office 17 years ago. “Victim impact statements” as such were then unknown, although courts were then still at least in general terms, made aware of adverse consequences to victims. But now the system is much more streamlined, as of course it should be.

As a trial Judge, I came to realize the possible benefit to victims and families of the presentation of details of their plight before their offender. I recall taking the somewhat unusual course some years ago, in fact on 10 November 1995,

following the conviction of Michael William Hughes for the murder of Todd Ward, outside a nightclub at the Mooloolaba Hotel, of allowing his distressed mother Mrs Marjorie Ward to address me, and the prisoner, prior to my imposing the mandatory life term. It was not a case where what was said could affect sentence, and some would disagree with my having followed that course. But the beneficial effect on the mother was plain, although I acknowledge that others may prefer to keep their distress private.

There are overall great sensitivities which must be respected in our approach to victims of crime, and it is centrally important, I believe, to realize that an outsider may have great difficulty comprehending the real extent of the effect on the victim. But those of us who are in a position to assist – medical practitioners, psychologists, social workers, victim support groups, the police and prosecution services, lawyers, courts – must do our best.

I began by referring to legislative initiatives. They have certainly lifted the profile of the cause of support for victims of crime, as have initiatives such as this conference. I warmly commend the Victims of Crime Association of Queensland, and you, ladies and gentlemen, for your participation.

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