

Victims of Drug-related Crime – The Untold Story

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Drugs, crime and their impact on the
community

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What are the sources of victimisation?

- Fattah (1991) says victimisation can be divided into 'six master categories':
 - » • natural victimisation;
 - » • auto-victimisation (self-victimisation);
 - » • industrial/technological victimisation;
 - » • structural victimisation;
 - » • criminal victimisation; and
 - » • non-criminal victimisation.



What is (Criminal) Victimology?

- Schneider (1982) says victimology is the ‘scientific study of victims and of process, origins, causes and consequences of victimisation’.
- Criminal victimology studies victims of crime: the extent, nature and causes of victimisation, its consequences for victims and the reactions of society.
 - It can be viewed both as a fully-fledged academic social science and as a non-academic social movement (backed by some research) (O’Connell 2004).
 - Scientific victimology shifts the emphasis from the offender to the victim. It covers the role of the victim in the dynamics of a crime, the development of victim typologies, explanations for victim-proneness, identifying victims’ needs as well as the impact and effects of crime on victims, preventing victimisation and alleviating fear of crime (O’Connell 2005).



Drugs & Crime



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The links between drug use and crime are clearly established

- USA

- “The violence spawned by chronic, hardcore drug use is the most tenacious and damaging aspect of America's drug problem” (Office of National Drug Control Policy, 1994).
 - 24.5 percent (24.5%) of Federal and 29 percent (29%) of State prison inmates reported being under the influence of drugs when committing violent offences (Bureau of Justice Statistics 1997)
 - In 1999, there were 187 alcohol-induced brawls and 111 narcotic-induced brawls that resulted in murder (Federal Bureau of Investigation, 2000).
- About three-quarters of crack and heroin users claimed they commit crime to feed their habit (Lind et al., 2002).
- About one half of male arrestees regularly test positive to at least one drug (National Institute of Justice 2007).
 - Drug use is more closely linked to robbery and property crime than to violent crime (Ibid).

The links between drug use and crime are clearly established

- **Australia**

- Research in South Australia found that of the 9,186 individuals apprehended for property offences in 2000, about one quarter either had a drug offence listed on their most recent apprehension report or had previously been charged with a drug offence (McRostie et al., 2000).
- DUMA analysis has also shown strong links between drug use and traffic offences.
- Chronic use of amphetamine and its derivatives apparently increase the risk of violent behaviour



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The links between drug use and crime are clearly established

- In general
 - It is accepted that violence, intimidation / extortion and corruption are linked to the illicit drugs market.
 - Research indicates a strong positive correlation between the frequency of offending and the level of an offender's illicit drug use.
 - The question of causality continues to be contentious as the research does not, in itself, show conclusively that the drug use causes the crime.



Who is a victim of (drug) crime?



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Drug-related Crime

- What are "drug-related crimes"?"
 - Crimes that are the result of the victim's or the offender's drug use
 - Crimes that transpire subsequent to the offender's need to support his or her drug habit
 - Crimes that happen as a result of drug trafficking and distribution



Who are victims of (drug-related) crime?

- Drug dealers are victims as well as offenders.

"The pusher is the person who is the most direct cause [of crime], but many pushers are also victims, because they are parts of pyramids in which they are both users and sellers."
(Letwin 2002)

Bali Nine - *Sad victims of a vital war* (Devine 2005)

Shooting victim's drug world – “a ‘great kid’ who got involved with the wrong people but wouldn't listen to others' advice”.



Who are victims of (drug-related) crime?

- Illicit drug users are more likely to be perpetrators of crime, but also these drug users have been found to be more at risk of being victims of crime than the population at large.
- USA research (McElrath, Chitwood & Comerford 1997), for instance, showed that illicit drug users when compared with the rest of the population, were:
 - 23 times more likely to be victims of personal larceny;
 - 8 times more likely to be victims of robbery;
 - 2 times more likely to be victims of rape;
 - 1.4 times more likely to be victims of burglary; and
 - 1.3 times more likely to be victims of motor vehicle theft.



Who are victims of (drug-related) crime?

- Drug users, who harm to themselves.
 - *Many crimes for which people are incarcerated are "victimless" in the sense that the offender has violated a law that proscribes certain personal activities ... [such as] the use of prohibited substances like marijuana or heroin. Indeed, more than 60% of the [US] federal prison population has been committed for low-level drug-related offenses such as the possession of relatively small amounts of marijuana.*
 - *The "victims" of these crimes seem to be the perpetrators, and those who pay taxes to incarcerate them.*

(Hamden 2008)



Human Costs – Drug Users

- Human costs of drug abuse fall principally to health and treatment services (Mayhew 2003)
 - Deaths due to drug dependence were estimated to cost about \$510 million in 2001
 - Hospitalisations and emergency department visits due to drug dependence might cost in the region of \$26 million.
 - Methadone maintenance treatment at 2000-01 levels cost nearly \$100 million
 - Lost productivity may amount to nearly \$960 million
- Mayhew (2003) estimated that the human costs of drug abuse totalled \$1.96 billion, which does not include the cost of property and violent crime that is committed to fund a drug habit etc.



Who are victims of (drug-related) crime?

- Children Are Innocent Victims in Drug Epidemic
 - *The most innocent and defenceless targets, children of drug users, dealers and producers are also often the most compliant victims. From abuse and neglect to worry and stress, kids sometimes don't know that their situation is abnormal, nor where to turn for help.*
 - *"With crystal meth, there is a potential for a child's basic needs not to be met, from food, clothing and shelter, to loving support. If the parent's use goes on for a time, there are also the psychological effects. They are more likely to scream and yell and, in the worst cases, they can become psychotic. At the least, they will be irritable." (Mesabi Daily News 2004)*
- Victims of sexual assault
 - *Drugs and/or alcohol are involved in a lot of sexual assaults. Both women and men have been targeted. Most have been drinking alcohol prior to the assault though other drinks and food have also been spiked. Unfortunately this crime is not rare. (Australian Institute of Family Studies 2007)*



Who are victims of (drug-related) crime?

- Victims of volume crime
 - Drug use & drug dealing are associated with much volume crime. Members of the public who are the victims of such crime are often also indirectly the victims also of organised crime.
- Chemists - the new victims of crime
 - *Backyard labs producing methamphetamines are rising at an alarming rate and so too are the victims of crime. One group caught up in this are those just trying to make an honest living, the local suburban chemists.*



Costs For Victims of Crime

- Direct out-of-pocket expenses, such as un-reimbursed medical costs and lost wages.
- Costs incidental to the crime and the victim's participation in the criminal justice system, such as travel and related expenses.
- Long-term costs due to the need for ongoing mental health support and/or support as a result of permanent disabilities.
- Intangible such as pain and suffering or the loss of the enjoyment of life and other such losses.



Costs For Victims of Crime

- Other intangible costs include:
 - changes of behaviour in the community because of concerns over unsafe recreation areas or fear of street crime; and,
 - defensive costs against theft such as crime prevention measures and insurance.
 - There is inadequate data to give a fair estimate of these costs.
- It was estimated that \$3.7 billion of the cost of property and violent crime stems from drug-attributable crimes (Mayhew 2003).
 - Victims of crime suffer annual losses of (estimated) \$450 million resulting from major violent crime victimisations.



Residents as Victims of Drug Crime

- Illicit drugs, especially drug dealing, have an impact on crime rates and threaten the wellbeing and safety of neighbourhoods.
- Residents are often witnesses of drug offences but also victims of those offences.
- They can play an important role in confronting the 'drug problem'; however, like many victims of crime, they often feel isolated and powerless, and fear retaliation.
- When someone is reported or arrested, then possibly charged with a drug offence, the residents are not usually informed. Later, if that person is convicted and sentenced, most residents are likely unaware of, nor are they invited to participate in the sentencing process.
- In other words, residents' fundamental rights as victims are too often violated.

Victims' Rights



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Victims' Rights

- With the rise of state-centred justice (rather than victim-centred justice)
 - Victims became “saddled with enforcement and prosecutorial responsibilities for a process that did not address their needs or their losses” (Young 2001, p6; see also Sanders 1999)
 - The absence of a precise role for the victim, other than as a prosecution witness, is inconsistent with the victim’s actual importance to the criminal justice system.
- Raising the status of victims in the criminal justice system:
 - Elevating victims’ rights is seen as an appropriate way to ensure victims are given their proper status in the criminal justice system.



Victims' Rights

International Instruments:

- United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power:
 - Guide-book on victim assistance;
 - Guide-book for policy-makers.
- Commonwealth Statement of Basic Principles of Justice for Victims of Crime (endorsed by Senior Law Officers for the Commonwealth).



Victims' Rights

Australian Instruments:

- National Charter on Victims' Rights (endorsed by the Standing Committee of Attorneys-General, Australia):
 - SCAG Secretariat
- South Australia's Declaration of Principles Governing Treatment of Victims



Victims' Rights

Common features of declarations / charters:

- Services – Assistance & care
- Information – About investigation & prosecution
- Consultation – Bail hearings & during charge-bargaining
- Participation – Sentencing & parole hearings



Victims' rights & Victims of Drug Crime – Law Reform –

Someone in your neighbourhood was arrested for dealing drugs ...

Be informed!

Be involved!

(US Attorneys Office, Eastern District of Wisconsin)



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Victims' Rights – Drug Crime

- Drugs have a direct impact on crime rates.
- Drugs threaten the health & safety of individuals and neighbourhoods, as victims.
- Residents often witness drug crime – investigations & prosecutions depend on residents co-operation.
- Like many other victims, residents feel forgotten, isolated and powerless.
- Victims' rights are intended, amongst other things, to enhance the role of victims in the criminal justice system.



Victims' Rights – Drug Crime

- We should recognise the effects / impact of drug crime on neighbourhoods / residents.
- We should provide them with the assistance and information that is afforded other victims of crime.
- We should devise ways to get residents involved in the criminal justice system.
- As victims of drug crime, residents should be notified, if they ask, about investigations, prosecutions, court outcomes, and even have input into sentencing.



Victims' Rights – Drug-related Crime (USA)

The Drug Victim Initiative

Drug Arrest Flyer

Drug Victim Impact Statement

Drug Sentencing Update

Victim's Rights

The entire community is the victim of drugs and gun violence.

As victims, we have mandated rights of victims.

- The right to be informed of the criminal justice process.
- The right to know that a crime has occurred in your neighborhood.
- The right to have anonymous input into sentencing of drug and gun crime defendants.
- The right to community restitution.

Help fight the good fight!

Keep dealers and violence off the streets of Milwaukee County!

Keep our neighborhoods safe from drugs and guns by becoming involved and making your voice heard.



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Victim Impact Statement

- **Section 7 & 7A, Criminal Law (Sentencing) Act**
- **Section 10, Criminal Law (Sentencing) Act**
- **Proposed amendment:**
 - s7 – Makes it clear that a court dealing with an offence that is not an offence to which s7A applies may nevertheless, if it considers it appropriate, allow particulars to be furnished by VIS (including written / verbal)

The image shows the cover of a 'Victim Impact Statement' form. The title 'VICTIM IMPACT STATEMENT' is prominently displayed in white text on a blue background. Below the title, the subtitle 'Information and form' is written in a smaller, italicized font. The logo of the Attorney-General's Department, Government of South Australia, is visible in the top left corner. A white box at the bottom of the cover contains the 'Office use only' section, which includes fields for the name of the police officer in charge, contact details (Tel and Mobile), mailing address, name of convicted person, and criminal charge(s). It also includes a section for indicating if it is an indictable offence and a note about advising the victim.



Neighbourhood Impact Statement

- **Purpose of a neighbourhood impact statement**
 - To give an indication of the impact, the defendant's drug-related crime / drug crime has had on the neighbourhood.
 - To help the courts' understanding of the effects and personal circumstances of the victims so that it can respond appropriately, because both the effects of the crime on the victims and the neighbourhood as a whole are relevant and should, if relevant, be taken into consideration.
 - It is important that the neighbourhood impact statement 'paints a picture' for the court about how the drug offending manifests itself and affects local people.



State-funded Victim Compensation

- There are some circumstances in which a victim of crime (or the near relative of someone who died as a result of a crime) can claim money from the Government to go some way towards compensating for injury.

- Injury can include mental illness, shock, or pregnancy if they are a result of the crime, but does not include property loss or damage.

The scheme compensates people who are injured by a crime, for example, a person who is assaulted, raped or robbed. This can include mental as well as physical injury - for example, a person who suffers an anxiety disorder after a home invasion or an armed robbery can be compensated even if they were not physically harmed. It can also include pregnancy resulting from a sexual offence. Close family members of a homicide victim can also be compensated. (Legal Services Commission 2009)

- Should residents as victims of drug crime be compensated?



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- To marshal government resources to assist victims of crime
- To be an *ex officio* member of the Victims of Crime Ministerial Advisory Committee (or similar)
- To assist victims in their dealings with prosecution authorities and other government agencies.
- To consult the Director of Public Prosecutions in the interests of the victims in general and in particular cases about matters including victim impact statements and charge bargains.
- To monitor and review the effect of the law and of court practices and procedures on victims.
- To consult with the judiciary about court practices and procedures, and their effect on victims.



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- If another Act authorises or requires the Commissioner to make submissions in any proceedings – to make such submissions (either personally or through counsel).
 - To personally, or through counsel, make submissions at the sentencing stage on the impact of the crime on victims and victims' families in cases resulting in the death or permanent total incapacity of the victim.
 - To make submissions to the Court of Criminal Appeal on guideline sentences.
- To consult public officials / public agencies on alleged breaches of victims' rights, and, if appropriate, to recommend a written apology be made to the victim.
- To report annually to Parliament





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