

Evidence-led or cobbled together? Victim policy and victimological research

Peter Dunn considers the relationship between research and government policy towards victims and witnesses.

When, if ever, is learning from work with victims and witnesses applied in policy development? Policy towards victims and witnesses has developed massively in the past few years, with the government claiming that victims and witnesses are 'at the heart of the criminal justice system'. But to what extent have the needs of victims and witnesses really been heard and understood?

Victim surveys

Large-scale victimisation surveys like the British Crime Survey (BCS) were designed to find out about criminal victimisation not reflected in recorded crime statistics. But surveys can become simply a tool of crime prevention strategies that reduce the state's responsibility for protecting its citizens from crime by seeking to make them responsible for avoiding victimisation: an approach that amounts to victim-blaming (Spalek, 2006). The Home Office refers to the need for quantitative victimisation data as a means of demonstrating to local Crime and Disorder Reduction Partnerships that a particular crime problem is extensive enough to justify targeted action. But the usefulness of surveys such as the BCS in informing victim policy is limited by methodological difficulties including the exclusion of young people and homeless people—those most at risk from crime. With the challenge of collecting information on the doorstep about crimes such

as rape, and a failure to address corporate crime, its usefulness in informing victim policy is limited. The BCS cannot accurately count hate crimes and domestic violence, which are often ongoing processes of victimisation. These difficulties indicate the need for qualitative research that provides insight into the experience of victimisation, its effects, and its context.

Researching victims' experiences

Social research should be able to give people who are marginalised the opportunity to have their views and experiences heard.

But the first point to make about qualitative victimological research is that there has not been very much of it. This is unsatisfactory given the extent of concern about crime and the huge cost of the criminal justice system, which in the UK has risen from 2 to 2.5 per cent of GDP in recent years (Solomon et al., 2007). Much existing victimological research has been generated by organisations that work with victims and witnesses. Provoking government interest in the findings of this research has sometimes been a struggle, as the following three research projects illustrate.

In their own words: the experiences of 50 young witnesses in criminal proceedings

This was commissioned by the NSPCC in partnership with Victim

Support. Both organisations were concerned that despite much legislative and policy development to help young witnesses (many of whom were also victims), young witnesses continued to suffer as a result of huge gaps in implementation. These included the non-implementation of video recorded pre-trial cross examination, and the under-funding of specialist support. There had also been an increase in the number of young witnesses who were not identified as entitled to special measures, such as video recording of evidence and the use of CCTV links, before attending court. The research would hear directly from young witnesses to inform policy development and to improve services.

Findings included:

- Young witnesses waited a year or more for the case to come to court, and many attended court more than once.
- Many experienced severe anxiety symptoms including depression, bed wetting, and difficulty in attending school. Some were on medication as a result.
- Pre-trial visits were often unsatisfactory.
- A trial was delayed because the TV link equipment was not working. The witness wanted to go into court to get it over with, but they were not allowed to and had to come back a week later, with their anxiety prolonged.
- Supporters described the behaviour of some lawyers as bullying. Witnesses in sexual assault cases felt humiliated by being asked in open court to point to parts of their bodies.
- Many young people were not told the outcome of the case. Some found it out from newspapers and were frightened about the defendant being at liberty (Plotnikoff and Woolfson, 2004).

These findings, together with other research such as the Home Office's own *A gap or a chasm?* study of attrition in rape crime trials, is sadly illustrative of the way in which the criminal justice system's engagement with victims and witnesses is often

derailed by 'mindless behaviour' that, for many vulnerable witnesses, makes their contact with the system 'an exercise in secondary victimisation' (Dunn and Shepherd, 2006:374).

The Deputy Chief Justice wrote to the judiciary urging them to read *In their own words* and act on the findings. The Home Office welcomed the report, and at its launch the Home Office Minister announced the establishment of the Child Evidence Review. The Home Office also decided to commission its own research, an evaluation of young witness services, but the purpose shifted from hearing the experiences of young people to evaluating the cost-effectiveness of support schemes. Civil servants in the Office for Criminal Justice Reform (OCJR) explained that ministers would only be persuaded to increase resources for young witnesses if it could be demonstrated that support contributed to reducing attrition. The evaluation's advisory group were concerned that the imperative of safeguarding children's wellbeing did not seem to be of primary importance. As predicted, reduction in attrition turned out to be impossible to demonstrate. The research could only conclude that 'rates of young witness non-attendance reported by the six schemes were lower than national estimates' (Plotnikoff and Woolfson, 2007:5). Other findings were similar to those of *In their own words*. The evaluation recommended that there should be a more co-ordinated national approach to young witness support, an update of National Standards for Witness Care, and better inter-agency work.

OCJR used the evaluation findings to produce a tool kit for local use in developing support for young witnesses, which will be published this year. However, the Witness Service seems to have had little involvement in developing or testing it. Meanwhile, NSPCC are frustrated by the long time taken to progress the Child Evidence Review, whose consultation closed in October 2007 but about which decisions have yet to be made.

In the aftermath, the support needs of people bereaved by homicide

This was commissioned by Victim Support with help from Support After Murder and Manslaughter (SAMM) to inform the development of its services to people bereaved by homicide, and to explore claims by some victims' groups that nobody can provide effective support unless they too have lost a loved one through homicide. SAMM advised on research methods, shared their experiences with the researcher, and recruited half of the participants. As well as recording what the 41 participants described as the distinctively painful aftermath of bereavement by homicide, the research also found much evidence of secondary victimisation by the criminal justice system of a type that is not integral to evidence gathering. As in previous research, participants described the way in which the criminal justice system impedes the process of grieving. People received wrong or conflicting information; or no information, or were treated with gross insensitivity. Some people received effective help from support organisations and the police, whereas others felt let down by all. A recurrent theme was the anger and frustration experienced by bereaved relatives who attended the trial. They struggled to get information, felt ignored, and were haunted by the lack of any opportunity to challenge derogatory statements by defence lawyers about the victim (Paterson et al., 2006).

The police initially welcomed the report, and the Association of Chief Police Officers agreed to the authors presenting the findings to their Family Liaison Executive Board. But they did not want it discussed at their annual Family Liaison Officers' conference. The impression gained was that the police may have felt that, because they did not commission the research, it was of limited value to them.

The recent piloting of Family Impact Statements in homicide trials suggests that the voices of bereaved relatives have influenced policy. Victims' self help groups have rightly campaigned for bereaved people to be heard in court, and their strong

representation in the government's Victims Advisory Panel would have helped with this. It is unlikely that the pilots will suggest that Family Impact Statements have produced all the benefits that bereaved relatives hoped for. Had policy makers heard all opinions, particularly from expert lawyers, a more effective way of enabling bereaved relatives to be heard in the criminal justice process might have been found.

Crime and prejudice: the support needs of victims of hate crime

This was commissioned by Victim Support and Cooperative Financial Services to inform service development and to promote awareness of hate crime (Victim Support, 2007). One hundred and seven victims participated. Focus groups were held with service providers in four fieldwork areas. Key findings included:

- Half of the participants suffered ongoing victimisation.
- Effects include fear, anger, physical and mental illness, traumatised children, loss of income, homelessness, guilt.
- Nobody had made use of non-police (third party) reporting, and many community organisations did not know about it.
- What people most wanted was intervention to stop further victimisation, but this was rarely forthcoming. Where support services were most valued, it was because they had pressed for police action.
- Satisfaction with the police was low, except where victims were helped by specialist hate crime police officers, who were highly praised.

The under-use of non-police reporting was particularly worrying, and Victim Support called for publicity about it and for more research on how to improve its accessibility. But it is difficult to establish how this report has influenced the criminal justice system. The Home Office's Race for Justice Advisory Group has raised concerns about the prolonged closure of the police's hate crime

national on-line reporting portal. There is still no CJS strategy for encouraging hate crime victims to report incidents. The content of recent Home Office guidance on responding to homophobic crime was the subject of strong objections from lesbian and gay organisations who had not been given the opportunity to contribute to it.

'Softer' criminal justice targets and a change in culture?

Home Office/OCJR staff describe a range of research that informs their work, including police satisfaction surveys, the Witness and Victim Experience Survey survey, British Crime Survey data, and qualitative research conducted by voluntary organisations, findings from which are sometimes 'tested out' in victim and practitioner focus groups. The OCJR's recently issued Citizen Focus Guide to improving police follow-up with victims and

witnesses lists numerous sources that contributed to it being well researched. If implemented, it should help address findings such as those of the *Crime and prejudice* report that the police often failed to follow up crime reports effectively. However, a prosecution resulted in only 10 per cent of cases described in *Crime and prejudice*. Action to improve criminal justice processes, without understanding the wider social contexts in which

victimisation happens and is so often ignored, will never benefit victims (sometimes the majority) who lack the confidence to report incidents.

In recent years, Home Secretaries have often seemed concerned more with what newspaper headlines say about crime than with evidence-based policy development. However, OCJR staff refer to a new culture taking hold in the criminal justice system, and there is much commitment to embedding the Victim's Code of Practice. This new culture will, it is said, be less preoccupied with conviction rates

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and more concerned with achieving targets that are about 'softer', quality outcomes for victims and witnesses. With departmental strategies now aligned, could there be some hope that the new direction being taken in OCJR might influence the work of other government departments—health, communities, and education in particular—whose work affects victims?

So how can victimological research achieve more influence on criminal justice policy? A Home Office official recently said that if 'we always had to wait for "what works" data, we would never do anything.' Voluntary organisations therefore need to become more skilled at disseminating what can be learned from their own work with victims and witnesses, and more aware of gaps in existing research that they can help to fill. Policy

makers need to be more open to learning from a range of research, without being excessively pre-occupied with methodological rigour. Research undertaken with a partner can be influential, so collaboration between charities, or between charities and universities, could be fruitful in pushing for a more person-centred criminal justice system. It might then be less concerned with adjusting established procedures, and more effective at achieving desirable outcomes for victims and witnesses. ■

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