

Chapter 3: Quantitative Results

This chapter presents quantitative results from interviews conducted with VOC, comprising VIS and non-VIS makers, and with VSP. Examples of VOC and VSP participant information, consent forms and interview questionnaires can be found in Appendices 4A, 4B, 4C, 5A and 5B. Responses were analysed using the SPSS. Interview questions sought information about composition of the samples, administrative features of the VIS scheme, VIS response rates within the sample, understandings regarding VIS purpose, the experience of making a VIS, issues relating to the presentation of VISs in court, and satisfaction with court and VIS process.²⁰

VOC data were collected first, and informed questions presented to VSP. The two data sets are presented separately, with the results jointly discussed in the summary at the chapter's conclusion.²¹

3.1 VOC participants

3.1.1 Description of the sample

This section presents the findings regarding gender, cultural background, age and knowledge of the offender in relation to crime category and whether a VIS was presented or not presented.

²⁰ It was not always possible to pose all questions within each interview because some questions were not relevant to VOC or VSP circumstances. In such instances, a numerical figure of 99 was used to indicate missing data, and a *non-applicable* result was recorded. Valid percentages presented therefore reflect the percentage of participants who answered the question posed.

²¹ As the quantitative data analysis is substantial, additional findings are tabulated in Appendix 1. These include:

- the age and crime category of VIS makers and non-VIS makers
- the country of birth and ethnic origin of VIS makers and non-VIS makers
- VIS maker and non-VIS maker knowledge of their offender
- the severity of the medical, financial and psychological consequences of the crime, as described by VOC participants
- use of counselling services
- dissemination of VIS information
- numbers of VOC reporting that police and prosecutors suggested a VIS would affect sentence
- the usefulness of support when writing the VIS
- length of time VOC were given to prepare the VIS.

3.1.1.1 Gender

The sample comprised 66 participants of whom 26 were family victims and 40 were primary victims (see Table 3.1). Most VOC contacting the study were women (71%). Thirteen participants had not been able to make a VIS for various reasons or had made a VIS for a victim compensation claim rather than in sentencing proceedings and were therefore listed as ‘ineligible’.

Table 3.1: Family and primary victims by gender

Participants	Male	Female	Total
Family victims	10	16	26
Primary victims	9	31	40
Total	19	47	66

Of the 26 family victims, two (7.6%) were ineligible, and of the 40 primary victims, 11 (27.5%) were ineligible (see Table 3.2). Overall, of participants eligible to make a VIS, women represent 72% of the sample, with more female participants in both the family victim (62.5%) and primary victim (79%) groups.

Table 3.2: Family and primary victims eligible to make a VIS

Participants	Male eligible	Female eligible	Male not eligible	Female not eligible	Total
Family victims	9	15	1	1	26
Primary victims	6	23	3	8	40
Total	15	38	4	9	66

Although over 71% of VOC participants were female (see Table 3.3), when participants were separated into crime categories, the gender picture altered. Among family victims, there was a fairly equal gender split for participants who had lost a child or grandchild. However, while no men whose wives had been killed contacted the study, a number of women whose husbands had been killed participated, with slightly more females participating whose sibling had been killed than males suffering the same circumstances.

Participant victims of domestic violence (DV) and sexual assault (SA) were almost exclusively female. There was a fairly equal gender split in participants suffering crimes of historical child sexual assault (HCSA) and physical assault (PA). In crime victimisation statistics, males are over-represented as victims of PA, with 6.4% of Australian males reporting being victims, compared with 4.3% of females.²² The equal gender split of PA participants within the sample in this study may be explained by the fact that two female participants in this category reported additional charges of SA being removed during charge negotiations in their matters, leaving only charges of PA.

PA and HCSA were the most common offences presented by male primary VOC participants, and DV and SA the most common offences presented by female primary VOC participants. Within offence categories, there were more female participants for all offences except PA.

Table 3.3: Crime category and participant numbers by gender

Crime category	Males	Females	Total
Family victims	10 38.5%	16 61.5%	26 100%
Sexual assault	1 12.5%	7 87.5%	8 100%
Domestic violence	0 0%	9 100%	9 100%
HCSA	3 42.9%	4 57.1	7 100%
Physical assault	3 50%	3 50%	6 100%
Primary victims other/ crime not confirmed to study	2 20%	8 80%	10 100%
Total	19 29%	47 71%	66 100%

3.1.1.2 VIS and non-VIS makers

Of the 53 participants eligible to make a VIS, 85% were VIS makers and 15% were non-VIS makers (see Table 3.4). Of 29 primary victims, eight were non-

²² See ABS 2013, Crime Victimisation Australia, 2011–12, Cat. No. 4530.0, ABS, Sydney: <www.bocsar.nsw.gov.au/bocsar/bocsar_victimsofcrime.html#_ftnref1>.

VIS makers. By contrast, all family victim participants (9 males and 15 females) made a VIS, other than two who were ineligible.²³

Table 3.4: Family victims and primary victims, VIS and non-VIS makers

Participants	VIS maker	Non-VIS maker	Number of respondents
Family victims	24 100%	0 0%	24 100%
Primary victims	21 72.4%	8 27.6%	29 100%
Total	45 85%	8 15.0%	53 100%

Table 3.5: Primary male VIS makers and non-VIS makers, by crime category

Primary male participants, crime category	VIS maker	Non-VIS maker	Total N = 6
Sexual assault	0	0	0
Domestic violence	0	0	0
HCSA	3	0	3 50%
Physical assault	2	1	3 50%
Total respondents	5 83.3%	1 16.6%	6 100%

Of non-VIS makers, just over a third (n = 3) were Local Court matters where participants stated they would have chosen to present a VIS if requested or allowed by their prosecutor. All family victim participants eligible to make a VIS had done so and are therefore not included in Tables 3.5 and 3.6, which present primary victim VIS makers and non-VIS makers. Over 83% of male participants and just under 70% of female participants chose to make a VIS. This may suggest that given the opportunity, female victims are less likely to make a VIS, with 30% of female participants and 16% of male participants choosing not to make one. However, the figures may indicate that VIS take-up rates are related to the crime category (see Tables 3.5 and 3.6). For instance,

²³ The matters of these participants occurred prior to VIS legislation being introduced.

all victims of HCSA participating had chosen to make a VIS, with most non-VIS makers being victims of SA or DV.

Table 3.6: Primary female VIS makers and non-VIS makers, by crime category

Primary female participants, crime category	VIS maker	Non-VIS maker	Total offence category N = 23
Sexual assault	5	2	7 30.4%
Domestic violence	5	3	8 34.8%
HCSA	4	0	4 17.4%
Physical assault	2	1	3 13%
Arson and malicious endangerment	0	1	1 4.3%
Total	16 69.6%	7 30.4%	23 100%

3.1.1.3 Age demographic

Participant VIS makers and non-VIS makers were analysed according to age categories (see Appendix 1, Table A1.1).

No VOC aged 18–22 years participated, despite consistent findings in victimisation surveys that young people 15–24 years are the most victimised group (see ABS 2007; Burton, Evans & Sanders 2006, 2007). Based on the quantitative results, it is difficult to conclude much in terms of likelihood of making a VIS based on age. Younger female participants more frequently reported being victims of SA and are therefore over-represented in the 20–30 age category. Over half the participants were aged 30–55, with 23% aged over 55. The lack of young adults in the sample may indicate that youth is a barrier to making a VIS, although results may also be an artefact of the sample.

3.1.1.4 Country of birth, ethnic background, language spoken at home and crime category

Demographic data of country of birth and ethnic background were recorded from 53 VIS-eligible participants. Of VIS makers, most spoke English at home, and over 83% were born in Australia. In terms of ethnic or racial origin (see Appendix 1, Table A1.2), 87% were of Australian/Anglo/Irish/European descent, and 7% were Aboriginal; the remainder included a small number of participants of Maori and Chinese descent.

Australian Social Trends (ABS 2014) taken from the 2011 Census reports that 42.4% of those residing in the City of Sydney and 24% in NSW identify as having been born overseas, with those identifying as Aboriginal or Torres Strait Islander making up 3% of the NSW population.²⁴ In terms of victimisation, recent ABS statistics show that 43% of physical assaults are reported by victims identifying as being born overseas.²⁵

While the non-VIS maker group is small in number, over 60% of non-VIS makers had either a pronounced accent or features that would distinguish them as being from a culturally and linguistically diverse background, or identify them as having been born outside Australia. Four identified as immigrants and one as Aboriginal.

3.1.1.5 Knowledge of offender

Of 49 participants responding, the offender was known to 63%. Offenders were least known to victims of SA (60%) and PA (75%), with 50% of family victims and 100% of DV and HCSA victims knowing the offender (see Appendix 1, Table A1.3).

²⁴ These figures may be underestimated. *Migration Trends 2012–2013* published by the Department of Immigration reports visitors (44,800) and students (10,720) as the largest cohort to outstay their visa and remain in Australia, with highest numbers being from China (7,690), Malaysia (6,420), US (5,220) and UK (3,780):

<www.immi.gov.au/media/publications/statistics/immigration-update/asylum-trends-aus-2012-13.pdf>.

²⁵ See: <www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/4530.02013-14?OpenDocument>.

Of non–VIS maker participants, seven were women and one was a male victim of PA, with five (72%) of the female participants reporting they knew their offender. The other two female participants had encountered their assailant in their work and had had some interaction with them, albeit brief, prior to the crime being committed. Therefore, the crimes against them were not completely random. The attack on the male participant was completely random. NSW victimisation statistics (ABS 2013) report that 74% of female victims of SA and 86% of female victims of PA know their offender.

3.1.2 Effects of the crime on VOC

VOC participants were asked to consider the seriousness of the effects of the crime against them. Effects were recorded against crime categories, rather than against VIS and non–VIS maker categories, and presented collectively. When non–VIS maker data were studied exclusively, the results were markedly similar to the results of primary victim VIS makers (see Appendix 1, Tables A1.4, A1.5 & A1.6 for VIS and non–VIS comparisons).

3.1.2.1 Medical consequences of the crime

Participants were asked if they used the services of a hospital or doctor due to physical injuries resultant from the crime against them and were asked to rate their injuries as either 'serious' if requiring immediate medical attention or as 'not serious' (see Table 3.7). Not surprisingly, in crimes of DV or PA, participants reported serious injuries; most of the matters of those participating were of the more serious nature, heard in the higher courts. Some participants had been hospitalised due to their injuries; others, especially in the case of HCSA and family victims, used the services of a doctor for prescription medication for symptomatic relief from anxiety, panic attacks, depression and sleeplessness.

Table 3.7: VOC: How would you rate the medical consequences of the crime? (by crime category)

Severity of medical consequences	Family victims N = 26	Sexual Assault N = 7	Domestic violence N = 7	HCSA N = 7	Physical assault N = 6	Total responses N = 53
Serious	4 15.4%	3 42.9%	7 100%	2 28.6%	6 100%	22 41.5%
Not serious	16 61.5%	4 57.1%	0 0%	5 71.4%	0 0%	25 47.2%
None	6 23.1%	0 0%	0 0%	0 0%	0 0%	6 11.3%
Total	26 100%	7 100%	7 100%	7 100%	6 100%	53 100%

Among primary victims, both the majority of VIS makers and non-VIS makers reported the medical consequences of the crime against them as serious (see Appendix 1, Table A1.4).

3.1.2.2 Financial consequences of the crime

Participants were asked to consider whether the crime against them had caused them any financial loss (see Table 3.8). Overall, approximately half reported serious financial loss. As a group, primary victims reported greatest financial loss, with over 85% stating the crime against them had affected their ability to work. Victims of HCSA reported least financial loss, though many reported being compromised in their ability to perform well at school and tertiary study and to manage employment. Both VIS and non-VIS makers reported similar impacts on their finances (see Appendix 1, Table A1.5).

Table 3.8: VOC: Did you experience financial loss due to the crime? (by crime category)

Financial loss	Family victims N = 24	Sexual assault N = 6	Domestic violence N = 7	HCSA N = 7	Physical assault N = 6	Total responses N = 50
Yes	7 29%	6 100%	6 86%	3 43%	5 83%	27 54%
No	17 71%	0 0%	1 14%	4 47%	1 17%	23 46%
Total	24 100%	6 100%	7 100%	7 100%	6 100%	50 100%

3.1.2.3 Psychological consequences of the crime

Participants were asked to consider the seriousness of psychological consequences resulting from the crimes against them (see Table 3.9). Although some family victims (23%) stated their psychological issues were ‘not serious’, no participants stated that the crime against them had no psychological effect. Of those who responded, all primary victims reported psychological consequences suffered as a result of the crime against them as ‘serious’, whether or not they had made a VIS (see Appendix 1, Table A1.6).

Table 3.9: VOC: How would you rate the severity of psychological consequences of the crime? (by crime category)

Severity of psychological consequences	Family victims N = 26	Sexual assault N = 7	Domestic violence N = 7	HCSA N = 7	Physical assault N = 6	Total responses N = 53
Serious	20 76.9%	7 100%	7 100%	7 100%	6 100%	47 88.7%
Not serious	6 23.1%	0 0%	0 0%	0 0%	0 0%	6 11.3%
None	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%
Total	26 100%	7 100%	7 100%	7 100%	6 100%	53 100%

3.1.2.4 Psychological issues and crime category

Psychological problems described by participants are represented for family victims (see Table 3.10), primary victims and crime category (see Table 3.11), and primary VIS and non-VIS makers (see Table 3.12). The reason for dividing the psychological problems described by participants in this way was to ascertain whether particular victim groups are more challenged by particular psychological issues as a result of their victimisation. Where participants mentioned a cluster of issues, each was singly noted. Depression and anxiety were reported as the dominant psychological consequences of the impact of the crimes, and concurrent issues of anxiety and depression were higher for primary victims than for family victims, where depression was more regularly described.

Table 3.10: Family victim VIS makers: What were the psychological consequences you experienced as a result of the crime?

Psychological consequences	Family victim VIS makers N = 26
Depression	17 65.4%
Anxiety	7 26.9%
PTSD	1 3.8%
Suicidal	1 3.8%

Note: N = the number who stated that they suffered from psychological consequences.

Table 3.11: All primary victims: What were the psychological consequences you experienced as a result of the crime? (by crime category)

Psychological consequences	Sexual assault N = 7	Domestic violence N = 7	HCSA N = 6	Physical assault N = 6	All primary responses to question N = 26
Depression	7 100%	6 85.7%	5 83.3%	3 50%	21 80.7%
Anxiety	6 85.7%	7 100%	6 100%	5 83.3%	24 92.3%
PTSD	0 0%	2 28.6%	0 0%	1 16.7%	3 11.5%
Suicidal	1 12.5%	2 28.6%	1 14.3%	0 0%	4 15.4%

Note: The figures are the number of VOC who stated they suffered from the particular condition. The column totals are greater than N due to multiple responses.

Table 3.12: Primary VIS makers and non-VIS makers: What were the psychological consequences you experienced as a result of the crime?

Psychological consequences	Primary VIS makers N = 19	Primary non-VIS makers N = 8
Depression	14 74%	7 87.5%
Anxiety	18 95%	6 75%
PTSD	2 11%	1 12.5%
Suicidal	3 16%	1 12.5%

Note: The figures are the number of VOC who stated they suffered from the particular condition. The column totals are greater than N due to multiple responses.

It should be noted that approximately 20% of the population in Australia have a mental health condition (ABS 2007). Therefore, the possibility that some participants may have experienced mental health issues prior to the crimes against them must be acknowledged. Furthermore, participants volunteered their own diagnosis of their psychological states, and these were simply noted. It could be argued that what participants may have termed 'depression' might be regarded clinically as normal grieving or sadness, and 'anxiety' as a normal response to extreme fear and trauma.

Participants' self-diagnosis was not tested using psychological scales.²⁶ However, if describing themselves as suffering from depression, participants often offered descriptions of their symptoms, such as being unable to concentrate or think as clearly as before the crime, having issues with memory and focus, experiencing disturbed sleep, weeping constantly or lacking interest in general life.

3.1.2.5 Use of a counselling service

Counselling services were used by primary victims more than by family victims, with the highest usage reported by victims of SA, DV and HCSA (see Appendix 1, Table A1.7). This is perhaps because specialist police services assisting victims of sexual and family violence crimes are conversant with supports available and, as a matter of routine, discuss referral to specialist services offering counselling and support. The highest use of counselling services was reported by DV participants, who also reported the highest level of complex diagnoses. Fewer victims of PA reported suffering from depression, and victims of PA reported less use of counselling services.

Among primary victims, non-VIS makers (37.3%) were half as likely as VIS makers to report the use of counselling services (see Appendix 1, Table A1.8), despite reporting suffering from high levels of psychological distress (see Appendix 1, Table A1.6). As there was no longitudinal follow-up of the sample,

²⁶ Pemberton & Raynears (2011) suggest that VIS studies regarding the therapeutic benefit of VIS are unscientific as they rely on evidence that is anecdotal and argue that without psychological testing of the levels of anger and anxiety of VOC performed pre-VIS, immediately post-VIS and in follow-up measured against validated psychological tools, the therapeutic efficacy of VIS cannot be proven.

it is difficult to ascertain whether levels of psychological distress reported by participants having counselling would reduce at its completion. Comparison of results of VIS makers and non-VIS makers suggest that despite over half of the VIS makers using counselling services, their levels of anxiety and depression within the primary VOC sample remained commensurate with those who did not use counselling services.

3.1.3 Awareness and understanding of the VIS

This section looks at who provides VIS information to VOC, issues that affect comprehension of VIS material, what VOC understand as the purpose of the VIS, and VOC understanding of the effect of VIS on sentencing.

3.1.3.1 Dissemination of VIS information

Most participants interviewed (91%) were aware of their ability to make a VIS. This finding is not surprising considering the recruitment strategy used in this study. Participant victims of PA had least awareness of the provision of VIS, especially if their matters had been heard in the Local Court. Participants were asked to recall from whom they received VIS information (see Appendix 1, Table A1.9). Most received information from WAS or the police; however, in the case of family victims, half received information from HVSG.

Participants most frequently reported receiving the information in the following ways: from the VISIP sent or emailed to VOC; during personal discussions with police, police prosecutors, DPP solicitors or victim support agencies; or by downloading it from the Lawlink website. Overall, primary victims were less likely than family victims to have received the VISIP. Only 57% of Victims of SA reported having received the VISIP, most having received VIS information directly from their sexual assault counsellor.

3.1.3.2 Factors affecting the ability of VOC to comprehend VIS information

The VISIP was reported as 'very easy' or 'quite easy' to understand by 66% of participants. Issues affecting comprehension of VIS information are represented in Table 3.13. The main factor hindering understanding was trauma, with

participants stating that their emotional state affected clarity of thinking and their ability to deal with dense paperwork. Nearly 50% of family victims and around a third of primary victims of PA and SA stated that trauma affected their comprehension of VIS information. Overall, 20% of primary victims reported trauma negatively affected comprehension of VIS information. Literacy was reported as an issue affecting comprehension by over 10% of participants overall. Although the percentage of participants experiencing issues with literacy and language are small, it must be remembered that all participants in the study spoke English well, even if it was not their first language, and did not report needing assistance to negotiate the study documentation, which included completing the participant consent form. In the past few years, WAS has produced a simplified two-page document outlining the VIS process and purpose, which is sometimes provided as a supplement to the VISIP.

Table 3.13: VOC: What factors affected your ability to understand information about VIS? (by crime category)

Factors affecting understanding of VIS information	Family victims N = 24	Sexual assault N = 7	Domestic violence N = 6	HCSA N = 7	Physical assault N = 6	Total N = 50
Trauma	11 46%	2 28.6%	0 0%	1 14.3%	2 33.3%	16 32%
Literacy	3 13%	0 0%	2 33.3%	1 14.3%	0 0%	6 12%
NESB	1 4%	0 0%	0 0%	0 0%	0 0%	1 2%
No factors affecting comprehension	9 37%	5 71.4%	4 66.7%	5 71.4%	4 66.7%	27 54%
Total = N	24 100%	7 100%	6 100%	7 100%	6 100%	50 100%

3.1.3.3 VOC understanding of the purpose of VIS

Participants were asked to describe the functional and personal purpose of the VIS and their expectations for their VIS (see Table 3.14). VOC responses differed by offence category.

Informing the court of the impact of the crime and having a voice in proceedings were most commonly mentioned as purposes of, and expectations for, the VIS; however, this is not surprising, considering these functions are outlined in the VISIP. However, a third of victims of sexual assault did not mention informing the court as a purpose or an expectation, and half did not describe having a voice as a purpose or expectation. These victims tend to use sexual assault counselling services provided in court proceedings in SA matters, and their expectations may therefore have been managed to expect little in that regard (see Clark 2010).

Family victims and victims of HCSA and SA more frequently reported that a purpose and an expectation of the VIS was to inform the offender of the impact of the crime suffered by the victim or victim's family. However, fewer victims of DV and only one victim of PA described this as a purpose of, or an expectation/wish for, their VIS.

The two victims of DV who reported that a purpose of VIS was to inform the offender of the impact of the crime had severed contact with their offender and stated they no longer feared him.

Although less than a third of primary victim participants considered the purpose of the VIS was to inform the offender's family of the impact of the crime on the victim, over 50% of family victims saw this as a purpose, especially in instances where the offender had been in a relationship with the deceased.

Where criminal behaviour was physically or sexually abusive and had occurred in secret, family victims and primary victim participants stated that the exposure

of their suffering to those close to the perpetrator was a purpose of the VIS and an expectation/wish for their VIS.

Of 23 family victims eligible to make a VIS who responded, 74% stated the purpose of the VIS was to inform the court of the personhood of the deceased, and the same percentage expected to be able to do so with their VIS. Almost 57% felt the purpose of the VIS was to inform the offender's family of the personhood of the deceased and expected to be able to do so. This was particularly important to family victims where the deceased was not known, or not well known, to the offender.

Table 3.14: VOC: What is the purpose of and what did you expect from the opportunity to make a VIS? (by crime category)

VIS purpose / expectation	Family victims N = 23	Sexual assault N = 6	Domestic violence N = 7	HCSA N = 7	Physical assault N = 6	Total N = 49
To inform the court of the impact	21 91.3%	4 66.7%	6 85.7%	6 85.7%	6 100%	43 87.6%
To have a voice in proceedings	21 91.3%	3 50%	7 100%	6 85.7%	5 83.3%	42 85.7%
To inform the offender of the impact	19 82.6%	5 71.4%	2 28.6%	6 85.7%	1 16.7%	33 66%
To inform the offender's family of the impact	13 56.5%	1 16.7%	2 28.6%	2 28.6%	0 0%	18 36.7%
To inform the court of the personhood of the deceased	17 73.9%	–	–	–	–	17 73.9%
To inform the offender's family of the personhood of the deceased	13 56.5%	–	–	–	–	13 56.5%

3.1.3.4 VOC understanding of the effect of a VIS on sentencing

Participants' understanding of whether the purpose of a VIS was to affect sentence, and their expectation and hope that it would affect sentence, are shown in Table 3.15.

When these data were recorded, the VIS of family victims was not taken into account at sentencing under the legislation at that time, although the VIS of primary victims could be taken into account at sentencing in certain circumstances (see Chapter 1). Despite this information being clearly stated in the VISIP, over 30% of family victims stated that affecting sentence was a purpose of the VIS and 60% of family victims saw it as an expectation or wish for their VIS.

Among primary victims, views differed by offence category. All participants in the PA and HCSA categories stated not only that the purpose of their VIS was to affect sentence but also that it was their expectation and hope. As previously mentioned, only one victim in the PA category knew their offender. In general, more participants in most crime categories hoped their VIS would influence sentence than expected it would or felt was its legislated purpose. Conversely, participants from the SA category were least likely to expect their VIS to influence sentence and did not report any hope that it would do so.

Table 3.15: VOC: Is the purpose of VIS to affect sentence, and did you expect or hope your VIS might affect sentence? (by crime category)

VIS	Family victims N = 23	Sexual assault N = 6	Domestic violence N = 7	HCSA N = 7	Physical assault N = 6	Total N = 49
Purpose	7 30.4%	1 16.7%	4 57.1%	1 14.3%	6 100%	19 38.8%
Expectation	14 60.9%	1 16.7%	4 57.1%	4 57.1%	6 100%	29 40.8%
Hope	17 73.9%	0 0%	5 71.4%	4 57.1%	6 100%	32 65.3%

Although most participants stated that it had been made clear that making a VIS was voluntary, 10% (n = 5) reported that police, the police prosecutor or Crown prosecutor in their matter had suggested the VIS could affect sentence (see Appendix 1, Table A1.10). Three of the five participants were primary victims—two VIS makers and one non-VIS maker. Although the VIS of family victims in NSW was not taken into consideration in sentencing at time of interview, two

family victims stated their prosecutor had told them their submission of a VIS might affect the sentence.

3.1.4 Writing a VIS

Participants were questioned about their initial response to the opportunity to make a VIS, whether they were the sole author, what assistance they required to write their VIS, adequacy of preparation time, emotional challenges to writing it and whether the VIS writing experience was positive.

3.1.4.1 Initial response to opportunity to make a VIS

Participants were asked whether they had made the decision to make a VIS immediately on hearing of the provision (see Table 3.16). Nearly 80% of participants stated they had immediately wanted to make a VIS on hearing of the possibility to do so. While over 80% of family victims and victims of PA were motivated to make a VIS immediately, only 67% of victims of SA interviewed were motivated to do so. It appears that victims of SA, DV and HCSA, require more time to consider making a VIS than do family victims and victims of PA.

Table 3.16: VOC: Did you decide to make a VIS immediately? (by crime category)

	Family victims N = 23	Sexual assault N = 6	Domestic violence N = 7	HCSA N = 7	Physical assault N = 6	Total N = 49
Yes	20 87%	4 66.7%	5 71.4%	5 71.4%	5 83.3%	39 79.6%
No	3 13.3%	2 33.3%	2 28.6%	2 28.6%	1 16.7%	10 20.4%
Total = N	23 100%	6 100%	7 100%	7 100%	6 100%	49 100%

3.1.4.2 Non-VIS makers: reasons given for not making a VIS

Only eight participants contacting the study who were eligible to make a VIS had not made one. Of these, seven were female, comprising three victims of DV, two of SA, one of PA and one of arson and malicious endangerment. The male participant was a victim of PA.

Three non-VIS makers reported not being asked for a VIS or being told their VIS was not needed by the prosecution. These participants, despite reservations, wanted to make a VIS and would have done so if given the opportunity. For this reason, only five can be considered as victims who actively chose not to make a VIS. Non-VIS makers' reasons for not wishing to make a VIS have been analysed qualitatively owing to the small sample and are presented in Chapter 4.

3.1.4.3 Authorship of the VIS

Almost 64% of participants reported writing their initial VIS draft without any additional input (see Table 3.17).

Table 3.17: VOC: Did you write the VIS yourself? (by crime category)

	Family victims N = 22	Sexual assault N = 5	Domestic violence N = 5	HCSA N = 7	Physical assault N = 5	Total N = 44
Yes	13 59%	3 60%	3 60%	5 71.4%	4 80%	28 63.6%
No	9 41%	2 40%	2 40%	2 28.6%	1 20%	16 36.3%
Total = N	22 100%	5 100%	5 100%	7 100%	5 100%	44 100%

However, when further questioned, some VOC revealed that although they had written their draft VIS themselves, assistance was sometimes sought to proofread, to check content or for other reasons. Other VOC reported needing assistance throughout the VIS writing process. The data were analysed to provide a picture of the services used to assist with writing the VIS and to determine whether service use was crime specific or victim specific (see Table 3.18).

Victim support agencies were more commonly reported as being used by family victims. This is likely explained by the fact that over half the family victim participants had been supported by the HVSG. Victims of HCSA and those of

PA more commonly reported drafting the VIS without help and using informal assistance. Victims of DV more commonly relied on formal assistance and did not report using the support of family or friends in the writing process.

Table 3.18: VOC: Who provided assistance as you completed the writing of the VIS? (by crime category)

Provider of assistance	Family victims N = 22	Sexual assault N = 5	Domestic violence N = 5	HCSA N = 7	Physical assault N = 5	Total N = 44
WAS	3	3	3	0	1	10 22.7%
Victim support agent	10	0	1	1	1	13 29.5%
Counsellor	1	0	0	1	1	3 6.8%
Sexual assault counsellor	0	3	0	0	0	3 6.8%
Family/friends	5	2	0	3	1	11 25%

Note: Each number represents a VOC reporting they used the service in the production of their VIS. The columns and rows do not total 100%, as respondents may have referred to more than one source providing them with assistance when writing the VIS, and each was noted equally.

3.1.4.4 Type of assistance VOC required in writing the VIS

The most reported assistance was that of reviewing the VIS for possibly inadmissible or contentious content, formatting, tone and general proofreading of spelling and grammar (see Table 3.19). Assistance was most usually provided by a WAS officer, a victim support agent or a friend or family member. Half the family victim participants needed assistance to know how to start writing their VIS in the face of the enormity of their loss. Content and remembering what to include were issues for 40% of victims of SA, DV and HCSA, but were less often issues for victims of PA and for family victims. Formatting refers to how the VIS should be laid out and presented. Translation was not reported as required by any participants; however, this is unsurprising as all were fluent speakers of English.

Table 3.19: Type of assistance required by VOC when writing or completing the writing of the VIS, by crime category

Type of assistance required	Family victims N = 22	Sexual assault N = 5	Domestic violence N = 5	HCSA N = 7	Physical assault N = 5	Totals N = 44
Checking it	21 95.45%	5 100%	5 100%	5 71.4%	4 80%	40 90.9%
How to start	11 50%	1 20%	2 40%	2 28.6%	1 20%	17 36.3%
Formatting	9 41%	1 20%	2 40%	2 28.6%	1 20%	15 34.1%
Content	4 18.2%	2 40%	2 40%	3 42.9%	1 20%	12 27.3%
Things to remember	4 18.2%	2 40%	2 40%	3 42.9%	1 20%	12 27.3%
Writing it for me	0 0%	1 20%	0 0%	1 14.3%	1 20%	3 6.8%

Note: Each number is a percentage of N within the column. The columns and rows do not total 100% as respondents may have referred to a number of items they needed assistance with when preparing their VIS, and each was noted and recorded equally.

3.1.4.5 Is support useful for VOC when writing the VIS?

Over 60% of VOC participants stated that support in writing the VIS was helpful (see Appendix 1, Table A1.11). Victims of SA and HCSA reported the highest need for support when writing the VIS. Victims of PA and family victims were split, half stating that support would be useful and half that the VIS was a private experience, needing to be composed alone. Some VOC appeared to make a distinction between drafting the VIS and the usefulness of support to review the draft. For a number of participants, revisiting the crime and assessing its impacts in order to prepare a VIS was too traumatic an experience to be undertaken alone and required professional support to attempt it.

3.1.4.6 Adequacy of preparation time to write the VIS

Most participants were given more than a month to prepare their VIS. Although most found this enough time, a third of family victims and victims of SA reported

finding it difficult to complete their VIS on time (see Appendix 1, Tables A1.12 & A1.13).²⁷ SA matters are often prioritised over other matters at court in order to deal with them as expeditiously as possible, and 50% of family victims needing assistance with their VIS reported they did not know where to start when writing it.²⁸ Half the participants in the PA category attended the Local Court and reported being given at least one week to make their VIS.

3.1.4.7 The emotional experience of writing the VIS

Participants were asked directly whether writing the VIS had been a challenging or upsetting process. Not all described the process as emotionally upsetting (see Table 3.20). The category of VOC with the lowest percentage reporting being 'upset' by the process were victims of DV.

Table 3.20: VOC: Was writing the VIS upsetting in any way? (by crime category)

	Family victims N = 22	Sexual assault N = 5	Domestic violence N = 5	HCSA N = 7	Physical assault N = 5	Total N = 44
Yes	19 86%	5 100%	2 40%	6 86%	4 80%	36 82%
No	3 14%	0 0%	3 60%	1 14%	1 20%	8 18%
Total = N	22 100%	5 100%	5 100%	7 100%	5 100%	44 100%

3.1.4.8 Challenging factors for VOC when writing the VIS

Participants described finding a number of factors as upsetting or challenging when writing their VIS (see Table 3.21). Participants often referred to a cluster of factors, each recorded separately against the descriptors.

Most participants (75%) described general emotional distress when writing their VIS, caused by the need to evaluate the impact of the crime on their lives

²⁷ Most study participants attended the District or Supreme Court because their matters were of a serious nature and were therefore more protracted. Hence, these figures are not representative of the experience of VOC attending the Local Court, where turnaround is quicker, with some matters concluded within a day.

²⁸ See Practice Note 6, [10-200] Sexual Assault Case List, *Sexual Assault Trials Handbook*, Judicial Commission of NSW:

<www.judcom.nsw.gov.au/publications/benchbks/sexual_assault/dc_criminal_pn06.html>.

(66%), acknowledge the impact (61%) and relieve the trauma of the event (55%). Victims of SA and HCSA reported high rates of distress across various descriptors, with all primary victims of SA and PA reporting the highest level of distress caused by evaluating the impact of the crime upon their personal life.

Table 3.21: VOC: What was upsetting or challenging about writing the VIS? (by crime category)

Challenge/upset	Family victims N = 22	Sexual assault N = 5	Domestic violence N = 5	HCSA N = 7	Physical assault N = 5	Total N = 44
Reliving the trauma	12 55%	4 80%	1 20%	5 71%	2 40%	24 55%
Emotional distress	20 91%	4 80%	2 40%	5 71%	2 40%	33 75%
Not being able to describe the impact	7 32%	3 60%	1 20%	3 43%	2 40%	16 36%
Evaluating impact on personal life	14 64%	5 100%	0 0%	5 71%	5 100%	29 66%
Not knowing where to start	6 27%	3 60%	0 0%	4 57%	0 0%	13 29%
Having to acknowledge impact	12 55%	4 80%	2 40%	6 86%	3 60%	27 61%

Note: Each number is a percentage of N within the column. The columns and rows do not add up to 100%, as respondents may have referred to a number of factors that were upsetting or challenging about writing the VIS, and each was noted equally.

3.1.4.9 Was writing the VIS a positive experience?

Despite these difficulties, 74% of 46 participants stated that writing the VIS was a positive experience (see Table 3.22). Importantly, 80% of participant victims of SA and 100% of HCSA participants, who as categories had reported the highest levels of distress against all descriptors, stated that writing the VIS was a positive experience. These results suggest that although writing a VIS is a challenging experience for victims, it is also for many a positive one.

Table 3.22: VOC: Was writing the VIS a positive experience? (by crime category)

	Family victims N = 22	Sexual assault N = 5	Domestic violence N = 7	HCSA N = 7	Physical assault N = 5	Total N = 46
Yes	16 73%	4 80%	4 57%	7 100%	3 60%	34 74%
No	6 27%	1 20%	3 43%	0 0%	2 40%	12 26%
Total = N	22 100%	5 100%	7 100%	7 100%	5 100%	46 100%

3.1.5 The VIS in court

This section looks at victims' understanding of how the VIS would be presented in court, their knowledge that the offender may see it, how the VIS would be handled once completed and their reactions to those processes. It presents findings regarding charge negotiations and the administrative processes of VIS editing.

3.1.5.1 Awareness of how the VIS would be presented in court

Regarding VIS protocol within the courtroom, 50% of VOC participants, reported they did not know how their VIS would be presented in court. This included not being aware of where it would be placed in sentencing proceedings, where they would stand if reading it, who they would address, whether their VIS would need to be sworn and how it would be acknowledged (see Table 3.23).

Table 3.23: VOC: Did you know how your VIS would be used in court? (by crime category)

	Family victims N = 23	Sexual assault N = 6	Domestic violence N = 7	HCSA N = 7	Physical assault N = 6	Total N = 49
Yes	13 56.5%	2 33.3%	5 71.4%	2 28.6%	3 50%	25 51%
No	10 43.5%	4 66.7%	2 28.6%	5 71.4%	3 50%	24 49%
Total = N	23 100%	6 100%	7 100%	7 100%	6 100%	49 100%

3.1.5.2 Awareness of whether the offender would have access to the VIS

Most participants were aware the offender could have access to their VIS (see Appendix 1, Table A1.14). Family victims in general wanted the offender to read the VIS and to be aware of its contents; however, some participant victims of PA, DV and HCSA were more reticent (see Table 3.24). These findings suggest some victims prefer the offender not to know the extent of the harms suffered as a consequence of the offender's actions.

Table 3.24: VOC: Did you want the offender to see your VIS? (by crime category)

	Family victims N = 22	Sexual assault N = 6	Domestic violence N = 6	HCSA N = 7	Physical assault N = 5	Total N = 46
Yes	21 96%	5 83%	2 33%	4 57%	2 40%	34 74%
No	1 4%	1 17%	4 67%	3 43%	3 60%	12 26%
Total = N	22 100%	6 100%	6 100%	7 100%	5 100%	46 100%

3.1.5.3 Process of court matter: guilty plea or trial

In 27 of 55 VOC participant matters (49.1%) a guilty plea had been entered, with 26 matters where offenders were convicted following a trial.²⁹ Participant matters of HCSA reported the highest proportion of guilty pleas (70%), with matters of SA and PA having the lowest proportion of guilty pleas (see Table 3.25).

²⁹ Two participants contacted the study whose matters did not conclude in a conviction as the defendants were acquitted.

Table 3.25: VOC: What was your court process to conviction? (by crime category)

Court process to conviction	Family victims N = 26	Sexual assault N = 7	Domestic violence N = 7	HCSA N = 7	Physical assault N = 6	Total N = 55
Trial	12 46.2%	4 57.1%	4 44.4%	2 28.6%	4 66.7 %	26 47.3%
Guilty plea	14 53.8%	2 28.6%	4 44.4%	5 71.4%	2 33.3%	27 49.1%
No conviction	0 0%	1 14.3%	1 11.2%	0 0%	0 0%	2 3.6%
Total	26 100%	7 100%	9 100%	7 100%	6 100%	55 100%

3.1.5.4 Charge negotiations

Charge negotiations affect the content of a VIS and may explain the high level of editing reported by the participants (see Table 3.27). Over 50% of participants reported that changes were made to the charges in their matter, with charge negotiations being most prevalent for victims of PA and DV, some of whose matters were processed through the Local Court (see Table 3.26).

Table 3.26: VOC: Were the charges in your matter negotiated? (by crime category)

	Family victims N = 22	Sexual assault N = 6	Domestic violence N = 7	HCSA N = 7	Physical assault N = 6	Total N = 48
Yes	10 46%	2 33%	6 86%	4 57%	6 100%	28 58%
No	12 54%	4 67%	1 14%	3 43%	0 0%	20 42%
Total = N	22 100%	6 100%	7 100%	7 100%	6 100%	48 100%

3.1.5.5 Editing the VIS

The percentage of VOC participants reporting that charges in their matter were negotiated (58%) (see Table 3.27) appears consistent with the percentage reporting their VIS was edited (see Table 3.26). However, these findings are not necessarily associated, as the nature of the material that required editing is not described. Booth (2013a) notes in her observation of 18 sentencing hearings where VISs were presented that some VISs accepted for oral presentation or tendering still contained material that was potentially defamatory or prejudicial to the offender or that referred to matters not part of the agreed statement of facts.

Table 3.27: VOC: Was your VIS edited? (by crime category)

	Family victims N = 22	Sexual assault N = 5	Domestic violence N = 5	HCSA N = 7	Physical assault N = 5	Total N = 44
Yes	11 50%	1 20%	3 60%	3 43%	3 60%	21 48%
No	11 50%	4 80%	2 40%	4 57%	2 40%	23 52%
Total = N	22 100%	5 100%	5 100%	7 100%	5 100%	44 100%

3.1.5.6 Who edits the VIS?

VOC reported that their initial VIS draft was edited by victim service and criminal justice professionals.³⁰ Numerical data were calculated by totalling the number of VIS makers reporting that an agent edited their VIS (see Table 3.28). The prosecution (prosecuting solicitor, police prosecutor or Crown prosecutor) and WAS were the most frequently reported as having edited the VIS. Over 10% of VOC also mentioned their VIS had been edited by the defence.

³⁰ A VIS can go through many drafts before presentation. VOC, sometimes with the advice of friends or family, make edits or changes to their VIS before presenting their draft VIS to anyone involved in victim support or to criminal justice officials assisting them during the process of their matter.

Table 3.28: VOC: Who edited your VIS? (by crime category)

VIS editor	Family victims N = 22	Sexual assault N = 5	Domestic violence N = 5	HCSA N = 7	Physical assault N = 5	Total N = 44
WAS	4 18%	1 20%	2 40%	1 14%	1 20%	9 20%
Victim support agencies	3 14%	0 0%	0 0%	0 0%	1 20%	4 9%
Prosecution	7 32%	1 20%	2 40%	3 43%	1 20%	14 32%
Defence	3 14%	0 0%	2 40%	0 0%	0 0%	5 11%
Judge	1 5%	0 0%	0 0%	0 0%	0 0%	1 2%

Note: Each number is a percentage of N within the column. The columns and rows do not total 100% because respondents may have referred to a number of sources who provided assistance when writing the VIS, and each was noted equally. The figures do not include victims who wrote their initial draft with a counsellor or victim support worker.

Most VOC participants stated they objected to their VIS being edited and felt strongly that VIS editing should not occur (see Appendix 1, Table A1.15). While many VOC were aware of the parameters of admissible content in the VIS, they believed it inappropriate that the expression of their suffering could be tempered or limited by the offender or the court.

3.1.5.7 Cross-examination of the VIS

VOC participants reported varying degrees of awareness of the possibility of being cross-examined on their VIS, with victims of SA reporting least awareness, despite the possibility of cross-examination being clearly stated in the VISIP (see Table 3.29). No participants reported being cross-examined on their VIS, consistent with previous studies (see Booth 2013a).

Table 3.29: VOC: Were you aware you could be cross-examined on your VIS? (by crime category)

	Family victims N = 22	Sexual assault N = 6	Domestic violence N = 7	HCSA N = 7	Physical assault N = 6	Total N = 48
Yes	14 64%	2 33%	6 86%	5 71%	3 50%	30 63%
No	8 36%	4 67%	1 14%	2 29%	3 50%	18 37%
Total = N	22 100%	6 100%	7 100%	7 100%	6 100%	48 100%

Forty-two participants were asked whether they feared being cross-examined on their VIS. All family members reported such fears, with many stating they regarded the possibility of being cross-examined as an opportunity to extend their voice (see Table 3.30).

Cross-examination was feared by 12 of the 20 primary victims who answered this question (60%). All participant victims of DV stated a fear of being cross-examined, with 60% of the PA participants who answered the question also reporting this fear. Results suggest fear of cross-examination is a genuine concern for some VOC when considering making a VIS.

Table 3.30: VOC: Would you be concerned if you were cross-examined on your VIS? (by crime category)

	Family victims N = 22	Sexual assault N = 4	Domestic violence N = 6	HCSA N = 5	Physical assault N = 5	Total N = 42
Yes	0 0%	1 25%	6 100%	2 40%	3 60%	12 29%
No	22 100%	3 75%	0 0%	3 60%	2 40%	30 71%
Total = N	22 100%	4 100%	6 100%	5 100%	5 100%	42 100%

3.1.5.8 VIS read out or handed up in court

More VOC participants read their VIS than handed them up.³¹ All primary victims who reported that their VIS was read to the court had read them themselves. Most family victims read their VIS; only one male and one female family victim reported that their VIS was read by another member of their family. No participants reported using the services of a court support worker to read their VIS. All participants whose matters were dealt with in the Local Court handed up their VIS. Most were handed up in the crime categories of DV and PA.

The results suggest that gender, type of crime and type of court may influence the decision to read the VIS or to hand it up (see Tables 3.31 and 3.32). A larger percentage of male family victims (78%) read their VIS compared with female family victims (64%). Regarding primary victims, 50% of females and 40% of males read their VIS. Numbers may be skewed by the fact that almost none of the participating males who were eligible to make a VIS were victims of SA or DV and that more females than males participated in the study. However, it must be remembered that 7 of 8 non-VIS makers contacting the study were women.

Table 3.31: Male VOC VIS makers: Did you read your VIS or hand it up? (by crime category)

	Family victims N = 9	Sexual assault N = 0	Domestic violence N = 0	HCSA N = 3	Physical assault N = 2	Total N = 14
Read VIS	7 78%	0 0%	0 0%	2 66.7%	0 0%	9 64%
Handed up VIS	2 22.2%	0 0%	0 0%	1 33.3%	2 100%	5 36%
Total = N	9 100%	0 0%	0 0%	3 100%	2 100%	14 100%

³¹ Once a court has accepted a VIS, the victim or victim representative is entitled to read out part or all of the statement to the court. The reading of the VIS to the court is optional and voluntary (VISIP 2013/1998). There is no definition or guidelines provided for 'victim's representative' in the VISIP or on the NSW Victims Services website (<http://www.victimsservices.justice.nsw.gov.au/>). It appears the victim's representative can be anyone nominated by the victim.

Table 3.32: Female VOC VIS makers: Did you read your VIS or hand it up? (by crime category)

	Family victims N = 14	Sexual assault N = 5	Domestic violence N = 5	HCSA N = 4	Physical assault N = 2	Total N = 30
Read VIS	9 64%	3 60%	2 40%	3 75%	0 0%	17 57%
Handed up VIS	5 36%	2 40%	3 60%	1 25%	2 100%	13 43%
Total = N	14 100%	5 100%	5 100%	4 100%	2 100%	30 100%

3.1.5.9 Judicial response to VIS

VOC participants were asked to describe the response of the judge or magistrate to their VIS within sentencing procedures (see Table 3.33). A comment was coded as positive if the judge acknowledged the suffering of the victim, thanked them for presenting their VIS or made some mention of it. If VOC stated that the judge did not mention the VIS but maintained a supportive demeanour during its presentation, such as listening attentively or using empathic body language such as nodding in understanding, that was also noted as positive acknowledgement.

Where participants perceived indifference on the judge's part, stating that the judge appeared dismissive, inattentive or preoccupied during VIS presentation or did not acknowledge the VIS verbally or with supportive body language or non-verbal cues, this was coded as 'not supportive'.

Participants who were more likely to report positive acknowledgement of their VIS by judges were family victims (64%) and victims of HCSA (60%). Conversely, participant victims of DV and PA were less likely to report that they received positive acknowledgement of their VIS. Although two-thirds of family victims reported positive acknowledgement, 32% felt that the judge had not been supportive of their VIS. It is to be noted that 30% of family victim participants, 60% of DV participants and 100% of PA participants handed up

their VIS, which suggests that judicial response is more likely to be made following an oral VIS, as supported by Booth (2013a) and Miller (2013).

Table 3:33 VOC: What was the judge’s response to your VIS? (by crime category)

Judicial response	Family victims N = 22	Sexual assault N = 4	Domestic violence N = 5	HCSA N = 5	Physical assault N = 3	Total N = 39
Judge positively acknowledged or commented on the VIS	14 64%	1 25%	0 0%	3 60%	0 0%	18 46%
Judge did not supportively acknowledge, or behaved dismissively towards, the VIS	7 32%	0 0%	2 40%	2 40%	3 100%	14 36%

Note: Table 3.33 tabulates the data for responses to the following two questions. For this reason, the total column does not total 100%.

Did the judge positively acknowledge or comment on your VIS?

Did the judge show no supportive acknowledgement of your VIS or act dismissively towards it?

3.1.5.10 Offender response to VIS

Of the participants who answered this question, 92% reported that the offender did not acknowledge their VIS (see Table 3.34). Acknowledgement was described as showing a facial response indicating emotion, being visibly moved, appearing contrite or in some other way being visibly affected on hearing the VIS.

Table 3.34 VOC: Did the offender respond or acknowledge your VIS? (by crime category)

	Family victims N = 22	Sexual assault N = 4	Domestic violence N = 5	HCSA N = 5	Physical assault N = 3	Total N = 39
Yes	2 9%	0 0%	0 0%	1 20%	0 0%	3 8%
No	20 91%	4 100%	5 100%	4 80%	3 100%	36 92%
Total = N	22 100%	4 100%	5 100%	5 100%	3 100%	39 100%

3.1.6 Support and satisfaction

This section describes which agencies provided support to VOC during the VIS/sentencing process; VOC levels of satisfaction with their presentation of their VIS in court; whether, with hindsight, they would add anything to their VIS; and whether they would make a VIS again. Findings also show VOC satisfaction with the sentencing process in their matter and satisfaction with the sentence itself.

3.1.6.1 Support given to VOC during the VIS/sentencing process

Participants were asked who provided support to them during the VIS process. Where more than one support was named, all were equally recorded. VOC tended to mention those providing significant support, which often included support provided after the crime was committed and post-sentencing. Participants did not always differentiate between WAS and other victim support agencies.

For 60% of participants, support was provided by the police, for 54% by family and friends and for 50% by victim support agencies (see Table 3.35). A third of participant victims of PA and one-fifth of family victims received no support. Participant victims of DV received less support from the police than did any other category and little support from family and friends. Participant victims of HCSA appeared to use support from the police, family and friends rather than from other agencies. Family victims and SA victims reported higher levels of support from victim support services, likely due to referral services such as the HVSG, NSW Sexual Assault Services and NSW Rape Crisis. Support from the police was more commonly reported by participant victims of HCSA (57%) and family victims (76%), who also more frequently reported positive acknowledgement of their VIS by the judge or magistrate (see Table 3.33).

Table 3.35: VOC: Who were you supported by during the VIS/sentencing process? (by crime category)

Type of support	Family victims N = 25	Sexual assault N = 7	Domestic violence N = 7	HCSA N = 7	Physical assault N = 6	Total N = 52
Police	19 76%	3 43%	2 29%	4 57%	3 50%	31 60%
WAS	10 40%	2 29%	3 43%	2 29%	2 33%	19 37%
DPP solicitor	9 36%	1 14%	2 29%	1 14%	0 20%	13 25%
Victim support services	15 60%	5 71%	3 43%	2 29%	1 17%	26 50%
Family friend	16 64%	4 57%	1 14%	5 71%	2 33%	28 54%
No support	5 20%	0 0%	0 0%	1 14%	2 33%	8 15%

Note: Each number is a percentage of N within the column. The columns and rows do not total 100% as respondents may have referred to a number of sources who provided assistance when writing the VIS, and each was noted equally.

3.1.6.2 Satisfaction with presentation of VIS, the VIS process and sentencing outcome for VOC

VOC participants were asked about their satisfaction with the presentation of their VIS, the VIS process and the sentence handed down in their matter (see Tables 3.36, 3.37 and 3.38). Of those questioned, just over 70% were happy with the way their VIS was presented in court; however, only 40% were satisfied with the sentencing process and 39% with the sentence. When the responses are examined according to crime category, the picture is more nuanced. While 60% of victims of DV were satisfied with the presentation of their VIS in court, 83% were not happy with the sentencing proceedings nor the sentence handed down, and 75% of victims of SA were dissatisfied with the sentence. As mentioned previously, participant victims in these crime categories were more likely to have their charges negotiated.

More family victims and victims of HCSA reported satisfaction with the presentation of their VIS, and they reported most positive judicial responses to their VIS. While only one victim of SA reported a positive judicial reaction to her VIS, none reported a negative reaction. In addition, more victims of SA reported

being motivated to make a VIS for themselves than did victims in other crime categories. The disparity in the number reporting satisfaction with the presentation of their VIS and satisfaction with the sentencing process and sentence suggests that VOC are able to isolate their feelings of satisfaction with the VIS from their feelings about the sentencing hearing and their reaction to the sentence. The participant's positive experience of writing the VIS (see Table 3.22) appeared not to be coloured by the sentencing experience.

Table 3.36: VOC: Were you happy with the presentation of your VIS to the court? (by crime category)

	Family victims N = 22	Sexual assault N = 5	Domestic violence N = 5	HCSA N = 7	Physical assault N = 5	Total N = 44
Yes	17 77%	4 80%	3 60%	5 71%	2 40%	31 70%
No	5 23%	1 20%	2 40%	2 29%	3 60%	13 30%
Total = N	22 100%	5 100%	5 100%	7 100%	5 100%	44 100%

Table 3.37: VOC: Were you happy with the sentencing process? (by crime category)

	Family victims N = 23	Sexual assault N = 5	Domestic violence N = 6	HCSA N = 7	Physical assault N = 6	Total N = 47
Yes	9 39%	3 60%	1 17%	4 57%	2 33%	19 40%
No	14 61%	2 40%	5 83%	3 43%	4 67%	28 60%
Total = N	23 100%	5 100%	6 100%	7 100%	6 100%	47 100%

Table 3.38: VOC: Were you happy with the sentence? (by crime category)

	Family victims N = 23	Sexual assault N = 4	Domestic violence N = 6	HCSA N = 7	Physical assault N = 6	Total N = 46
Yes	11 48%	1 25%	1 17%	3 43%	2 33%	18 39%
No	12 52%	3 75%	5 83%	4 57%	4 67%	28 61%
TOTAL = N	23 100%	4 100%	6 100%	7 100%	6 100%	46 100%

3.1.6.3 Happiness with the contents of the VIS over time and decision to make a VIS again with hindsight

Almost half the participants questioned stated that they would make changes to their VIS if they were to make it again (see Appendix 1, Table A1.16). Recent research has noted that time changes the victim's perception of their victimisation, as the effects of the crime become more apparent, suggesting that the greater the length of time from crime incident to sentencing the more likely a VIS will be made (Lens, Pemberton & Bogaerts 2013).

All participants, apart from one victim of DV, stated that if given the opportunity again, they would wish to make a VIS (see Appendix 1, Table A1.17). These results confirm that VOC attribute some worth to the process and presentation of the VIS.

3.2 VSP sample

3.2.1 Description of the sample

The VSP sample comprised Crown and police prosecutors, officers of the ODPP Witness Assistance Service (WAS), and providers offering VOC legal, court and personal support. A detailed composition of the VSP sample is presented in Table A1.18 in Appendix 1. Of 35 participants, 32 were female and three were male. The 2010 Profile of Women's Employment in NSW reported that industries that employ large percentages of women include health care and social assistance (79% of all employees are women) and education and training (68.9%) (Baird et al 2010).

Thus, it is not surprising that most VSP participants were female, as women are predominantly employed in positions providing administrative, educative, legal and psycho/social support, mainly funded within the public service sector, the highest employer of women in NSW (Baird et al 2010:18). Similarly, the 2014 Australian Institute of Criminology (AIC) study of supports for male VOC in NSW found that women were over-represented in areas of victim support. Of their sample group of 25 victim support service workers interviewed to inform the study, 'the majority' were women, and 'all of the support services consulted (for

the study) were staffed predominantly by women' (Bricknell, Boxall & Andrevski 2014:3, 36).

Demographics of age, country of origin and educational background were not recorded for this sample. However, most VSP interviewed were over 30 years of age and had required tertiary level qualifications to meet the requirements of their position.

3.2.2 VIS response rates

VSP nominating crime categories where VIS were more likely to be made in their experience (see Appendix 1, Table A1.19) stated most VIS are made in death matters and in matters of HCSA, SA and serious PA where an injury was sustained by the victim. Such matters are mainly heard in the District and Supreme Court. VSP reported few VIS were made in the Local Court. Participants working at WDVCAS, Wirringa Baiya Legal Service and IDRS reported that their clients' matters rarely got to court and/or conviction. Interestingly, DV as a crime category was not referred to by any VSP as a crime category where VIS are likely or unlikely to be made, whereas robbery was mentioned by 13 participants as a category where VIS are not made.

VSP interviewed were not able to provide concrete numerical data regarding the number of their clients who make a VIS within a fixed period. Overall, 36% of VSP stated 'most' or 'many' of their clients make a VIS, with 36% stating that 'a few' or 'no' clients make a VIS, and 27% stating that they 'didn't know' how many victims eligible would make a VIS (see Appendix 1, Table A1.20). When broken down into particular services, it seems that a VIS is more often made in serious matters, defined as being matters where the victim has sustained a fatal or physical injury requiring urgent medical assistance or the intervention of emergency services, or has been sexually assaulted. It is, however, interesting to note the varied understandings within the different services of how many VIS are made.

3.2.3 Understandings of the VIS

3.2.3.1 VSP understandings of the purpose of the VIS

All VSP stated that a purpose of the VIS is to allow the victim to have a voice in the proceedings. In addition, 94% stated that the purpose of the VIS is to also inform the court and judge or magistrate about the impact of the crime on the victim and the objective seriousness of the crime committed. While 39% stated that a purpose of the VIS is to make the victim feel better, 61% did not consider this a purpose of the VIS (see Table 3.39). All participants asked (N = 33) stated that the purpose of the VIS is not to affect sentence, despite the fact that the VIS of primary victims may be taken into consideration at sentencing in certain circumstances.

Table 3.39: VSP: What are the purposes of the VIS?

	To have a voice in proceedings	To inform the judge/court of the impact of the crime	To make the victim feel better	To affect sentence
Yes	33 100%	31 94%	13 39%	0 0%
No	0 0%	2 6%	20 61%	33 100%
Total N = 33	33 100%	33 100%	33 100%	33 100%

3.2.3.2 VSP experience of the purpose of the VIS from their client's perspective

Reasons outlined by VSP regarding why VOC wish to make a VIS were similar to the purposes and expectations VOC reported—namely, for the victim to have a say in proceedings, to highlight the full impact of the crime against them to the court, to affect sentence, to be able to address the defendant in a safe environment and, where applicable in death matters, to bring the personhood of the deceased into the court room. Four VSP interviewed did not have experience of their clients considering a VIS.

VSP reported the multiple reasons VOC may give for making a VIS (see Table 3.40). While over half of VSP stated that the purpose of the VIS is not to provide

a therapeutic outcome, nearly a third interviewed stated that they encourage their clients to make a VIS because it can be a therapeutically beneficial experience for them. Despite the fact that VSP stated that the purpose of the VIS is not to affect sentence (see Table 3.39), nearly 90% stated that this is a motivation for some of their clients (see Table 3.40). Only one participant, a Crown prosecutor, said they inform clients that the VIS might affect sentence.

Table 3.40: VSP: What reasons do your clients give for wishing to make a VIS?

	To have their say N = 29	To highlight the full impact of the crime to the court N = 29	To affect sentence N = 29	To address the offender in a 'safe' environment N = 25	To bring the deceased into the courtroom N = 21	We suggested that the VIS might provide them therapeutic benefits N = 29	We suggested it might affect sentence N = 29
Yes	29 100%	29 100%	26 89.7%	25 100%	21 100%	9 31%	1 3.5%
No	0 0%	0 0%	3 10.3%	0 0%	0 0%	20 69%	28 96.5%
Total	29 100%	29 100%	29 100%	25 100%	21 100%	29 100%	29 100%

Other reasons that VSP gave for VOC making a VIS are presented in Table A1.21 in Appendix 1. Five of 15 reported VOC using the VIS to redress the balance of power between the victim and the offender in court, and four participants from victim support agencies reported that some of their clients were instructed to provide a VIS by the prosecutor, concurring with VOC data (see Table A1.10) where 10% of VOC reported that they felt obligated or influenced to make a VIS following advice from the police or prosecutor that submission of a VIS might affect sentence. Other reasons VSP gave for VOC wishing to make a VIS included:

- the ability to inform the offender or the offender's family of the impact of the crime
- the ability to present emotional rather than factual detail to the court
- VIS content might aid the rehabilitation of the offender
- pressure of public obligation and feelings of guilt if they did not.

3.2.3.3 VSP experience of VIS and its effect on sentence

Most VSP interviewed implied a strong reluctance to encourage victims to make a VIS as a means to affecting sentence. However, although VSP stated that the purpose of a VIS was not to affect sentence, when asked whether VISs affect sentences, of 30 participants who responded, 7% reported that they did and 30% reported that they sometimes did affect sentence. Responses refer here to sentencing in general, with no discrimination between sentencing of death matters and primary victim matters (see Table 3.41).

Table 3.41: VSP: Does a VIS affect sentence?

	N = 30
Yes	2 7%
No	12 40%
Sometimes	9 30%
Don't know	7 23%
Total = N	30 100%

3.2.3.4 Factors that affect VOC making a VIS

Specific factors that might affect the ability of, or decision by, VOC to make a VIS were drawn from early analysis of VOC data regarding barriers and considerations when deciding to make a VIS. A number of VSP, when interviewed, affirmed these factors as affecting their client's decision to make a VIS (see Table 3.42). VSP stated that some clients might be affected by more than one factor, while others may only be affected by one or none.

Table 3.42: VSP: factors that can affect the decision of VOC to make a VIS

	Do not want the offender to know the full impact of the crime on the victim N = 33	Do not want to present as a victim N = 33	VIS has no impact on sentence, so there is no point making one N = 33	Shame of personal revelation and victimhood N = 33	Literacy Issues N = 33	Fear of retribution from offender or offender's family N = 33	Fear of public speaking N = 33
Number of VSP affirming this reason as a factor	29 91%	29 90%	28 85%	27 82%	26 79%	26 79%	20 61%
Have no experience of this being a factor	4 9%	4 9%	5 15%	6 18%	7 21%	7 21%	13 39%
TOTAL N = 33	33 100%	33 100%	33 100%	33 100%	33 100%	33 100%	33 100%

Note: 33 VSP responded with multiple factors that could affect their client's decision to make a VIS; therefore, the factor column totals more than 100.

Most VSP (97%) stated one of the main reasons VOC give for deciding not to make a VIS is that they do not want to further engage in the criminal justice process. It could be argued that this reason was not given by VOC because those who felt this way would have been unlikely to engage with the study. However, the reasons why VOC chose to disengage with the CJS are likely included, at least in part, as factors considered by VOC in the decision to make or not make a VIS (see Chapter 4).

The majority of VSP are aware through their experience that some victims do not want the offender to understand the full impact the crime has had on them, do not want to present as a victim in court, feel too ashamed of their hurts to reveal them, and/or fear retribution from the offender (see Table 3.42). On a more practical level, literacy issues and fear of public speaking were also factors given by VSP as reasons VOC choose not to make a VIS.

3.2.4 Writing the VIS

3.2.4.1 VSP Experience of type of assistance requested by VOC with preparation of VIS

Over 84% of VSP interviewed reported that their clients ‘often’ (65.6%) or ‘sometimes’ (18.8%) need assistance to understand the purpose of the VIS (see Table 3.43). Findings suggest that while VOC may be able to read and work through VIS paperwork, the intention of the VIS is not as easily comprehended, its purpose remaining ambiguous for some. In addition, 65.5% stated that VOC sometimes need assistance due to literacy issues and with understanding why the VIS can be edited, with 53% stating that VOC sometimes need assistance with translation and 47% that VOC sometimes need assistance with drafting the VIS.

Table 3.43: VSP: What is the nature and regularity of assistance requested by your clients in preparing a VIS?

Assistance	Often	Sometimes	Rarely	Never	N = 32
Understanding the purpose of the VIS	21 65%	6 20%	4 12%	1 3%	32 100%
How to draft the VIS	12 37%	15 47%	3 10%	2 6%	32 100%
What the VIS can contain	18 56%	10 31%	3 10%	1 3%	32 100%
Translation services	4 12%	17 53%	8 25%	3 10%	32 100%
Assistance due to issues of literacy	5 15%	21 65%	3 10%	3 10%	32 100%
Understanding why contents might be edited	7 22%	21 65%	3 10%	1 3%	32 100%

Just over 50% of VSP said VIS templates are not routinely provided to their clients, the template being perceived as too prescriptive and as negating the intention of the provision of the VIS—to provide the victim with an opportunity to

convey in their own words to the court the personal, individual impact of the crime. Despite this, nearly 40% reported that they ‘often’ or ‘sometimes’ provide templates (see Table A1.22).

3.2.5 The VIS in court

3.2.5.1 Editing of the VIS

Of 27 VSP, most (81%) stated that based on their experience, VISs are often edited; only 8% stated that VISs are rarely left untouched (see Table 3.44). Overall, VSP reported VIS editing occurring at more frequent rates than those reported by the VOC sample.

Table 3.44: VSP: Are VIS edited in your experience?

Frequency	N = 27
Often	22 81%
Sometimes	3 11%
Rarely	2 8%
Total = N	27 100%

3.2.5.2 Who edits the VIS?

Consistent with VOC data, VSP reported that the prosecution is most likely to edit the VIS (see Table 3.45). Almost 50% of VSP participants reported experience of judicial editing of VIS. Such editing occurs late in the process, often on the day of VIS presentation or reading. This last-minute editing of VIS by the judiciary can be especially traumatic for the victims (Booth 2013a; Rock 2010).

Table 3.45: VSP: Who edits the VIS in your experience?

	Prosecutor: DPP solicitor or Crown N = 26	WAS N = 26	Defence N = 26	Judge N = 26
Number of VSP	25 96%	13 50%	18 69%	12 46%

3.2.5.3 Fear of cross-examination

VSP interviewed stated that some of their clients choose not to make a VIS for fear of cross-examination, although of 29 respondents only one was aware of a victim being cross-examined on their VIS.

3.2.5.4 VSP experience of numbers of VIS read in court

Most VSP (34%) stated that 'a few' VOC read their VIS in court (see Table 3.46). Here, VSP were referring to clients who choose to personally read their VIS in court rather than electing another person to read it for them. Although almost as many VSP (24%) stated that they did not know how many of their clients read their VIS, the 'don't know' responses tended to come from VSP who had had less involvement with clients during sentencing proceedings. Only three services reported that 'many' or 'most' VOC read their VIS, and these were generally services dealing with more-serious offences.

Table 3.46: VSP: What proportion of your clients choose to read their VIS aloud in court?

VSP	Most	Many	A few	None	Don't know	N = 33
WAS officers	0	8	4	0	0	12
Victims Services officers (NSW Department of Justice)	0	0	0	0	5	5
Warringa Baiya Aboriginal Women's Legal Centre	0	0	0	3	0	3
DPP Crown Prosecutors, Sydney	1	0	1	0	0	2
Police Prosecutor, Sydney	0	0	0	0	1	1
WDVCAS Solicitor/Coordinator, Sydney	0	0	1	0	0	1
MACSS VWCCS	0	0	3	0	0	3
HVSG	0	1	0	0	0	1
Enough is Enough CEO	0	0	1	0	0	1
Enough is Enough Cultural Coordinator	0	0	0	1	0	1
VOCAL	0	0	1	0	0	1
ASCA	0	0	0	0	1	1
IDRS manager	0	0	0	0	1	1
Total	1 3%	9 27%	11 34%	4 12%	8 24%	33 100%

3.2.5.5 Importance of judicial and defendant response to VIS

Over 75% of VSP responding stated the judge's reaction was 'very important' to their clients; only 7% stated the judge's reaction was 'not very important'. When asked how important the offender's reaction to the VIS was for their clients, 45% stated it was 'very important', with 21% stating it was 'not very important' (see Table 3.47). This suggests that VSP perceive the judge's reaction to the VIS to be highly valued by their clients. Interestingly, some VSP were unsure whether the reaction of the judge (17%) and the offender (21%) were important to their clients.

Table 3.47: VSP: To what extent is the reaction of the judge or offender important to your clients?

Extent	Judge N = 29	Offender N = 29
Very important	22 76%	13 45%
Not very important	2 7%	6 21%
Not sure	5 17%	6 21%
Not applicable*	0 0%	4 13%
Total	29 100%	29 100%

* Not all VSP participants were able to respond to this question because some were not involved in the sentencing proceedings of their clients.

3.2.6 Satisfaction levels

3.2.6.1 Factors providing satisfaction for VOC at sentencing

While over 80% of VSP stated that the ability to participate in sentencing proceedings, to describe the impact of the crime, and to have a voice gives satisfaction to their clients, over 80% also stated that the sentence itself gives VOC satisfaction (see Table 3.48). However, while all VSP stated that participatory factors of VIS provides satisfaction, three VSP (11.6%) stated that the sentence is not a factor providing satisfaction for their clients.

Table 3.48: VSP: What gives your clients most satisfaction at sentencing?

	Participating N = 27	Ability to describe the impact of the crime N = 27	Having a voice N = 26	Sentence N = 26
Yes	22 81%	22 81%	21 81%	21 81%
No	0 0%	0 0%	0 0%	3 12%
Not aware	5 19%	5 19%	5 19%	2 7%
Total	27 100%	27 100%	26 100%	26 100%

3.2.6.2 The importance of VIS as a provision for VOC

Towards the end of the interview, VSP were asked to consider both the positives and negatives of the VIS experience for their clients. Almost 80% of VSP working with clients eligible to make a VIS stated that the VIS was an important provision, although 22% felt VIS importance to the victim was crime specific (see Appendix 1, Table A1.23).

3.3 Summary

The quantitative data provide a useful, broad picture of the VIS experience and reveal some unusual findings, now outlined.

The study was interested in the influence of gender, culture and literacy on VIS take-up rates. The results show proportionately fewer female participants (69.6%) than male participants (83.3%) chose to make a VIS when given the opportunity, which appears a surprising finding considering previous studies suggest women are more likely to present a VIS (Erez, Kichling & Wemmers 2011; Meredith & Paquette 2001). However, male participant numbers were small, representing only 30% of the total sample, and over 50% of male participants were family victims as opposed to 34% of female participants. The VSP results suggest that VISs are most likely to be made in death matters, where most male VIS makers in this study are represented. Increasingly, victim literature is noting that male victims may find it more challenging to their sociocultural status than women do to enlist victim support (Bricknell, Boxall & Andrevski 2014; Sutton & Farrall 2005), preferring to underplay their vulnerability (Goodey 1997; Stanko & Hobdell 1993), which may explain why fewer men might choose to participate in victim studies.

Considering the recent AIC study into support for male victims (Bricknell, Boxall & Andrevski 2014) suggests men even struggle to come forward to report crimes against them, figures of male victims engaging with the CJS are not likely to reflect a true picture of male victimisation. In terms of the VIS, Meredith and Paquette (2001:15) suggest that men may be less likely than women to want to expose their feelings about their victim experience. Leverick, Chalmers

and Duff (2007:130) reported that their in-depth interviews with 10 male and 10 female primary VOC found seven of 10 females presented a VIS as opposed to three of 10 males, and two of seven male victims of assault made a VIS compared with three of four female victims of assault. As no males are represented in the adult victim categories of SA or DV in this study, it is possible that the picture revealed by the results would be different if the sample size were larger. However, the pattern of male engagement with this study is perhaps consistent with the demographic of male victims engaging with the VIS process.

Women appear more willing to engage in studies regarding victimisation; however, women are also the interest of many criminology studies exploring family violence and violence against women (see Hoyle & Zedner 2007). Walklate (2004:13) describes crime as being a 'male-dominated activity'.³² Conversely, it could be argued that the interests of criminologists have provided a more dominant picture of female VOC than male, with an understanding that being a victim is a female-dominated activity.³³ This gendered picture, until recently, largely ignored male victims. If included at all, it was assumed that, similar to male offenders, the masculinity and status of male victims would be supported within a patriarchal criminal justice process, in that their physical and intellectual powers would not be challenged. Female victims, in comparison, continue to be viewed as those whose status is undermined within the CJS, in that their strength and intellect are questioned (Davies 2007).

Viewing the criminal justice process through a gendered paradigm of females as victims and males as perpetrators (see Greer 2009; Walklate, 2004; Hoyle 2007) in a broad sense, creates different gender challenges for VOC regarding the VIS. In making a VIS and revealing the full impact of the consequential

³² In terms of gender and crime, the fact that crimes of personal violence are mainly committed by males is consistently statistically proven. In 2011, males were nearly four times more likely to commit offences intended to cause injury and more than 28 times more likely to commit sexual assault than were women, with the male victimisation rate for sexual assault about one-sixth that of females. See Australian Bureau of Statistics, 'Gender Indicators, Australia, Jan 2012 (cat. no. 4125.0) <<http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/by+Subject/4125.0~Jan+2012~Main+Features~Suicides-3240>>.

³³ Walklate (2007:18) describes the *victimological other* as being the male perpetrator of crime and the *criminological other* as being the female victim of crime.

personal harms suffered—not only to the court but also to the public and the offender—the risks differ for males and females. More generally, male victims risk their personal pride and status, which are intrinsic. Female victims, arguably historically and culturally conditioned to subjugate such intrinsic and—what Maslow (1943) would see as—higher-order cares of self-esteem, face extrinsic risks to their personal safety and, sometimes, the safety of their children. The results suggest that some primary female victims feel less protected within the CJS and choose to not make a VIS, believing that by making such a choice they will protect themselves from the offender emotionally and physically, from being further exposed publicly and/or privately, or from their suffering not being believed or validated by the court. Conversely, the normative assumption of the female victim stereotype makes it more acceptable for women to disclose their vulnerabilities and hurts, supported, possibly, by an expectation within support services for them to wish to do so (see Erez Kichling & Wememrs 2011). This may explain why studies suggest women are more likely to make a VIS. Meredith and Paquette (2001) in their VIS study suggested that women may see more benefit in preparing a VIS than men do. While previous studies suggest that more women than men make a VIS, with Booth (2013a) concluding that making a VIS is a ‘gendered activity’, there is scant research explaining why.

It is interesting to note that of eight non–VIS makers, all of whom were primary victims, seven were female, six being victims of DV, SA or PA by an ex-partner or someone known to them. It is unclear from the quantitative data whether female victims in these particular crime categories are less likely to make a VIS because of safety needs, their need to protect their relationship with the offender or their expectation that their disclosures will be received negatively (see Herman 2005). In terms of service provision, this information is relevant. However, gender-specific data in VIS studies appears lacking, for example:

- The Scottish study (Leverick, Chalmers & Duff 2007) did not make reference to gender in relation to the decision to make a VIS.
- The 2009 Victorian study prepared by the Victims Support Agency (VSA, 2009) did not report gender or the numbers representing each category and did not differentiate between VIS makers and non–VIS makers.

- The 2004 Home Office study (Graham et al 2004) did not analyse by gender, crime category or VIS take-up.

In a systematic review of 33 empirical studies into the needs of VOC, ten Boom and Kuijpers (2012:164) reported that ‘the most striking finding’ of their research was that ‘gender did not appear to be a standard variable’ in research assessing the needs of victims.

Analysis of the results of this study cannot ignore the fact that both samples are small and the VOC sample self-selected. For this reason, some results may be an artefact of the sample. As the VSP sample data reveal, victim support workers in government and non-government agencies tend to be female, as supported by Bricknell, Boxall & Andrevski (2014). Whether this female front line acts as a deterrent to male primary victims considering VIS, knowing they would need to volunteer information about the nature of the consequences of their crime experience is worth considering. Certainly the quantitative data suggest that of primary victims, fewer males than females make a VIS.

In terms of ethnicity and culture, within the VOC sample those of white Anglo/Australian descent are over-represented while those of non-Anglo/Australian descent are under-represented as VOC in relation to statistics reported in current NSW victimisation studies (ABS 2013). ABS victimisation data (ABS 2013) show that one-third of victims of PA or threatened violence in Australia were born overseas, with NSW recorded crime statistics (ABS 2011) indicating that migrants were three times more likely to be victims of such attacks. It is possible that these are not the true figures; issues of under-reporting (Bartels 2011) and the fact that data might not have been routinely collected about a victim’s country of origin may reduce the stated victimisation levels (Baur 2006). Fifty-five participants in this study provided their residential postcodes, which indicate that about 80% of participants lived within a three-hour drive of Sydney and 10% lived in Sydney. It is interesting to note the small number of VOC participants from China, Indonesia and India, despite the dense population of people from those countries who live in and around Sydney (ABS

2014; Sawrikar & Katz 2008). In addition, no participants came forward from Middle Eastern or African backgrounds.³⁴

In NSW, Aboriginal people are three and a half times more likely to suffer a crime of SA than those identifying as Anglo/Australian (ABS 2013); and 7% of PA victims in NSW are Aboriginal. However, no participants in the study identifying as Aboriginal reported crimes of PA or adult SA, suggesting that Aboriginal VOC may be under-represented within the sample in these categories.

The focus of this study was the VIS rather than victimisation, and results suggest that there may be a difference between the demographics of the VIS maker and the general victim of crime. An early criticism of the VIS was that it favoured individuals who speak the language of the dominant culture and possess a confidence derived from knowledge of the dominant culture's procedures and norms (Cassell 2009; Erez & Rogers 1999b; Herman 2003).

As this study was interested in ethnicity, culture and language as possible barriers to making a VIS, perhaps more revealing is a comparison of the country of birth and ethnic background of VIS makers and non-VIS makers. Literature suggests that VOC from minority or stigmatised groups face particular obstacles when engaging with criminal justice processes (Burton, Evans & Sanders 2007; Herman 2003). Although the group of non-VIS makers is small in number, over 60% of non-VIS makers were not born in Australia or were members of ethnic minorities.

No problem of literacy was revealed within the VOC sample; however, nearly 80% of VSP interviewed stated that, in their experience, issues of literacy and comprehension of English were barriers for VOC making a VIS, supporting findings of previous studies (Herman 2005; Meredith & Paquette 2001).

³⁴ Reasons for this are difficult to pinpoint. The method of dissemination of study information may have missed this demographic; language may have been a barrier as may have cultural directives.

Richards (1992:133) suggested that ‘class, gender and ethnic differences’ would result in the ‘selective utilisation’ of the VIS process, due mainly to financial resources, literacy difficulties and cultural differences, which would ‘exacerbate the frustration and powerlessness’ experienced by some victims. The quantitative results in this study show that when the VOC sample is examined according to crime category, age, gender, country of origin and consequential harms, it appears that particular barriers may affect particular victims of particular crimes at particular times (see Bronfenbrenner’s [1979] ecological systems theory). In other words, barriers already noted by previous scholars may not be necessarily be universal to all victims but may apply more to certain cohorts or persons than to others (ten Boom & Kuijpers 2012). Such information is useful in determining appropriate service provision and in providing victim support services with a deeper and more nuanced understanding of the potential needs of the client base. Themes of gender, culture and literacy are examined in Chapters 4 and 5.

Within the VOC sample, all primary victims, whether or not they had made a VIS, reported suffering psychological problems, and 88% of non-VIS makers reported their physical injuries resultant from the crimes against them as serious. This suggests that not all victims suffering serious physical and psychological effects will decide to make a VIS. This finding differs from previous VIS studies that suggest a strong correlation between the seriousness of the effects of a crime on a victim and their likelihood to make a VIS (Erez, Roeger & Morgan 1994; Leverick, Chalmers & Duff 2007; VSA 2009). Importantly, 88% of those choosing not to make a VIS were female primary victims.

Victims of PA and DV reported higher rates of physical injury than did victims of other crimes represented, which is unsurprising. The high levels of reported financial loss for adult victims of SA suggest that the emotional effects of the crime were highly debilitating, even if those participants had not reported physical injuries. The most prevalent psychological issue described for family victims was that of depression (65%). Primary victims most commonly reported concurrent depression and anxiety. Lower rates of depression were reported by

victims of DV (67%) and PA (50%) than by victims of SA (75%) and HCSA (83%), but all recorded similarly high rates of anxiety. Non-VIS makers reported higher levels of depression than anxiety, although both were reported at high levels. Participants were not asked whether their psychological issues had been reduced as a consequence of making the VIS, but as all were interviewed post-VIS it appears that states of depression and anxiety post-sentencing do not cease. These findings replicate those of Herman (2005) and suggest that any therapeutic benefits the VIS may provide appear not to be those that substantially ameliorate a victim's levels of anxiety or depression. Pemberton and Raynaers (2011) suggest the therapeutic benefits of VIS should be tested with regard to a VIS reducing a victim's level of anger and anxiety; however, results from the quantitative data in this study suggest that such testing might not be as fruitful as testing the levels of self-efficacy pre- and post-VIS (see Cattaneo, Dunn & Chapman 2013).

Information supporting VOC prepared by NSW Victims Services and other victim support agencies in NSW makes mention of possible psychological issues and consequences resultant from being a VOC. While not intended, these descriptors may direct some VOC in their understanding and description of the impacts they experience. The Scottish study (Leverick, Chalmers & Duff 2007), which conducted a content analysis of 160 VIS presented to court, found that 39% described an inability to sleep, 41% a general fearfulness or inability to cope and 28% a depressive state. The Scottish study noted that these markers were key descriptors of possible consequences a VOC might experience as presented in the VIS paperwork supplied to victims, concluding this may have had a prompting effect when VOC composed their VIS. This has been noted as a potential bias in other VIS studies (Lens, Pemberton & Bogaerts 2013).

The UK Home Office study (Graham et al 2004) reported that sustained fear, anxiety and depression experienced by VOC were not always described fully in their victim personal statement, also noting that it was not only the level of violence that affected victims psychologically but also crimes where the victim

had come into contact with the offender.³⁵ Within this study, the offender was known to nearly 63% of the sample, and all but one primary victim had been in the presence of their offender when the crime was committed.

In this study, non-VIS makers were 50% less likely than VIS makers to have sought the assistance of counselling services, despite reporting high levels of psychological distress. Whether the processes of counselling assists VOC towards an engagement with the VIS process, in that counselling assists VOC to begin evaluating their experience of victimisation, is interesting to consider, although short-term counselling did not appear to reduce reported levels of depression and anxiety.

The study results confirm that VISs are mostly made in serious matters and suggest that youth may be a barrier to making a VIS, with more VIS makers in the older age groups (supported by Leverick, Chalmers & Duff 2007). Victimology literature suggests that youth is a barrier to engagement with the CJS for reasons such as fear of offender, ambiguous perceptions of victimhood and feeling intimidated by the criminal justice process (Greer 2007).

VIS take-up rates within the sample were high at 85%, which may be due to its self-selected nature. As the study focused on the VIS experience, VIS makers may have been more interested in participating than non-VIS makers. However, the VSP data also points to a high take-up rate for serious matters, with Crown prosecutors and WAS officers reporting that many of their clients choose to make a VIS. High levels of VIS presentation have been noted in other Australian studies, higher than those noted in UK and Scotland. The Victorian study (VSA 2009) estimated that 80–95% of victims eligible to make a VIS in the County Court and Supreme Court would do so, and in a survey of judges and magistrates in South Australia, O'Connell (2009) noted the incidence of VIS presentation in Supreme Court matters at 80% and District Court matters at between 60% and 90%. In the NSW scheme, as in other Australian jurisdictions, a victim is not eligible to make a VIS until the offender has been

³⁵ The victim personal statement (VPS) is the name given to the victim impact statement made by victims of crime within the UK. For more details of the legislation regarding its scope see VSA (2008).

convicted, with most VSP participants reporting that they discourage their clients from even considering the VIS until the point of conviction. Over 90% of VOC participants stated they were aware of their opportunity to make a VIS, with over 65% stating they found the VIS information easy or quite easy to understand. Kilpatrick, Beatty & Howley (1998) found that over 90% of victims in their US study who were well informed about the VIS were keen to participate in the process.

Few participants reported making a VIS in the Local Court, and those who did handed them up. These findings are consistent with the Victorian study (VSA 2009), which estimated only a 7% VIS use in the Magistrates Court,³⁶ and with O'Connell (2009), who reported VIS use of 3% in South Australian Local Courts.³⁷

Results of this study indicate that the timing within the criminal justice process of the presentation of the VIS, as well as provision of information and access, are important factors in the take-up rate (see Lens, Pemberton & Bogaerts 2013).³⁸ However, importantly, the results of this study also suggest that although delaying the presentation of the VIS until post-conviction creates a greater VIS take-up rate, it may also raise the victim's expectation that the VIS will have an enhanced functional effect. In VIS studies in Scotland (Leverick, Chalmers & Duff 2007) and the UK (Graham et al 2004), where the VIS is

³⁶ It is to be noted that, in Victoria, VOC have a legislative right to request that the prosecutor reads their VIS (*Sentencing Act 1991* [Vic.] s 95F [1]) or the VIS can be read with the victim's permission by the judge or magistrate at their discretion (s 95F [2]), but VOC can read their VIS themselves only if they have requested to do so and have been given approval by the Court. 'Currently victims [wishing to read out their VIS] ... are required to negotiate this right and, as a result, there is inconsistency in practice with some victims being able to read out their VIS and others being refused' (VSA 2009:78).

³⁷ O'Connell concluded low VIS take-up rates in the Local Court were due to poor communication of a victim's right to make a VIS, to VIS being used at the discretion of the court, and to the offender not often being present. Australian figures are significantly higher than those reported in the Scottish study of 14.9% (Leverick, Chalmers & Duff 2007), the UK Home Office studies of 30% (Hoyle et al 1998), and 17% (Graham et al 2004). More recently, Roberts and Manikis's study (2011) of VPS take-up in the UK between 2007 and 2010 found, on average, 55% of victims reported making a VPS from an average of 42% who recalled being offered the opportunity to make one, that is, just over 20%. With the Scottish Pilot VIS scheme, in all matters, including 'solemn' (serious) matters, the VIS was requested from the victim at the point of indictment of the offender when formal charges were laid, but only if the victim had indicated a desire to provide a VIS in a form completed during the police investigation.

³⁸ In the UK, victims are given the opportunity to present a VIS (known as the 'Victim Personal Statement' or VPS) at or near the point of reporting the crime to the police. Although the VPS can be updated prior to sentencing, the statement is made to the police, who prepare it. The VPS is tendered as a written submission, and oral presentation is prohibited, with the likelihood that some VPSs are prepared for matters that never eventuate into conviction and are consequently not used.

presented much earlier in proceedings, VOC respondents appeared much less inclined to indicate an interest in using their VIS to affect sentencing.

This study was not concerned with whether the presentation of a VIS actually affected sentences handed down; rather, it was interested to know whether VOC perceived this as a purpose of the VIS or expected or hoped that it would do so. While only 39% of VOC stated that the purpose of the VIS was to affect sentence, 59% expected and 65% hoped that it would. Despite the fact that at time of interview, NSW courts did not consider the VIS of family victims at sentencing, 30% of family VOC stated that affecting sentence was a purpose of the VIS, with 61% expecting and 73% hoping that it would do so. The quantitative results suggest that many VOC, even when categorically informed to the contrary, hold high hopes that their VIS will affect sentence. The potential damage caused to victims by such expectations not being realised has been noted as a systemic difficulty with the VIS (Hinton 1995). Interestingly, victims of SA reported the lowest expectation (17%) that their VIS would affect sentence and held no hope that it would.

Studies evaluating the effect of the VIS on sentences conclude overall that sentencing severity or leniency is not affected by the VIS (Erez 2004; O'Connell 2009; Roberts & Manikis 2011). Nevertheless, judges and magistrates interviewed in a number of studies have inferred that it is complex to isolate or assess the potency of any one item presented before them, including the VIS, when determining sentence (Department of Justice Canada 2005; Leverick, Chalmers & Duff 2007; O'Connell 2009). Affirmation by judiciary and magistracy of the functional usefulness of the VIS to provide information relevant to sentencing varies across studies, from 48% to 73%, despite judges and magistrates, when directly questioned, maintaining a fairly unequivocal line that VIS information does not affect sentence but that consideration of VIS content may provide a more informed sentence (Leverick, Chalmers & Duff 2007; Roberts & Edgar 2006; VSA 2009). Similarly, in this study, all VSP interviewed stated that the purpose of the VIS was not to affect sentence; however, when considering whether the VIS affected sentences, 7% reported that it did and

30% reported that it sometimes did affect sentence.³⁹ As Roberts and Manikis (2011:33) point out, although research suggests that overall sentences are not harsher when a VIS is presented, there is little research examining whether VIS presentation has affected the consistency of sentencing judgements.

Despite over 50% of VSP interviewed stating their clients often need help with the content of their VIS, and 47% stating their clients sometimes need help with drafting the VIS, there is no directive regarding the type of advice victim support agencies can or should provide regarding VIS content. A formal VIS 'template' as a standardised universal draft layout does not exist. Despite the sensitive nature of admitting to providing content prompts or topic outlines, nearly 40% of VSP reported that they often or sometimes provide templates or written guidelines.⁴⁰ If the VIS is intended to reflect the personal voice of the victim and the victim's description of the crime's impact, the varied responses of VSP regarding the levels of assistance provided with the VIS are potentially problematic. The VISIP (2013) explains why the VIS 'must be written in your own words', but data suggest that in some cases VOC do not read the VISIP or are unable to process the information provided, preferring to rely on one-on-one information and explanation. The appropriateness of providing further, and at times eclectic, direction to VOC regarding what to include in the VIS is worthy of discussion. That said, it appears that some VOC demand from victim support services advice regarding VIS content beyond that briefly outlined in the VISIP.

In terms of writing the VIS, the quantitative findings reveal that the VOC who report being most challenged by doing so were also those most likely to report it being a positive experience. This suggests that the process of writing the VIS provides therapeutic benefits. Participant victims of DV were less likely to report being emotionally challenged when writing their VIS but also less likely to report

³⁹ For this question 30 VSP participants responded. Responses refer to sentencing in general. VSP did not discriminate between the sentencing of death matters and primary victim matters.

⁴⁰ Such documents appeared to be directives unique to the service or service consultant and varied from suggested headings for content topics (e.g. physical injuries, financial loss and emotional consequences) to the provision of specific prompts, such as 'How has the crime against you impacted on your relationships?', and 'How do you feel when you are in social situations?' Some non-government victim support organisations also provided the VIS of others as examples for VOC to read.

the process as positive. Victim experiences of writing the VIS are examined more closely in Chapter 5.

A surprising finding was the high level of VIS editing reported by VOC (48%) and VSP (81% reported VIS were 'often' edited). This may point to inconsistencies in interpretation by VOC, victim support services and counsel of what content a VIS can and cannot contain. Editing may also be due to late changes to charges, which require the removal of parts of the VIS referring to charges outside the agreed statement of facts. The data also show that fear of cross-examination deters some VOC from making a VIS, supporting other studies (Booth 2013a; Leverick, Chalmers & Duff 2007; Meredith & Paquette 2001; VSA 2009), which appears something of a paradox, as findings show cross-examination of the VIS does not occur. Participants' experiences of editing and cross-examination processes are presented in Chapter 5.

Results suggest that judicial reaction is more meaningful for VOC than is offender reaction, as noted in other studies (Booth 2013a; Herman 2005; VSA 2009). Most participants stated that the offender made no visible reaction to the content of their VIS. This appears initially surprising when considering that the offender was known to all participant victims of DV and HCSA, to 50% of family victims and to 40% of SA victims participating. However, this statistic is consistent with offender reaction to the VIS reported in other studies (Booth 2013a; Rock 2010).

The results show a disparity between VOC levels of satisfaction with the presentation of their VIS and their satisfaction with the sentencing process and sentence, suggesting VOC are able to isolate feelings of satisfaction with their VIS experience from the totality of the sentencing process and reaction to the sentence.⁴¹ Those who made a VIS viewed the experience positively in the main, with almost all reporting they would make a VIS again if given the opportunity.

⁴¹ 'Satisfaction' is something of a catch-all term and is possibly ambiguous. Here it refers to being 'happy with' or 'unhappy with'.

While these quantitative results provide valuable insights, they cannot stand alone. A deeper understanding of what exactly is understood by each participant in response to each question is required. In the following chapters, the VIS experience is further explored, with particular interest not only in the challenges it presents for VOC but also, more importantly, in the nature of its therapeutic benefits and the processes and interactions that best support them.