



**“The Clumsy Blunt Instrument That is the Criminal Justice System”:
Secondary Victimisation, Therapeutic Jurisprudence & the Potential of
Legal System Victim Impact Statements as a Tool for Irish Criminal
Justice Reform.**

By *Catriona Kenny*

MA Thesis

MA Comparative Criminology and Criminal justice

Department of Law

Maynooth University

Kildare

Abstract

Secondary victimisation, in which criminal justice processes, professionals, and agencies retraumatise victims of crime, is widely recognised in the empirical criminal justice literature. This literature suggests that secondary victimisation occurs within Ireland. However, there has been virtually no empirical research examining the scale or nature of this issue within Irish criminal justice. This thesis posits that therapeutic jurisprudence offers a useful and novel theoretical framework within which to consider this issue, as well as a new practical tool which may help address the harms that arise from secondary victimisation: a Legal System Victim Impact Statement. To that end, the objectives of this research were to : 1) address this deficit in the Irish criminal justice literature by determining the extent and nature of secondary victimisation for victims of all crime types; and 2) critically evaluate the ability of a Legal System Victim Impact Statement to identify the therapeutic and antitherapeutic properties of the Irish legal system and inform criminal justice reform.

Adopting a mixed methods approach, this was achieved by conducting semi-structured interviews and digital surveys with individuals who work directly with victims of crime through various victim support organisations. Secondary data analysis was also employed for evaluation of the Legal System Victim Impact Statement. The results of this research support the hypothesis that victims of crime in the Irish criminal justice system are subjected to secondary victimisation by criminal justice processes, professionals, and agencies. The Legal System Victim Impact Statement was regarded positively by most participants as a potential tool of criminal justice reform, but important logistical and design limitations were raised by others. These limitations are addressed with recommendations as how best to mitigate them. This research concludes by placing an onus on agencies of the State to think creatively about reducing secondary victimisation for a vulnerable cohort within criminal justice, recommending the Legal System Victim Impact Statement as a manner by which this may be achieved.

Table of Contents

Chapter 1	6
Introduction	6
Chapter 2	8
Literature Review	8
Introduction	8
Therapeutic Jurisprudence	8
A Therapeutic Jurisprudent Methodology	9
Therapeutic Jurisprudence & Victims of Crime	10
Secondary Victimization	11
Secondary Victimization by the Police	12
Secondary Victimization by the Courts	13
Effects of Secondary Victimization	14
Legal System Victim Impact Statements	15
Victims as Consumers of Criminal Justice	15
Victims in the Irish Criminal Justice System	18
Rights and Protections for Victims in the Irish Criminal Justice System	19
Provision of Information.....	19
Protections During Criminal Investigations & Criminal Proceedings.....	22
Assessment of Victims for Special Protection Measures	24
The Present Study	27
Chapter 3	29
Methodology	29
Introduction	29
Quantitative Data Collection	30
Qualitative Data Collection	30
Chapter 4	33
Findings	33
Introduction	33
Theme 1: “What’s the Point?”: Victims’ Experiences with & Perceptions of the Irish Criminal Justice System.	33
Victims’ Experiences with An Garda Síochána	36
Victims’ Experiences of & Within the Court	38
Perceptions of the Irish Criminal Justice System	41
Theme 2: “The Window of Tolerance has Closed”: Effects of Secondary Victimization on Victims Psychological Well-Being	43

Conclusion	45
Chapter 5	46
Theme 3: “There Is a Grey Bit & It’s Called Emotions”: Assessing the Benefits, Risks, & Logistical Implications of a Legal System Victim Impact Statement	46
Introduction	46
Benefits	46
Risks & Logistical Implications.....	48
Conclusion	50
Chapter 6	52
Discussion & Concluding Remarks	52
Bibliography	60
Appendix A: Survey	72
Survey	73
General	73
An Garda Síochána	74
Legal Personnel	76
Appendix B: Interview Questions	80
Appendix C: Coding Framework	83

Word Count: 21,975

Abbreviations:	CJP: Criminal Justice Process
	CJS: Criminal Justice System
	DPP: Director of Public Prosecutions
	LSVIS: Legal System Victim Impact Statement
	RJ: Restorative Justice
	SV: Secondary Victimization
	TJ: Therapeutic Jurisprudence
	VIS: Victim Impact Statement
	VOC: Victims of Crime

List of Tables

Table 1 The Restorative Questions and Their Recommended Adaptation for Use in a LSVIS.....59

List of Figures

Figure 1 An Example of Skip Linear Pattern Branching in the Proposed LSVIS.....58

List of Legislation & Legal Documents

EU

Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012, establishing minimum standards on the rights, support, and protection of Victims of Crime.

Ireland

Criminal Justice (Victims of Crime) Act 2017

Criminal Justice Act 1993.

Criminal Law (Sexual Offences) Act 2017.

Chapter 1

Introduction

‘Whether we know it or not, whether we like it or not, the law is a social force with consequences in the psychological domain’ – Dr. David Wexler (2008: 20).

An understanding of the specific needs and interests of victims of crime (VOC) has been empirically established in recent years (Boom & Kuijpers, 2012). These have been categorised by Bottoms and Roberts (2010) as expressive needs, service needs, and participation needs, and can include: acknowledgement and the provision of voice for expression; vindication and validation; considerate and courteous treatment which is fair to, and respectful of, individual victims’ rights; the ability to participate in their case; procedural, progression, and decisional information about their cases; material and emotional reparation, and; offender accountability (Boom & Kuijpers, 2012; Daly & Wade, 2017; Rossner, 2018; Strang, 2002). However, a compounding or worsening of an individual’s primary victimisation can arise from the formal/informal third parties’ denial or disregard of such needs, thereby contributing to the secondary victimisation (SV) of crime victims. The manner with which victims are treated by criminal justice personal and agencies has been indicated by empirical research to be conducive to a victim’s SV (Orth, 2002; Campbell et al., 2001; Norton, 2007; Stretesky et al., 2010; Gekoski et al., 2013; Laing, 2017; Katirai, 2020). Further contributions to victims secondary or repeat victimisation can result from the distressed caused to victims during behaviours or lines of inquiry by legal and service personnel, often considered necessary for a thorough report (Campbell, 2005).

Therapeutic jurisprudence (TJ) (Wexler, 2008; 2011; 2020) offers a useful theoretical and practical framework within which to consider this issue. TJ is an interdisciplinary, legal philosophical (Spencer 2014) approach which seeks to enhance the therapeutic properties of the criminal justice system (CJS) for all those who progress through it (International Society for Therapeutic Jurisprudence, 2021). It posits that law is a social force (Wexler, 2008) with the potential to affect individuals socially, relationally, and economically (King, 2008). In

particular, it espouses that interactions with the law or legal system can directly affect an individual's well-being (Spencer, 2014). As stated by Hora and Schma, 'the substantive rules and procedures of the legal system and the roles of legal practitioners produce therapeutic and anti-therapeutic consequences' (1998: 9). TJ arguably provides an innovative framework to address those antitherapeutic consequences encountered by victims throughout the criminal justice process (CJP) (Balson, 2013), connoting SV as a particular concern for its proponents (Diesen, 2012). The Legal System Victim Impact Statement (Wexler, 2008) is a theoretical concept which emerged from the philosophy of TJ and could hypothetically operate as an effective tool for addressing SV.

This research aims to critically assess the nature and experience of SV within the Irish CJS for victims of all crime types within Ireland and to propose a mechanism by which the antitherapeutic properties conducive to SV may be addressed. In doing so, it aims to:

1. Critically assess the extent to which victims experience SV within the Irish CJS and the effects such experiences have on a victim's perceptions of the legal system and psychological well-being.
2. Critically assess the ability of Legal System Victim Impact Statements to address the issue of SV within the Irish CJS, and its potential as a tool for criminal justice reform.

Chapter 2 is comprised of a literature review with the intent to introduce the topic of SV, the theoretical framework of TJ, and the current role of, and legislative protections for, the victim in the Irish CJP. Chapter 3 outlines the methodology used to conduct this research and justifications for its use within the context of the specified research questions. Chapter 4 conducts a thematic analysis of the data collected within interview transcripts and is substantiated throughout with data collected from survey responses. Chapter 5 provides a critical analysis of the Legal System Victim Impact Statement with reference to five criteria for the successful integration of victim-centred processes to a CJS, as set out by Erez et al. (2020). Lastly, chapter 6 provides a summary of the present study, followed by a discussion of recommendations to address logistical and design limitations of the Legal System Victim Impact Statement and areas for future research, the strengths and limitations of this research, and the final concluding remarks.

Chapter 2

Literature Review

Introduction

This chapter provides an overview of the literature on the theoretical framework of therapeutic jurisprudence, secondary victimisation, Legal System Victim Impact Statements and the role and protections for victims in the Irish criminal justice system. To begin, an overview of TJ will be provided, highlighting its aims, methodologies, and what it hopes to achieve with regards to victims of crime. Secondly, the concept of SV will be defined, highlighting the ways in which it may be compounded by criminal justice personnel and aspects of the CJS, as well as the effect this has on the VOC who experience it. Following this, the TJ tool known as a Legal System Victim Impact Statement (Wexler, 2008) will be discussed, highlighting its potential for criminal justice reform through its reconceptualisations of victims as consumers of criminal justice. Lastly, this chapter will discuss the role of the victim within the Irish CJS. Specifically, it will focus on the rights entitled to VOC by Directive 2012/29/EU¹ and their transposition into domestic law through the Criminal Justice (Victims of Crime) Act 2017, and how the Irish CJS derogates from these rights in practice.

Therapeutic Jurisprudence

TJ is an interdisciplinary legal philosophy (Spencer, 2014; Wexler, 1994) which originates from the work of David Wexler and Bruce Winnick around mental health law and scholarship (King, 2008). It was developed in response to an ‘anti-psychiatry’ movement within mental health law, which pitted law and psychiatry against each other instead of considering them as mutually beneficial entities (Wexler, 2008). Presently, it no longer applies exclusively to the area of mental health law, but to other areas including criminal law, family law and juvenile law (Wexler, 1999; Wexler & Winnick, 1993). What was originally a twist on mental health law has since transformed into a ‘mental health twist on law in general’ (Wexler, 1999: 3). TJ sources its influence from a variety of disciplines, such as criminology, psychiatry, psychology, anthropology, and social work (King, 2008; Wexler, 2008). As the law

¹ Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012, establishing minimum standards on the rights, support and protection of Victims of Crime.

centres on behaviour and changes to it, the behavioural sciences are particularly influential for TJ (King, 2008).

TJ examines how the law can affect people economically, socially, relationally, and psychologically (King, 2008). It considers the legal landscape as comprising of three categories: the rules of law, legal procedures, and the roles and behaviours of legal actors (Wexler, 2020). Wexler (2008) opines that a consideration of the law and its impact on the emotional and psychological well-being of those who consume it has been a traditionally underappreciated area. Thus, TJ concerns itself with humanising the legal landscape and its operation through consideration of the emotional, behavioural, and psychological consequences that the law may have as a social force (Spencer, 2014; Wexler, 2020; 2010; 1999). In short, TJ posits that the law can function as a healing (Wexler, 2008), therapeutic agent and that the legal landscape will often produce therapeutic or anti-therapeutic consequences (Wexler, 2020; 1994). It not only focuses on the law in theory, but on manifestations of the law in action and the affect these have on people (Wexler, 2008). Therefore, it seeks the promotion of the therapeutic consequences of the law and legal processes in their creation and application, and a reduction of any antitherapeutic consequences (Spencer, 2014; Wexler, 2010; 1999; 1994). The values which TJ regard as therapeutic include validation, voice, respect, and self-determination (Balson, 2013; King, 2008; Wexler & Winnick, 1993). An important point to note is that TJ does not advocate that ‘therapeutic considerations should trump other considerations’ (Wexler, 1994: 259; Wexler & Winnick, 1993). It does not support coercion or paternalism, for example (Spencer, 2014; Wexler, 2010; 1999). Rather, it seeks to enhance the, oftentimes overlooked, therapeutic consequences of the law (Wexler, 2011) while maintaining respect for other legal values, such as justice and due process (Wexler, 2010; 1999).

A Therapeutic Jurisprudent Methodology

To assist with the identification and analysis of the therapeutic properties of a legal landscape and its administration (Spencer, 2014; Wexler, 2014b), Wexler (2020; 2014a; 2014b) proposed the metaphor and methodology of *wine* (the role, techniques, and practices of legal actors) and *bottles* (the law and legal procedures). A bottle (law) may be examined to see how much TJ wine (therapeutic practices and techniques) could potentially be poured into it, and whether that bottle may require change (law reform) if little to no room exists to hold any TJ wine (Spencer, 2014; Wexler, 2020). In addition, the conservative nature of such a methodology, and of TJ itself, highlights a key strength of the discipline: ‘working from within

the system to reshape the attitudes of traditional court actors' (Erez et al., 2020: 335). Other than the educational and professional development of legal personnel to understand the antitherapeutic potential of their interactions, and of the criminal justice process itself, a TJ approach and methodology is predominantly benevolent to criminal justice resources (Erez et al., 2020). Whether it requires a change of process, a development of new programmes, or the professional development of TJ techniques in legal actors, the identification and analysis of issues within the *wine* and *bottle* can improve the laws therapeutic impact (Spencer, 2014; Wexler, 2020).

Therapeutic Jurisprudence & Victims of Crime

TJ recognises that an experience of victimisation will have an impact on the emotional life of a crime victim (Balson, 2013; Winnick, 2009). That is to say that being a victim of crime 'can produce feelings of anxiety, fear, depression, humiliation, anger, powerlessness, and betrayal in a victim' (Balson, 2013: 1020). Not only this, but TJ also recognises that encounters with criminal justice personnel and agencies can impact the emotional life of a victim, with psychological consequences that can be anti-therapeutic in nature, (Balson, 2013; Diesen, 2012; Hora & Schma, 1998; Winnick, 2009). A denial of the established service, expressive, and participation needs (Bottoms & Roberts, 2010) and other desires of VOC (Boom & Kuijpers, 2012; Daly & Wade, 2017; Rossner, 2018; Strang, 2002), can result in victim's confronting psychologically damaging issues, the effects of which 'have been underestimated and underappreciated' (Balson, 2013: 1020). In this regard, there is significant scope for TJ wine to be poured into the bottle of a legal system (Spencer, 2014; Wexler, 2020; 2014a; 2014b) to improve that system and rehabilitate both victims and offenders (Diesen, 2012). However, legal personnel who subscribe to TJ should not act as a therapist for victims, nor should the rights of the offender be sacrificed for the for rights of the victim (Diesen, 2012). Rather, the rehabilitation of both parties should be emphasised (Diesen, 2012), and proponents of TJ must think creatively about how a legal system can maximise the therapeutic consequences to repair the harms of victimisation, while mitigating the antitherapeutic ones which may compound it (Balson, 2013; Winnick, 2009). TJ argues that this may be achieved through the adoption of a client- or victim-centred approach (Balson, 2013) and increased victim participation within the CJS (Diesen, 2012).

Increased victim participation within a legal system can take many forms, from the introduction of Victim Impact Statements across a plethora of jurisdictions (Wexler, 2011),

including Ireland², to the establishment of a system of active victim participation in criminal proceedings, such as that adopted in Japan in 2008 (*see* Saeki, 2010). It operates to address several TJ purposes, and amongst them several needs of victims (Boom & Kuijpers, 2012; Daly & Wade, 2017; Rossner, 2018; Strang, 2002), including the provision of a voice within the legal system; the consideration of victim's interests and views in decision making; the respectful treatment of victims within the CJS; and a reduction of stress for victims progressing through the criminal justice process (Balson, 2013). However, the adoption of a victim-centred approach by agents of the CJS, underpinned by an awareness of the psychological risks and complications that engaging with the legal system can produce for VOC, would be of vital importance for the successful rehabilitation of victims through such participatory mechanisms (Balson, 2013; Diesen, 2012). It is important for criminal justice personnel to not only 'understand how crime has upset the emotional equilibrium of the victim, and attempt to restore it' (Winnick, 2009: 541), but to also understand the negative impact that experiencing one or an accumulation of the antitherapeutic properties of the CJS can have on VOC (Diesen, 2012). In that regard, the issue of SV is of particular concern for TJ, as minimising the suffering of victims through a mitigation of the negative effects of the legal system is of its primary goals (Diesen, 2012).

Secondary Victimization

SV, as coined by Williams (1984), describes the worsening, prolonging, or compounding of primary victimisations through different procedural and societal processes (Condry, 2010; Orth, 2002). Victims may involve themselves with various criminal justice agencies and social institutions, such as the police, the CJP, and/or other support organisations to reconcile with the crime(s) perpetrated against them (Gekoski et al., 2013). If victims are treated with consideration and respect by the personnel within such institutions, these institutions may facilitate with their recovery. If not, the victim's original trauma may be compounded, and their recovery may be hindered, contributing to experiences to SV (Gekoski et al., 2013). Mitigating or eradicating instances of SV for VOC should be a primary goal of any CJS (Condry 2010). Nonetheless, it may arise when formal and informal third parties, such as criminal justice personnel (Katirai, 2020; Laing, 2017), espouse insensitive, harmful, and/or negative (Gekoski, et al., 2013) societal, social, attitudinal, or behavioural responses (Campbell & Raja, 1999) which operate in 'further violation of legitimate rights or entitlements by the

² Criminal Procedure Act 2010.

victim' (Orth, 2002: 314). The subsequent sections will examine how victims may experience SV by police processes and personnel, and the process of criminal proceedings and the personnel involved therein, as well as the effects that SV may have on a victim's psychological well-being.

Secondary Victimization by the Police

According to Gekoski et al., amongst the most common sources of SV are insensitivity by criminal justice personnel, and a 'lack of information on the part of the various systems' (2013: 2), as evinced by empirical research on police behaviours (Patterson, 2011; Stretesky et al., 2010). Appropriate access to case-related information is an established need of victims (Boom & Kuijpers, 2012; Rossner, 2018; Strang, 2002); however, when information is withheld from victims, the police ignore requests for additional information, or information is used to obtain something in return (Gekoski et al., 2013), it symbolises a lack of acknowledgement for victims' rights and suffering, impedes a victims healing, and negatively effects perceptions of police competency (Stretesky et al., 2010). SV may also occur when victims feel that there is poor communication from law enforcement, or that their case is being under resourced, as found in a study of homicide co-victims³ by Stretesky et al. (2010).

A further source of SV by law enforcement is insensitivity by way of accusatory, inconsiderate, tactless, and judgemental remarks or questioning (Gekoski et al., 2013). For example, Campbell (2005) reported that of the 22 police officers responsible for questioning the 45 rape survivors who sought legal services in this study, 68 per cent asked why they were with the perpetrator; 40 per cent asked about their behaviour/choices; and 100 per cent asked if they resisted the perpetrator. Victims often perceive such lines of inquiring as distressing and connoting victim blaming (Patterson, 2011; Winkel & Koppelaar, 1991), even if they may be necessary for a thorough report (Campbell, 2005). Stretesky et al. (2010) also found that some victims believed that the police considered their loved one's case to be less worthy of investigation due to 'unconventional' characteristics of the victim (e.g., credibility, previous criminal affiliation, socioeconomic status, or ethnicity). Those perceived as more deserving of their victimisation by way of their circumstances receive less sympathy by society and, in some instances, law enforcement (Karmen, 2007; Stretesky et al., 2010). This was exemplified in Patterson's (2011) study on the link between rape case outcomes and SV by law enforcement. When victims were perceived as credible, law enforcement were more likely to secure

³ The term 'co-victim' refers to the surviving spouses, dependents, direct and/or extended family members, and friends of homicide victims (Stretesky et al., 2010).

prosecutions and less likely to exhibit SV behaviours. Many of these victims described their investigating officers as kind, respectful, sensitive, supportive, forthcoming with information and absent of victim blaming attitudes or behaviours (Patterson, 2011). Conversely, when law enforcement perceived little or no credibility, prosecutions were less likely to be secured and police officers were more likely to exhibit SV behaviours. These victims felt blamed for their victimisation, unimportant, invalidated, and humiliated, describing their investigating officers uncompassionate, insensitive, and mean (Patterson, 2011). These victims described feeling more criminal than victim, with some receiving threats of charges for ‘false reporting’ (Patterson, 2011).

Secondary Victimization by the Courts

A legal trial is considered distressing for many victims, creating an environment in which a victim’s needs may be violated by insensitive interpersonal interactions with legal personnel, and confrontations with their perpetrator(s) (Katirai, 2020; Orth & Maercker, 2004). The treatment of victims by personnel within the legal system, the environment of, and the outcomes of criminal proceedings has been highlighted by empirical research to be conducive to SV (Gekoski et al., 2013; Katirai, 2020; Stretesky et al., 2010). Similar to police interactions, how legal personnel treat victims affects their justice experience and recovery process. Gekoski et al. found that victims were shocked and angered by the little information or input granted to them during the trial process, the minimal level of contact they had with legal representation, and the ‘disrespectful, aloof, and cavalier attitudes’ adopted by some (2013: 13). Furthermore, high levels of grief, despair, anger, and stress were reported by victims when legal officials chose not to prosecute due to insufficient evidence, whether legitimately or otherwise, thereby contributing to feelings of injustice and SV (Stretesky et al., 2010). Within the potentially retraumatising nature of criminal proceedings, confrontations with the perpetrator(s) are often required, acts of victimisation are relived through testimony, and the victim’s character and credibility are undermined during questioning by the defence (Katirai, 2020). This often occurs in the presence of court spectators (Katirai, 2020) and/or the defendant’s family (Gekoski et al., 2013). Displays of emotion must be withheld for fear of jeopardising the trial while distressing evidence must be dealt with, which may have previously been unknown to them, or is traumatising to rehear (Gekoski et al., 2013). Such experiences can not only be traumatising by themselves, but may also operate to compound the original trauma, proving detrimental to a victim’s psychological well-being and contributing to their SV (Katirai, 2020). Lastly, contributions to SV may result from dissatisfaction with the verdict and sentencing in a legal

proceeding (Gekoski et al., 2013). A key outcome of a criminal trial, and of particular importance for victims, is the legal sentence (Orth, 2009). A defendant's sentence officially identifies them as the perpetrator and symbolises the societal acknowledgement and recognition of a victim's rights and victimhood status (Orth, 2009). However, even if the defendant is found guilty, victims may perceive their sentence to be inadequate, resulting in anger and a sense of injustice (Gekoski, 2013). Gekoski et al. found that many victims in their study felt 'disappointed and let down by the justice system', which ultimately destroyed their faith in it (2013: 16). Indeed, Orth reported some victims find that 'the criminal proceedings against the perpetrator had harmed them even more than the criminal victimization itself' (2002: 321).

Effects of Secondary Victimization

Engagement with the CJP can create 'significant emotional stress for even the most robust citizen' (Herman, 2003: 159). Involvement in the CJS can have the benefit of acknowledgement and catharsis for VOC (Orth, 2002; Parsons & Bergin, 2010). However, as evinced above, the response of the criminal justice agencies and personnel with whom a victim comes into contact may exacerbate an initial trauma rather than reconcile it (Parsons & Bergin, 2010). For example, following a survey with mental health professionals, Campbell and Raja (1999) observed that interactions with community professionals resulted in victims: experiencing feelings of guilt (84%); displaying a reluctance to seek further help (76%); experiencing negative feelings towards themselves (81%); exhibiting a distrust towards others (89%); and experiencing symptoms of depression (70%) (Campbell & Raja, 1999). A later validation study by Campbell (2005) found that after engaging with legal and medical services, within which the legal and medical personnel responsible for service delivery engaged in SV behaviours, victims reported feelings of guilt (87% and 74%, respectively), negative self-perceptions (87% and 81%), nervousness/anxiety (62% and 91%), depression (71% and 88%), violation (89% and 94%), a distrust of others (53% and 74%), disappointment (91% and 86%), and a reluctance to seek further help (80% and 80%). Moreover, a study conducted by Orth (2002), which sought to investigate the SV effects of criminal proceeding outcomes and procedures on victims, found that outcome satisfaction and subjective procedural justice were significant predictors of SV, with SV having considerable negative effects on a victim's faith in a just world and trust in the legal system (Orth, 2002). Such studies highlight that victims may frequently experience SV by the CJP, and the criminal justice personnel within and associated with the CJS (Campbell, 2005; Campbell & Raja, 1999; Orth, 2002).

As stated by Spencer, ‘far more needs to be done to advance the application of TJ to the situation of [VOC]’ (2014: 1117). One manner by which this may be achieved is through reconceptualisations of victims as consumers of criminal justice (Erez et al., 2020), whose experiences of the CJS may be utilised as a resource to inform criminal justice reform in accordance with TJ values and goals (Balson, 2013; Diesen, 2012; King, 2008), to identify the needs and desires of VOC (Boom & Kuijpers, 2012; Daly & Wade, 2017; Rossner, 2018; Strang, 2002), and which may address issues of SV within a legal system. If the treatment of victims throughout the CJP produces antitherapeutic consequences, then TJ can provide a framework for addressing the previously unaddressed questions about how TJ-friendly that process is (Wexler, 2011; 2010). Indeed, TJ has provided a useful theoretical tool by which this may be accomplished: the Legal System Victim Impact Statement (Wexler, 2008).

Legal System Victim Impact Statements

As aforementioned, a common mechanism of victim participation within criminal proceedings is the completion of a Victim Impact Statement (VIS) (Wexler, 2011). A VIS allows victims to communicate the impact of the offence to the court (Wexler, 2011). This may be taken into consideration during sentencing (Wexler, 2011), but it also allows victims to regain the control taken from them by the offender and satisfy their expressive needs by enabling them to voice the impact of their victimisation and how it has affected their lives to the offender and the court (Balson, 2013). However, as aptly put by Wexler, when one considers the antitherapeutic impact of the legal system and the SV this can be conducive to, ‘why should we not also have a Legal System Victim Impact Statement, told from the victim’s perspective?’ (2011: 4). A Legal System Victim Impact Statement (LSVIS) (Wexler, 2011; 2008) may illustrate those ‘tales of neglect and abuse in the CJP ... that has marginalized [victims] and, consequently, magnified their suffering’ (O’Hara, 2005: 243).

Victims as Consumers of Criminal Justice

The concept of a LSVIS indicates a shift in the manner with which the role of victims within a legal system is regarded. According to Christie (1977), crime is a conflict between those responsible for a violation of rights and those whose rights have been violated. However, the formal CJS, its laws and processes are organised to steal this conflict, and the power to deal with it, from the stakeholders most affected by it by reframing the conflict as an offence against the State (Christie, 1977; Rossner, 2017). In such a model, VOC are often cast as the ‘problematic ‘third wheel’ (Erez et al., 2020). In doing so, the highly professionalised and

bureaucratised CJS often imposes a passive role on victims in which they are marginalised or rendered a secondary concern (Johnstone & Van Ness, 2013; O'Dwyer & Payne, 2015; Rossner, 2017). Despite the global growth of victims' rights and participatory mechanisms within a legal system, the overarching legal culture centres on the exclusion of VOC (Erez et al., 2020: 337). However, reconstructing VOC as active consumers of criminal justice could potentially address such an issue, as well as those which arise from SV (Erez et al., 2020; Wexler, 2011).

Conceptualisations of VOC as consumers of criminal justice is not a new concept (Erez et al., 2020; Goodey, 2005). However, such conceptualisations failed previously, as victims were framed as 'mere' or 'passive' consumers, whose access to certain services were dictated by factors such as socioeconomic situations and access to information (Erez et al., 2020; Goodey, 2005; Williams, 1999). Thus, the provision of services was easily accessible to some, and limited to others, with little alternative mechanisms for justice should those services fall short of expectations (Goodey, 2005). However, Erez et al. argue that reconceptualising victims as the modern and active consumers with which we are familiar today could provide 'an effective framework for enhancing victims' participatory rights in the [CJS]' (2020: 338). Today's Digital Age consumers, whose providers have taken ample advantage of new technologies for their provision of goods and services, have acquired a powerful technological toolkit which houses extensive data about those available goods and services; provides unparalleled access to choice of, and information about, those goods and services; and creates a network of connected consumers and opportunities to broadcast reviews about their experiences of those goods and services (Erez et al., 2020; Harrison et al. 2006; Pires et al., 2006). Thus, as with contemporary Digital Age consumers of a marketplace, new technology can provide a legal system with 'ready and affordable tools to systematically and meaningfully monitor and evaluate victims' experience of justice' (Erez et al., 2020: 342). As with previous conceptualisations of victims as consumers, however, risks exist (Goodey, 2005). Specifically, a reliance on access to new technology or digital literacy can result in the exclusion of some. Therefore, it is the responsibility of the legal system to recognise such barriers and accommodate for alternative methods of engagement where possible and necessary (Erez et al., 2020).

Accommodation of potential barriers notwithstanding, the implementation of a LSVIS arguably constructs victims as consumers of criminal justice, with their experiences operating akin to consumer feedback and indicators of customer satisfaction (Erez et al., 2020). It is an

'after-the-fact' theoretical tool (Wexler, 2008), congruent with the 'rewind' technique often adopted by TJ in that it retrospectively examines what happened in a scenario and considers how things may have been done differently to mitigate subsequent antitherapeutic consequences (Wexler, 2011). Its purpose is to provide victims with a mechanism by which they may detail the impact that progressing through the CJP has had on their psychological wellbeing and emotional life (Wexler, 2011), from their initial contact with criminal justice personnel, to their treatment by personnel during the process, the nature of the process itself (Katirai, 2020) and their experiences after trial (Wexler, 2008). However, while the LSVIS's potential resides in its ability to identify and address the antitherapeutic consequences of a legal system, it is of equal importance that the positive, therapeutic consequences are also highlighted (Elliot et al., 2011; Wexler, 2011). By recognising that a legal system is comprised of 'good' and 'bad' aspects, and within it, individuals who display 'good' and 'bad' behaviours, a LSVIS can identify each, reinforce the therapeutic or 'good' properties, and strive to mitigate or eliminate the antitherapeutic or 'bad' properties (Elliot et al., 2011; Wexler, 2011).

Thus, the implementation of a LSVIS may operate to serve two primary functions. First, by constructing victims as active consumers of justice, it may address the empirically recognised expressive and participation needs of VOC through involvement in the process and the provision of a voice within the system (Bottoms & Roberts, 2010; Boom & Kuijpers, 2012; Erez et al., 2020). Secondly, they allow a victim's experience of the legal system, and any therapeutic and/or antitherapeutic properties encountered therein, to operate as a mechanism of consumer feedback and indicators of victim satisfaction with the service of criminal justice, while also providing a measure of accountability for those service providers (i.e., criminal justice personnel) whose actions may contribute to experiences of SV (Erez et al., 2020; Wexler, 2011; 2008). As a result, such experiences can be communicated and collated in a manner which may inform criminal justice reform in pursuance of best practice (Erez et al., 2020; Wexler, 2008; 2011). This can be achieved without sacrificing the rights of the offender, as a LSVIS is not designed to be taken into consideration during determination of guilt or the sentencing process (Wexler, 2011). This could arguably operate as a basis for the adoption of a victim-centred design process in future criminal justice development and reform, communicating to victims that their voice matters, and promote transparency and accountability within the wider community (Erez et al., 2020).

Victims in the Irish Criminal Justice System

The Irish CJS has been criticised for the way it has treated VOC through a disregard of their needs/interests and their instrumentalisation as witnesses to attain preferred legal outcomes (Cusack, 2020; Norton, 2007). However, as with other jurisdictions, Ireland's legal and wider societal landscape has not been immune to the 'victims revolution' throughout the 21st Century, with appeals to reconstruct the criminal justice landscape to accommodate and respond to a victim's complex needs (Bottoms & Roberts, 2010; Cusack, 2020; Kilcommins, 2017). In conjunction with the desire of crime victims to be 'treated with care, compassion and respect' (Healy, 2019: 95), a culmination of the 1970s women's movement, the work of victim support organisations, and the emerging rights revolution has increased the public and political awareness of victims' needs (Kilcommins, 2017). The increasingly specialised and instantaneous media response around experiences of victimhood has further amplified the centrality of victims' experiences in public and political discourse, most recently in relation to sexual and human rights abuse scandals by the Catholic Church in Ireland (Department of Children, Equality, Disability, Integration and Youth, 2021; McAleese, 2013; Ryan, 2009). However, reform of the Irish CJS has progressed at a slow rate, arguably due to 'successive governments' dismissive attitude' toward empirically informed policy reform and former corrupt political practices (Kilcommins, 2017: 513). Nevertheless, progress has been made, most noticeably with the introduction of the Victim Impact Statement⁴, the adoption of Directive 2012/29/EU⁵, and the enactment of the Criminal Law (Sexual Offences) Act⁶ and the Criminal Justice (Victims of Crime) Act⁷ in 2017 (Cusack, 2020; Heffernan, 2021).

As per its rights under the Lisbon Treaty, Ireland opted into Directive 2012/29/EU, henceforth the Victims' Directive, which seeks to homogenise the supports, protections, and rights of VOC within the EU (Heffernan, 2021). The Criminal Justice (Victims of Crime) Act⁸, henceforth the Victims of Crime Act, was enacted in 2017, which obligates the provision of 'effective services to victims on a statutory footing' (Leahy & Spain, 2017: 520). Article 2 of the Victims' Directive outlines the definition of a victim of crime, which the Victims of Crime Act has adopted virtually verbatim: 'a natural person who has suffered harm, including physical, mental or emotional harm or economic loss, which was directly caused by an

⁴ Criminal Justice Act 1993.

⁵ Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012, establishing minimum standards on the rights, support and protection of Victims of Crime.

⁶ Criminal Law (Sexual Offences) Act 2017.

⁷ Criminal Justice (Victims of Crime) Act 2017.

⁸ Criminal Justice (Victims of Crime) Act 2017.

offence'⁹. Both the Victims' Directive¹⁰ and the Victims of Crime Act¹¹ explicitly include family members¹² of a victim whose death was the direct result of a criminal offence, denoting significant progress for victims in the Irish CJS and providing them with 'justiciable rights in this area for the first time' (Leahy & Spain, 2017: 520).

Rights and Protections for Victims in the Irish Criminal Justice System

The Victims' Directive outlines the specific rights of VOC in relation to the provision of information and support¹³, participation in criminal proceedings¹⁴, and the protection of victims and the recognition of victims with specific protection needs¹⁵. However, Leahy and Spain (2017) have criticised the Victims of Crime Act for its narrow focus on the right to information and the protection of victims during investigations and criminal proceedings, the applications of which themselves are not without issue, and its lack of attention to the appropriate supports and opportunities for healing and participation considered extremely important to crime victims. The VIS, which was introduced prior to the Victims' Directive and Victims of Crime Act with the enactment of the Criminal Justice Act¹⁶ in 1993, is a rare example of victim participation in the Irish CJS (Healy, 2019). The VIS was initially only permissible for a specific schedule of offences¹⁷, including sexual offences (O'Malley, 2020), but was later amended to include any natural person who suffered harm because of the criminal act perpetrated against them¹⁸; 'a significant landmark in the recognition of victims' rights' (Healy, 2019; O'Malley, 2020: 21).

Provision of Information

The provision of information to VOC as they progress through the CJP is of vital importance. Awareness of investigative and trial related developments may empower victims, mitigate opportunities for SV, and ensures victims awareness of the supports and protections to which they are entitled (Leahy & Spain, 2017). In Healy's state-of-the-art literature review on victims' interactions with the Irish CJS, 'effective communication and information sharing' emerged as a major, cross-cutting theme across every stage of the CJP and every victim group'

⁹ Criminal Justice (Victims of Crime) Act 2017, S.2(1).

¹⁰ Directive 2012/29/EU, Article 2.

¹¹ *Ibid.*

¹² The spouses, cohabitants in an intimate, stable, and committed relationship, direct line relatives, dependants, and siblings of the victim (Criminal Justice (Victims of Crime) Act 2017; Directive 2012/29/EU)

¹³ Directive 2012/29/EU, Article 3; Article 4; Article 5; Article 6; Article 7; Article 8; Article 9.

¹⁴ *Ibid.*, Article 10; Article 11; Article 12; Article 13; Article 14; Article 15; Article 16; Article 17.

¹⁵ *Ibid.*, Article 18; Article 19; Article 20; Article 21; Article 22; Article 23; Article 24.

¹⁶ Criminal Justice Act 1993.

¹⁷ *Ibid.*, S. 5.

¹⁸ Criminal Justice (Victims of Crime) Act 2017, S. 31.

(2019: 9). Article 4 and Article 6 of the Victims' Directive obligate member states to provide victims with appropriate information at the initial stages of reporting, and in relation to the progress, or other information, about their case, respectively. With regards to the former (i.e., Article 4), the Victims' Directive mandates that victim's, upon initial contact with competent authorities, are provided with information about, for example, the type of support to which they are entitled and from whom; the different available criminal offence and violation of rights complaints procedures; the protections which they may obtain; when and how they may access legal aid/advice, compensation, and interpretation and/or translation, and; restorative justice services, where available (*for the full list of entitlements, see Article 4*). While previous versions of the Victims Charter (Victims of Crime Office, 2010) obliged the provision of information detailed in the Victims' Directive¹⁹ to VOC, it was not placed on a statutory basis. As a result, the process of providing such information, as well as the quality of that information, particularly from the Gardaí, was found to be wanting (Leahy & Spain, 2017). The enactment of the Victims of Crime Act²⁰, however, now places the provision of the information detailed in the Victims' Directive to Victims of Crime by An Garda Síochána (AGS) on a statutory footing. Section 7 of the Victims of Crime Act²¹ details the list of information to which crime victims are entitled upon first contact with the Gardaí, which directly mirrors the list of information detailed in the Victims' Directive²², with the additional statutory obligation to inform victims about their right to prepare a VIS. However, the extent and detail of information to which victims may be informed of is decided on a discretionary, case-by-case basis 'with reference "to the type or nature of the alleged offence and any specific needs and personal circumstances of the victim which are identified"' (Leahy & Spain, 2017: 524). Thus, it is arguable that insensitive, dismissive and/or judgemental/accusatory attitudes by members of the Gardaí towards crime victims may result in their withholding of such information that may be pertinent to the recovery of crime victims and, ultimately, contribute to their experiences of SV (Gekoski et al., 2013). Nevertheless, no evidence can be found of empirical research examining whether this is an existing issue for crime victims throughout the Irish CJP.

With regards to the latter (i.e., Article 6), the Victims' Directive mandates that victims, again upon initial contact with competent authorities, are provided with information about decisions not to proceed with and/or end an investigation, or prosecute an offender; the charges

¹⁹ Directive 2012/29/EU.

²⁰ Criminal Justice (Victims of Crime) Act 2017.

²¹ Criminal Justice (Victims of Crime) Act 2017, S. 7.

²² Directive 2012/29/EU, Article 4.

put to the offender; scheduling details of the trial; the final judgement of a trial; and information about the status of their case, unless it is not in the interest of justice to do so²³. Previous versions of the Victims Charter (Victims of Crime Office, 2010) also obliged Gardaí to provide this information to crime victims. Thus, the discretionary and case-by-case basis which applies to the provision of information detailed in Article 4 of the Victims Directive and Section 7 of the Victims of Crime Act also applied to the provision of information detailed in Article 6 of the Victims Directive and, and with it, the potential opportunities for SV (Gekoski et al., 2013; Leahy & Spain, 2017). However, Section 8 of the Victims of Crime Act legislates that the information detailed in Article 6²⁴, and additional information regarding the status of the investigation²⁵, copies of the victim's statements and submissions²⁶, and the release, temporary release, transfer, escape, and/or death of the perpetrator while imprisoned²⁷ and more, may be requested from AGS, the Ombudsman Commission, the Director of Public Prosecutions, the Irish Prison Service, the director of a children detention school or the clinical director of a designated centre at any stage of the CJP²⁸, which they are statutorily obliged to provide (Leahy & Spain, 2017).

AGS have made considerable efforts to honour the obligations imposed upon them by the Victims' Directive²⁹ (Leahy & Spain, 2017). In 2015, the Victim Service Offices, staffed by specially trained Gardaí, were introduced to each of the 28 Garda Divisions across the country (AGS, 2021; Leahy & Spain, 2017). The primary purpose of the Offices is to keep victims abreast of the significant developments of their case and provide them with contact information for appropriate victim support organisations and advice on crime prevention (AGS, 2021; Leahy & Spain, 2017). AGS also monitor victims' satisfaction with their services through their Public Attitudes Survey (AGS, 2021a), which indicates palpable improvement prior to the enactment of the Victims of Crime Act³⁰ and introduction of the updated Victims Charter (Victims of Crime Office, 2020). Notably, the proportion of victims reporting that they were 'very satisfied' with how Gardaí handled their case rose from 21 per cent to 61 per cent from 2016 to 2019 (AGS, 2019; 2016). Based on this data, it could be hypothesised that the introduction of statutory obligations for the provision of information has ultimately led to

²³ *Ibid*, Article 6.

²⁴ Directive 2012/29/EU.

²⁵ Criminal Justice (Victims of Crime) Act 2017, S. 8(2)(a).

²⁶ *Ibid*, S. 8(2)(b).

²⁷ *Ibid*, S. 8(2)(m).

²⁸ *Ibid*, S. 8(2).

²⁹ Directive 2012/29/EU.

³⁰ Criminal Justice (Victims of Crime) Act 2017.

improvements regarding this aspect of service provision by AGS which, in turn, could arguably reduce victim's experiences of SV with the organisation (Gekoski et al., 2013; Healy, 2019; Leahy & Spain, 2017).

Additionally, given the scope for SV associated with a decision not to prosecute (Stretesky et al., 2010), the Office of the Director of Public Prosecutions (DPP) established the Victims Liaison Unit in 2015 to also meet the obligations imposed upon it by the Victims' Directive³¹. Similarly to the Victim Service Offices (AGS, 2021), the Victim Liaison Unit handles requests from VOC for the summary of reasons and reviews of decisions not to prosecute, as well as operating an information service by telephone (Office of the DPP, 2020). The most recent available figures show a total of 649 victims requesting a summary of reasons not to prosecute, with reasons being given in 563 cases, and 207 requests for a review of that decision, of which 185 were upheld, five were overturned and 17 were pending (Office of the DPP, 2020). However, no information can be found on the levels of victims' satisfaction with the Office of the DPP, its Victims Liaison Unit or the standards of their service provision.

Protections During Criminal Investigations & Criminal Proceedings

The Victims' Directive³² outlines two levels of protection for VOC within Member States: general protections to which all VOC are entitled (Article 20³³) and special protective measures for those VOC assessed to be vulnerable (Article 22 and 23³⁴). With regards to the general protections for all VOC, Article 20 states that interviews with victims must be conducted without justified delay following the complaint; interviews/medical examinations are conducted strictly when necessary to the investigation and the number of interviews/medical examinations must be kept to a minimum; and victims may be accompanied by legal representation and/or a support person unless it is not in the interest of justice to do so. Leahy and Spain (2017) highlight the high likelihood that the Gardaí adhered to these practices prior to the enactment of the Victims of Crime Act³⁵. Regardless, Section 14 of the act has adopted, almost verbatim, the principles outlined in the above Article on a statutory footing, while Section 12 also legislates for a person of accompaniment for VOC when making a complaint. As with Section 14, the accompanying person may be excluded on the grounds that their presence would prejudice the investigation or criminal proceedings, but in such an event,

³¹ Directive 2012/29/EU.

³² *Ibid.*

³³ *Ibid.*, Article 20.

³⁴ *Ibid.*, Article 22; Article 23.

³⁵ Criminal Justice (Victims of Crime) Act 2017.

a different accompanying person may be arranged by the victim. Additionally, those special protective measures for VOC detailed in Article 23 of the Victims' Directive have been transposed into domestic law through various Sections of the Victims of Crime Act³⁶. The special measures available to VOC throughout the investigation stage of the criminal proceedings include the application of protective measures such as advice on the protection of property and personal safety, barring or safety orders, conditions attached to bail or applications for the alleged offender to be remanded in custody³⁷, and; the right of the victim to have interviews conducted by a specially trained interviewer, by an interviewer of the same sex, and for the interview to be conducted in a premise specifically designed for the conduction of interviews³⁸ (Kilcommins, 2020; Leahy & Spain, 2017). The special measures available to VOC during criminal proceedings include the exclusion of one, some, or all the public/particular persons from the court under certain circumstances, the provision of testimony via video-link or intermediaries for specific serious offences under certain circumstances, and the constraining of certain questions to victims in relation to their private life³⁹. The use of screens during criminal proceedings was placed on a statutory basis with the Criminal Law (Sexual Offences) Act⁴⁰ but despite empirical research in favour of their use (Cusack, 2020), they were swiftly repealed by the Victims of Crime Act⁴¹ and are now only in use for victims under the age of eighteen in sexual offences trials⁴² (Kilcommins, 2020). The general protective and special protective measures outlined are placed on a statutory footing with the intention of protecting VOC from secondary or repeat victimisation, intimidation, or retaliation⁴³.

The statutory status of such general and special protective measures provides mechanisms for best practice with regards to the accommodation, treatment, and protection of VOC within the CJP (Kilcommins, 2020; Leahy & Spain, 2017). Hypothetically speaking, the provisions laid out within the legislation can be viewed as the Irish State attempting to increase the therapeutic properties of the Irish CJS by increasing the protections available to VOC as they progress through the CJP (Spencer, 2014, Wexler, 2020; 2014b). Notwithstanding an acknowledgement of the resources and changes to general operations that the implementation

³⁶ Criminal Justice (Victims of Crime) Act 2017.

³⁷ *Ibid*, S. 16.

³⁸ *Ibid*, S. 17.

³⁹ *Ibid*, S. 19.

⁴⁰ Criminal Law (Sexual Offences) Act 2017.

⁴¹ Criminal Justice (Victims of Crime) Act 2017, S. 6.

⁴² Criminal Law (Sexual Offences) Act 2017, S. 36.

⁴³ Criminal Justice (Victims of Crime) Act 2017, S. 15.

of such provisions has required, it could be assumed that those special protective measures are operating to mitigate the antitherapeutic properties of the Irish CJP (Leahy & Spain, 2017; Wexler, 2020). For example, the statutory right to have a person of the victims choosing to accompany them when making complaints or participating in interviews⁴⁴ can be a considerable source of support for victims and may operate to mitigate the intimidation of such a process, and in turn its potential for SV, particularly when the nature of that process and the lines of inquiry involved therein are considered distressing for victims (Campbell, 2005; Leahy & Spain, 2017). However, a duality between what the Victims' Directive⁴⁵ requires of Member States in theory and what the Victims of Crime Act⁴⁶ legislates for in practice could arguably result in a derogation from the rights and protections entitled to victims as per the Victims Directive⁴⁷, particularly those special protective measures during criminal proceedings (Banks & Baker, 2016; Leahy & Spain, 2017). Thus, while operating under the guise of mitigating the antitherapeutic properties of the CJP in theory, the practical applications of such statutory protections are subject to an assessment by AGS on a discretionary and case-by-case basis (Banks & Baker, 2016; Leahy & Spain, 2017; Wexler, 2020). As with the issues highlighted around the right to information, insensitive, dismissive and/or judgemental/accusatory attitudes by members of the Gardaí towards crime victims, as well as the issues surrounding the assessments discretionary nature, may continuously contribute to their SV experiences through a denial of the special protective measures for victims not assessed to be 'vulnerable' (Gekoski et al., 2013; Leahy & Spain, 2017; Nowacki, 2015).

Assessment of Victims for Special Protection Measures

Article 10 of the Victims' Directive mandates that Member States shall enable victims to provide evidence and be heard during criminal proceedings. However, despite the rigorous supports for VOC set down by the Victims' Directive which have been transposed into domestic law, such mandates are 'diluted by the proviso that the means of victim participation are a matter for national law' (Heffernan, 2021: 150). As Ireland is a common law jurisdiction, the victim's conflict is reclaimed by, and taken as an offence against, the State and, generally, victims have no entitlements to legal representation (Christie, 1977; Heffernan, 2021). While a victim is not entitled to give evidence, they may do so at the behest of the DPP and in such an event, the Victims Directive mandates that the dignity and emotional and psychological

⁴⁴ *Ibid*, S. 12; S. 14.

⁴⁵ Directive 2012/29/EU.

⁴⁶ Criminal Justice (Victims of Crime) Act 2017.

⁴⁷ Directive 2012/29/EU.

well-being of the victim are respected⁴⁸ to avoid incidents of SV (Heffernan, 2021). Therefore, in a system where opportunities for victims to provide evidence or participate in their trial are far and few between, it could be argued that equal access and entitlement to special measures for the protection of victims⁴⁹ on the rare occasions they may participate in criminal proceedings would be the therapeutic approach that seeks to reduce those aspects of the CJP conducive to SV (Healy, 2019; Heffernan, 2021; Wexler, 2020). However, both the Victims Directive and the Victims of Crime Act base the provision of special protective measures during criminal proceedings on an individual assessment based on the characteristics of the victim, the nature and type of crime to which they were a victim of, and the circumstances surrounding that crime⁵⁰. Both the Victims' Directive and the Victims of Crime Act also specify that consideration shall be given to the severity of the alleged offence and harm suffered⁵¹; whether the alleged offence was committed on the grounds of bias or discrimination which may relate to the specified personal characteristics of the victim⁵²; and the particular vulnerabilities of victims of specific crimes, such as gender-based and sexual violence and organised crime⁵³. Close consideration and consultation should be given to the victim throughout the assessment about their views as to whether they need special protective measures⁵⁴, and the extent of the assessment is subject to adaption based on the severity of the crime and the extent of the apparent harm it has caused⁵⁵. However, Section 15(1)(c) of the Victims of Crime Act places on a statutory basis the discretion of the assessing member of AGS or the Ombudsman Commission to ascertain whether and to what extent a victim may benefit from general protective (i.e., investigation stage) and special protective (i.e., criminal proceedings) measures during the CJP (Leahy & Spain, 2017).

As Uviller states, 'wherever power is lodged, discretion flows' (1984: 15). Police discretion has often been utilised to guide decisions and responses to situations within the field, with research indicating that it is vital to police behaviour (Uviller, 1984; Nowacki, 2015). While Goldstein (1963) maintained that police exercised their discretion in a genuine pursuit of social good, the use of discretion may allow for the input of biases which will ultimately affect police decision making (Nowacki, 2015). As previously discussed, empirical evidence has found that

⁴⁸ *Ibid*, Article 18.

⁴⁹ Criminal Justice (Victims of Crime) Act 2017, S. 19.

⁵⁰ Directive 2012/29/EU, Article 22(2); Criminal Justice (Victims of Crime) Act 2017, S. 15(2)(a)(b)(d).

⁵¹ *Ibid*, Article 22(3); *Ibid*, S.15(2)(b).

⁵² *Ibid*; *Ibid*, S. 15(2)(e).

⁵³ *Ibid*; *Ibid*, S. 15(2)(f).

⁵⁴ *Ibid*, Article 22(6); *Ibid*, S. 15(4)(b).

⁵⁵ *Ibid*, Article 22(5); *Ibid* S. 15(3).

the treatment of victims by law enforcement can be a significant source of SV for VOC, particularly when they engage in inconsiderate, accusatory, tactless, and judgemental questioning/remarks (Gekoski et al., 2013). Moreover, perceptions of the victims' veracity, credibility, and circumstances (i.e., how sympathetically they are viewed) effect the manner with which law enforcement handle their case (Uviller, 1984; Karmen, 2007; Stretesky et al., 2010; Patterson, 2011). If discretion is a vital part of police behaviour and if certain biases affect police decisions within the field (Uviller, 1984; Karmen, 2007; Stretesky et al., 2010; Patterson, 2011; Nowacki, 2015), what is to say that the level of discretion afforded to AGS, and the potential for biases therein, do not affect their decisions with regards to the provision of special protective measures for victims within the Irish CJS? It is difficult to discern with certainty the frequency and extent to which AGS exercise their discretion to determine when these special protective measures are applied to victims during criminal proceedings, as no data or empirical evidence can be found which examine their application and/or victims experiences of them. However, despite statutory recognition of the vulnerability of victims of certain offences⁵⁶, and the right to assessment with consideration to the input of the victim⁵⁷, Cusack (2020) has found that special protective measures during criminal proceedings are often only applied in cases with victims under the age of eighteen or those with an intellectual disability. Further empirical research is needed to determine victims' experiences of the assessment process, the frequency and extent to which the statutory protections are applied to victims within the CJP, and victims' experiences of those protections, when granted. Nevertheless, an unequal application of the protections to which victims are statutorily entitled to can be regarded as an antitherapeutic aspect of the CJS (Wexler, 2020), disregarding the expressed needs of victims (Bottoms & Roberts, 2010; Healy, 2019), and placing them in an environment which has been empirically recognised as conducive to experiences of SV (Katirai, 2020).

Furthermore, victims have highlighted the antitherapeutic properties of Irish criminal justice and the detrimental effects that it poses. Although statutory provisions were introduced with the Victims of Crime Act to restrict and constrain the certain questioning of victims⁵⁸, sexual violence survivor Sarah Grace criticised the Irish CJP, calling it 'barbaric', for allowing victims to be questioned about their sexual history, and be cross-examined by the accused during trial (Mullally, 2021). In his review of protections for vulnerable witnesses, O'Malley (2020) found that victims' rights are often ignored in a 'cruel' court process that has the

⁵⁶ Criminal Justice (Victims of Crime) Act 2017, S. 15(2)(f).

⁵⁷ *Ibid*, S. 15(4)(b).

⁵⁸ Criminal Justice (Victims of Crime) Act 2017, S. 19.

potential to (re)traumatise victims (Blackwell, 2020). Noeline Blackwell, CEO of Dublin Rape Crisis Centre, recently reported that many of their service users find the Irish CJP as bad, if not worse, than their victimisation (Walsh, 2021). Thus, while the introduction of statutory provisions for the protection of victims⁵⁹ appear to be a pouring of TJ wine into the bottle of Irish criminal justice, in practice, their application is found to be wanting, antitherapeutic, and often contributory to SV (Banks & Baker, 2016; ; Blackwell, 2020; O'Malley, 2020; Spencer, 2014; Wexler, 2020;). Calls have been made for a wider application of protective measures, training for criminal justice personnel who engage with VOC (particularly vulnerable victims), legal representation for VOC, and the introduction of an impact statement to assess the impact that a court trial has had on victims, much like the LSVIS detailed above (Mullally, 2021; O'Malley, 2020; One in Four, 2021; Wexler, 2011; 2008).

The Present Study

Although the varying needs of victims are recognised in criminal justice literature (Boom & Kuijpers, 2012; Bottoms & Roberts, 2010), empirical evidence indicates that experiences of SV are linked to insensitive, inconsiderate, and judgmental behaviours by criminal justice personnel (Campbell, 2005; Stretesky et al., 2010, Patterson, 2011; Gekoski et al., 2013), and aspects of the legal system which retraumatise victims by its nature and processes (Gekoski et al., 2013; Katirai, 2020; Orth, 2009). The detrimental effects that SV can pose to a victim's psychological well-being include significant mental health issues, a distrust of others (Campbell & Raja, 1999; Campbell, 2005; Patterson, 2011) and a loss of trust and/or faith in the justice system (Orth, 2002; Gekoski et al., 2013). Based on the review of this literature, it could be hypothesised that the Irish CJS has aspects which may contribute to the SV of crime victims, and that the criminal justice personnel within may engage in SV behaviours. Despite empirical recognition of SV generally, there is little mention of SV within Irish criminal justice literature (Hanley et al., 2009; Norton, 2007;) and virtually no empirical research exists examining this issue within the Irish CJS specifically. This research aimed to address this deficit within the Irish criminal justice literature through an empirical examination of the nature and experience of SV in the Irish CJS for victims of all crime types. Its purpose was to: 1) critically assess the extent to which victims experience SV within the Irish CJS and the effect this has on their psychological well-being and perceptions of the legal system; and 2) critically assess the ability of a LSVIS to address issues of SV within the Irish CJS and inform policy reform, aligning cogently with the Department of Justice and Equality's goals to

⁵⁹ Criminal Justice (Victims of Crime) Act 2017.

improve supports for victims and vulnerable witnesses throughout the CJP (2021a; 2021b). Addressing the former research question was achieved through the voluntary participation of seven participants in semi-structured interviews, all of whom work directly with VOC through the victim support organisations listed on the Irish Victims Charter (2020). To address the latter research question, an analysis of available secondary data pertaining to LSVIS was conducted to provide a deeper understanding of the concept and facilitate a critical analysis of their ability to address SV and inform legal reform. All data analysis was grounded in the theoretical framework of TJ (Wexler, 2020).

Chapter 3

Methodology

Introduction

The ontology of the present study is rooted in pragmatism (Morgan, 2014), with an epistemological approach that is interpretivist in nature (Schwartz-Shea & Yanow, 2011). Interpretivists view the world as ‘constructed, interpreted, and experienced by people in their interactions with each other and with wider social systems’ (Tuli, 2010: 100). The purpose of interpretivist inquiry is to build a knowledge and understanding of specific phenomenon (Tuli, 2010), as this research aims to do with secondary victimisation. This is often achieved through inductive qualitative means, such as that availed of within, which seek deep, contextual, and rich insights through personal interactions with participants (de Kock, 2015; Tuli, 2010). However, singular methods of data collection and analysis are arguably limited in their ability to build a comprehensive picture of reality (de Kock, 2015). Pragmatic ontological approaches thereby ‘places the ‘research problem’ as foremost’ (de Kock, 2015: 172), drawing on suitable qualitative and quantitative methods of data collection and analysis to address specific research questions (Harrits, 2011). To that end, a mixed-methods approach was adopted for this research, but its epistemology gives dominance to the primary qualitative data collected herein (Harrits, 2011). Thus, semi-structured interviews were used to address the central research questions of this study, whose conclusions were supported with data collected from digital surveys. Due to the sensitive nature of the topic being research, ethical approval would not be granted for access to VOC. Thus, the sample frame of intended participants (Fowler, 2009), identified through purposive sampling (Bloor & Wood, 2006), were individuals over the age of eighteen who were presently working with VOC in Ireland, in either a professional or voluntary capacity for at least six months, through victim support organisations listed on the Irish Victims Charter (Victims of Crime Office, 2020). Notably, some respondents within the quantitative survey also participated in the interviews. This project received ethical approval from the Maynooth University Department of Law Research Committee.

Quantitative Data Collection

To examine the sources and extent of SV in the Irish criminal justice system, a digital survey was disseminated via email to five initial victim support organisations. Subsequently, due to a low response rate, it was further disseminated to all those listed on the Irish Victims Charter (Government of Ireland, 2020), using publicly available contact information. The digital surveys were created using Microsoft Forms and were comprised of predominantly five- and seven-point Likert scale questions (*see* Appendix A). Descriptive analysis was carried out, allowing for the determination of how participants perceive the extent and sources of SV within the Irish CJS for their service users through a quantitative summarisation of each variable (Jann & Hinz, 2016; Knapp, 2018). While descriptive analysis cannot determine the causality of SV behaviours from criminal justice personnel or of the SV aspects of the CJS, it can describe what participants believe, on average, about the prevalence and nature of the contents of each variable (Jann & Hinz, 2016). In addition, unrestricted text boxes requiring thematic analysis were included following many of the Likert scale questions, which invited participants to elaborate further or provide additional information on any of their responses. The specific design of the questions, which sought to assess the specific behaviours of criminal justice personnel and the specific aspects of the CJS which may constitute SV, were rooted in the findings of various empirical research previously conducted on SV behaviours and aspects in other jurisdictions (*see* Campbell & Raja, 1999; Campbell, 2005; Gekoski et al., 2013; Katirai, 2020; Orth, 2002; Patterson, 2011; Stretesky et al., 2010). The intended number of desired completed surveys for this research was fifty, the rationale for which being an average of ten respondents from each of the five victim support organisations initially contacted. Unfortunately, even upon expansion of the sample pool, a persistently low response rate was observed for the digital surveys ($N=14$). As such, the data cannot be deemed generalisable. It will be drawn upon where relevant to expand upon qualitative findings; however, the small sample size is a notable limitation of this component. This will be reviewed further in the Discussion.

Qualitative Data Collection

Semi-structured interviews were conducted with 7 participants, all of whom work directly with VOC through the victim support organisations listed on the Irish Victims Charter (Victims of Crime Office, 2020). The use of semi-structured interviews allowed for the identification of potential prominent themes, the development of a detailed understanding of (Taylor et al., 2015), and the production of knowledge embodied in participants experiences

(Mligo, 2016) about the extent, nature, and effects of SV in the Irish CJS for their service users. Semi-structured interviews were also chosen due to their flexibility as an approach to provide opportunities for further probing of an issue through follow-up questions (Noaks & Wincup, 2004).

All interviews were conducted virtually via Zoom (2021), a video communications software, between May 2021 and June 2021 and interview durations ranged between twenty and sixty minutes. While all participants worked with VOC through different victim support organisations across the country, most participants worked with victims of intimate partner and/or sexual violence ($n=5$). The remaining participants worked with victims of homicide and victims of offences less serious in nature ($n=2$). Consent was given by each participant for their interviews to be audio recorded, which was facilitated by Audacity (2021), a multi-track audio recorder. As with the survey, the design of the interview questions (*see* Appendix B) was rooted in the findings of various empirical research previously conducted on the effects that experiencing SV can have on a crime victims psychological well-being and faith in the legal system (*see* Campbell & Raja, 1999; Campbell, 2005; Gekoski et al., 2013; Katirai, 2020; Orth, 2002; Patterson, 2011; Stretesky et al., 2010). The interview questions were designed to accommodate for a positive or negative response to interview question two: “*Do you think [SV] is prevalent in the Irish criminal justice system for your service users? Why/not?*”. If participants responded positively, meaning they considered SV to be an issue within the Irish CJS, then the remaining interview questions were specifically phrased to inquire about the SV experiences of their service users. If the participants responded negatively, meaning they did not consider SV to be an issue within the Irish CJS, then the remaining interview questions were phrased to inquire about the experience of the criminal justice process for their service users. The intention of designing the interview questions in such a manner was to take into consideration those participants who may not recognise, for any reason, that certain behaviours of criminal justice personnel and certain aspects of the CJS could be conducive to experiences of SV for their service users. Such a design allowed for the determination of what respondents believed, either knowingly or unknowingly, about the experience of SV for their service users in the Irish CJS.

The primary data collected through interviews was analysed using thematic analysis, a systemic analytical approach used to identify, analyse, interpret, and report patterned responses, or ‘themes’, identified within and across data sets in rich detail (Braun & Clarke, 2006; Clarke & Braun, 2017; Nowell et al., 2017). Following the collection of and

familiarisation with the data – phase one (Nowell et al., 2017) -, the second phase involving the initial production of codes began. Codes are ‘the smallest units of analysis that capture interesting features of the data’ and which form the ‘building blocks’ for themes (Clarke & Braun, 2017: 297). Once coded and collated, coded data extracts were grouped and structured to form the basis of significant and linked concepts (phase three), which were then reviewed and refined (phase four) to determine the final themes, and their significance to the research questions (phase five) (Nowell et al., 2017). The inductive method of data collection resulted in a data-driven and latent approach to analysis, with the identified themes strongly linked to the data itself and latently analysed to identify and interpret features of the data which give meaning to the experiences of participants service users (Braun & Clarke, 2006; Nowell et al., 2017). The final phase of thematic analysis is the write-up of the research findings (Braun & Clarke, 2006; Nowell et al., 2017). This will be discussed in Chapters 4 and 5. A coding framework has been included (*see* Appendix C) to reinforce the credibility, transparency, and trustworthiness of this research by demonstrating how the researcher ‘perceived, examined and developed their understanding of the data’ (Tong et al., 2007: 356).

Chapter 4

Findings

Introduction

Evidence of secondary victimisation and its detrimental psychological effects has been observed in the present study, supporting the hypothesis that aspects of the Irish criminal justice system, and the behaviours of personnel within, are conducive to the SV of crime victims. However, optimism was shown by all participants for potential future improvements to victims' experiences, including enthusiasm for, and insightful observations about, the potential held by Legal System Victim Impact Statement's to facilitate such improvements. To that end, analysis of the interview transcripts has identified three overarching themes: 1) *"What's the Point?": Victims' Experiences of the Irish Criminal Justice System*; 2) *"The Window of Tolerance has Closed": Effects of Secondary Victimization on Victims Psychological Well-Being*; and 3) *"There Is a Grey Bit & It's Called Emotions": Assessing the Benefits, Risks, & Logistical Implications of a Legal System Victim Impact Statement*. Within these, subthemes have also been identified. The former two themes shall be discussed in further detail and with reference to relevant research and descriptive statistical data from survey responses forthwith. The latter theme will be discussed in Chapter 5, facilitated by thematic analysis, an examination of relevant research, and drawing on appropriate examples from other jurisdictions, for the assessment of the LSVIS as a tool for criminal justice reform.

Theme 1: "What's the Point?": Victims' Experiences with & Perceptions of the Irish Criminal Justice System.

Participants consensus regarding victims' experiences as they progress through the Irish CJS was overwhelmingly negative. Using thematic analysis, this has been reflected in codes including 'challenging', 'uncertainty', 'daunting', 'lack of information/communication', 'disregard for victims', 'further victimisation', 'instrumentalisation of victims', 'minimisation', and 'victim blaming', among others. When asked if they considered SV to be a prevalent issue within the Irish CJS, and why or why not, most participants agreed that it was:

If not, why not? [laughs]. Well, I don't have to bother too much with that one. Yes, I do think unfortunately it is still prevalent (P1).

Definitely yes (P2).

Yeah, I think so ... it does retraumatise them in lots of ways (P5).

Yeah ... I mean, it is ... It's still a victimisation experience regardless of what the outcome is (P6).

It is prevalent (P7).

This has also been reflected in survey responses, in which 86 per cent of total respondents (N=14) believed that their service users experience SV in the Irish CJS, and that it was either always (37%) or usually (43%) a prevalent issue. While the remainder of interview participants were unsure of the 'prevalence', they agreed that "*the potential is certainly there*" (P3) and is dependant "*on people's interactions with the system*" (P4). Indeed, the fundamental subjective nature of individual victims' interactions with the CJS was highlighted: "*It's not a one size fits all. And it can't be. And it never will be*" (P4). Participants stated that while the CJS is "*standard in that everybody goes through the same process ... it's subjective rather than objective*" (P4), with "*no consistent standardised approach*" (P6), and experiences varying between victims (P3; P7) depending on geographic location (P1), their expectations (P7), and their comfort/anxiety levels when interacting with the system (P4). Participants 1 and 7, with over twenty-seven years' combined experience working with victims, also acknowledged recent positive changes within the system. They claimed that "*definitely things have improved*" (P1) and the experience is "*definitely better than it was*" (P7), highlighting the roles that proactive government departments, campaigning, increased supports, and challenges to wider societal perceptions of victimisation have had in these improvements. However, commendation of recent changes notwithstanding, the Irish CJS was still regarded by participants as a "*cycle of trauma*" for victims (P6), stressing the difficulty involved in "*[building] on top of foundations that aren't great*" (P7).

While it was agreed that victims can have positive experiences, participants reported that the average experience of their service users in the Irish CJS was primarily characterised by challenges or difficulties, frustration, and uncertainty over a lengthy period with little representation and significant potential to retraumatise. Several areas and/or aspects within the CJS were highlighted as problematic, such as delays (P1), a lack of information and

communication (P2; P3; P4), and the Criminal Injuries Compensation Tribunal⁶⁰ (P3), for example. As stated by participant 3, *“it can all boil down to the victim feeling ... that they’re being treated badly”*. Participants felt that progressing through the *“harrowing experience”* (P6) of the criminal justice process, with its *“uncertain outcome and many hurdles”* (P1), leaves their service users feeling *“lost”*, *“silenced”*, *“invisible”* (P2), and victimised by a *“difficult”* and *“traumatic”* system (P3; P6; P7). It was believed that the SV experienced by their service users in the *“clumsy blunt instrument that is the criminal justice system”* (P3) is *“part and parcel of going through that system”* (P5). Acknowledgement was given to the fact that *“it’s not often the individuals who are working in the system”* (P6), but that it was the system itself perpetrating unnecessary victimisation and causing significant distress (P3).

The instrumentalised role to which victims are assigned within the CJS appears to further compound those interactions conducive to SV by the system. As highlighted by Kilcommins (2020), and reflected in this research, victims in the Irish CJS are not only victims, but are *“also a witness to any crime that happens in Ireland”* (P2). Thus, an inherent imbalance between perpetrators and victims within the system was brought to attention: *it’s that the victim is on trial ... it’s very much weighted on the side of the perpetrator not having to do anything, even give evidence in court, and the victim having to supply everything ... you have to prove that [the perpetrator] did it, but you have to prove it in such a manner that you have to lay yourself open and bare and let them pick you apart and be happy that they did that* (P7). This can result in an invasive process, and subsequent *“fears about privacy”* (P1), when victims are either requested or subpoenaed to provide evidence, including counselling notes, medical records, private personal details, and access to social medias and electronic devices, which participant 7 argues acts as *“a whole new trauma attached to a trauma that already happened”*. Thus, this imbalanced role between perpetrator and victim amounts to SV, with participants’ service user’s feeling as though they have committed a *“wrong”*, (P2), that the onus is on them to *“prove”* their victimhood (P6), and that they must take *“the stands ... to defend”* their status as a victim (P5). Strobl (2004) argues that a such a denial of victim status by important others, in this instance the Irish CJS, can not only result in strong feelings of injustice, but can also act as a direct barrier to the provision of justice itself.

⁶⁰ The Criminal Injuries Compensation Tribunal is responsible for determining who, upon application to the Criminal Injuries Compensation Scheme, is entitled to a monetary award for injuries sustained to VOC, or relatives of victims who have died, as a result of a criminal act (Department of Justice and Equality, 2021c).

Victims' Experience's with An Garda Síochána

From the outset, significant improvements within An Garda Síochána were highlighted. Participants credited the Victim Service Offices (P3), the rights afforded to victims in Garda stations under the Victims of Crime Act⁶¹, and the recent establishment of Divisional Protective Service Units⁶² across the country (P1; P7). The importance of the role played by Gardaí as the first point of contact for victims was stressed (P3; P6), as well as the longevity of their relationship with victims: *“the guards are involved from the beginning, maybe from the start right to the court case and during the court case”* (P7). When met with a Guard who is *“professional but empathetic”* (P7), victims believe that a thorough investigation will be conducted and that an appropriate level of communication will be maintained, resulting in a positive impact that leaves victims with *“a better feeling about the whole process”* (P7). These positive experiences also appear to be reflected in survey responses, in which 64 per cent of respondents believe their service users only sometimes experience SV by AGS. However, participant 3 felt it important that *“[victims'] expectations are not ... too high”* because, as highlighted by other participants, such improvements/positive experiences do not negate the SV perpetrated by some members of AGS to the victims with which they interact, and how those victims subsequently struggle to *“separate the individual from the organisation”* (P4).

As succinctly put by participant 2, being subjected to SV by AGS results in victims being *“further traumatised by the responses that are given by the first person that they disclose the [victimisation] to, or the first person that they seek help from”*. While negative experiences with AGS are *“seldom enough”* (P5), several areas of potential SV were highlighted, from simple personality clashes with Family Liaison Officer's (P3), or a lack of understanding by members of AGS as to the effects that victimisation has on individuals (P2), to a lack of communication (P3), the retraumatising nature of the reporting process (P7) or careless, poor, and/or insensitive treatment during AGS's interactions with victims (P1; P2; P7). Participants acknowledged that the Gardaí have a function to perform (P2; P7), and that *“their job is not to be the victim's friend”* (P7). Nonetheless, *“if the process is ... tainted”* (P7) with SV experiences by AGS, the negativity of that impact *“can be huge”* (P3). For example, participant

⁶¹ Criminal Justice (Victims of Crime) Act 2017.

⁶² An Garda Síochána Divisional Protective Service Units were established following publication of a four-year implementation plan, *A Policing Service for the Future*, on the foot of recommendations made by the Commission on the Future of Policing in Ireland. There are 27 Units in operation across Ireland, with at least one in operation across every Garda Division. The Units are staffed by approximately 320 personnel who received bespoke training in areas including the investigation of sexual crime and domestic abuse, child protection, online child exploitation and sex offender management (An Garda Síochána, 2021b).

1 provided an example of SV by AGS from previous years following two victims filing complaints against their perpetrator:

An Garda Síochána ... rocked up in a marked car, with siren blaring, in uniform ... All the neighbours saw, thought there was an arrest or drugs bust or some fecking thing going on, came up to the house unannounced, uninvited ... they were no way scheduled to be there, came in with two files, with each of their names on them, threw them down on the kitchen table and said “we don’t believe a blind bit of anything that’s in here. So, were not sending this to the DPP”.

While participant 1 has acknowledged that “*we’ve moved on from that*”, the previous example occurred during a time when AGS were required to send complaints for offences of a certain nature to the Director of Public Prosecutions (Victims of Crime Office, 2010), of which this example pertains to. Therefore, not only did the Gardaí in question retraumatise the victims through a denial of their victimisation and accusatory nature, but they also negated the legal responsibilities to which they were statutorily bound. A more recent example of SV by AGS from the present year, even with institutional and legislative protections/services in place for victims at this time, was provided by participant 2:

It took a long time and a lot of trust for [the victim] to build up the courage to go into the Garda station and make a statement against [the perpetrator] ... [the victim] rang me outside the Garda station and we were on the phone for about 40 minutes preparing [them] for going in and [they] went in and knocked at the hatch, and ... [they] said very quietly “I’m here to report [a serious offence perpetrated against me]”, and the guard looked at his watch and went “ugh, is there any chance you can come back tomorrow?” and didn’t take [their] statement because he was going off shift. The impact that had on [the victim] was astronomical”.

Although AGS appear to have improved victims general experience with Gardaí over time (based on survey and interview responses), the benefits of such improvements are not equally experienced by the victims for which they were intended. There is a manner with which Gardaí can be “*cognisant of what’s going on for a victim and how to deal with victims and how to support them but also do [their] job*” (P7). Unempathetic and unprofessional behaviour by AGS, as well as accusatory attitudes which question the veracity of victims, as illustrated in the examples provided, “*pushes [victim’s] further away*” (P5) from services and compounds

their trauma (P7), rendering certain members of AGS, and arguably by extension the organisation, as undependable in the eyes of the victims they retraumatise (P5).

Victims' Experiences of & Within the Court

For many victims, the *“star of the show is the fear of the trial itself”* (P1). While it was acknowledged that *“sometimes you get very bad practice and sometimes you get excellent practice”* (P1) across the court system, participation in a criminal trial is an *“intimidating”* and *“daunting prospect”* for participants' service users (P1; P5; P6). When asked whether those service users whose case had been prosecuted in a criminal trial felt revictimised or retraumatized by the process, 79 per cent of survey respondents agreed that it did, with 43 per cent of respondents believing most of their service users have experienced SV in criminal proceedings, and a further seven per cent believing all their service users have. Further areas of potential retraumatization were highlighted, with respondents strongly agreeing that reliving their victimisation through testimony in a trial (79%), cross examination by legal personnel (86%), hearing submissions of evidence in a trial (74%) and confronting their perpetrators during a trial (79%) was distressing for their service users. Participant 2 described their service users as *“lost”* within the system, *“not knowing how the whole process works from start to finish”*, with a lack of representation, communication, and information connoting negative experiences for victims. The instrumentalisation of victims as witnesses during criminal proceedings results in their feeling *“silenced”* by a *“rushed”* process (P2). With no time taken to communicate the necessary information which could alleviate some of the intimidating, daunting, and uncertain aspects of a trial, victims are further impacted by a *“very negative experience”* of a CJP for which they were ill prepared (P2).

Participants communicated a typically negative experience for their service users in their interactions with legal personnel: *“there's very little you can do because you're almost not dealing with a human, you're dealing with law ... and it's a very blunt instrument”* (P3). The primary source of SV for victims, according to participants, results from their interactions with solicitors and barristers. The biggest challenge regarding the prosecution legal team is the minimal interaction their service users have with them: *“the person that's defending you and is supposed to put your case across, you've met them for a total of I'd say half an hour, all told, from one end to the other”* (P7). Thus, while victims would value more time with them, their instrumentalisation as a witness within the CJS means that the prosecution *“can't be seen to coach the victim”* (P7). Other issues highlighted with the prosecution were distraction, disinterest, and lack of empathy (P7). Indeed, 36 per cent of survey participants indicated that

a great deal of legal personnel has been inconsiderate of the effects that victimisation has had on their service users. However, participants espoused that interactions with and treatment by the defence legal team, particularly during cross examination, are “*very damaging*” (P7) for their service users.

Cross examination is considered by participants to “*make mincemeat of [victims]*” (P7), with solicitors often coming across “*as very aggressive in court*” (P3). The process of minimisation with which victims are met in their interactions with defence legal teams was regarded as a significant issue: “*they will mimic, they will minimise, they will disempower, and they will be the voice of the abuser within the court*” (P2). Victims are subjected to a process within which the gravity of their victimisation is undermined (P5), with the lexicon of defence teams centring around the word ‘only’: “*ah what do you mean [the perpetrator] only did this?’ or ‘ah it was only that’. So, it’s that ‘only’ word and that’s used inside the court*” (P2). Minimising attitudes such as this simultaneously feed into and reflect societal perceptions of ‘ideal victims’⁶³, of whom are “most readily ... given the complete and legitimate status of being a victim” (Christie, 1986: 18; Hockett et al., 2016; Wijk, 2013). Moreover, the defamation of character with which the defence engage during cross examination, particularly in camera, was also considered by participants to be a source of SV for their service users: “*it is that slow breaking down of the victim in the juries’ eyes to make them seem unreliable*” (P7). This is reflected in survey responses, in which 21 per cent of respondents believed that a great deal of, and 29 per cent believed that a moderate amount of, legal personnel questioned the credibility of their service users as a victim and/or witness. Not only do the defence further perpetuate notions of ‘ideal victims’ and accusatory attitudes during this process (P7), but they will also “*lower to any length*” (P2) for the achievement of their legal goals. A recent example of such behaviour was provided by participant 2:

I’d one client two months ago that was in court and ... there was allegations being made of [them] taking drugs, of smoking weed, and the barrister stood up and said, “sure look at you, you actually look like a junkie” and the judge then goes, “well I don’t think she

⁶³ Christie’s (1986) notion of an ‘ideal victim’ conforms to six characteristics. The victim is i) weak; ii) performing a ‘respectable’ duty or project; iii) not blameworthy; and whose perpetrator is iv) ‘big’, ‘bad’; and v) unknown to them. Lastly, vi) the victim is powerful enough to frame themselves as a victim, without “threatening strong countervailing vested interests”, and can convince society to legitimate their status as a victim to receive the associated benefits of victimhood (Wijk, 2013:160).

looks like a junkie”, and the judge and the barrister had a conversation of whether my service user looks like a junkie or not ... [the victim] was devastated by this.

Participants reported that victims are often accused of having mental health issues, being unfaithful, being deserving of their victimisation because of their actions (such as alcohol or recreational drug consumption), and of being undeserving of victim status because the circumstances of their case do not conform to those of an ‘ideal victims’ (P2; P7). This was also highlighted in survey responses, in which 21 per cent of respondents believed that a great deal of legal personnel blamed their service users for their victimisation, while a further 14 per cent believed a moderate amount did. As a result, victims begin to believe that *“this isn’t actually about what happened at all, what this is about is how can they make [the victim] seem like less of a person that deserves ... justice for this”* (P7). Prescriptions to such minimising attitudes and notions of ‘ideal victims’, the employment of minimising language, and the defamation of character endured by victims in their interactions with defence legal teams operates to minimise the victimisation perpetrated against them and its subsequent effects, invalidating victim’s experiences, amounting to victim blaming and contributing to the SV of VOC (Christie, 1986; Hockett et al., 2016).

Moreover, congruent with empirical research (Gekoski et al., 2013; Katirai, 2020) and reflected in survey responses, interview participants noted that being in the presence of their perpetrator(s) during criminal proceedings is an intimidating prospect for victims (P6): *“facing the offender across the court room in the one room, that can be problematic”* (P4). While some courts have separate waiting rooms for victims and their families, many do not (P2). This results in the victim, the perpetrator, and their respective families being required to wait in the same area and enter the court through the same door, allowing for potential *“intimidation outside of the courts”* from perpetrators and their families (P2; P6). Not only this, but they must then also remain inside the court with the perpetrator for the duration of the trial, an aspect exacerbated when the victim is called to the witness box: *“the perpetrator who they are afraid of is there, staring at them in the face”* (P6). While special protective measures for victims during criminal proceedings are legislated for, and *“a lot of things you could wish for are there ... these special measures can be quite difficult to get if you’re not a child or you’re not a person with a mental disorder”* (P1). Indeed, participant 1 described an unspoken culture within the court to resist special measures for VOC: *“if you’re representing somebody accused of [an offence], you shall resist special measures for the victim to the last degree. Like, that’s practically your duty. And they’d have no compunction about it ... honestly and sincerely, [they*

would] see that as their duty to the client”. Supporting an earlier criticism that, in practice, the Irish CJS derogates from the statutory rights to which victims are entitled in theory (Banks & Baker, 2016), the foundational mechanisms of the court and the criminal proceedings housed therein appears to facilitate a retraumatisation of the victims who progress through it, creating a “*very unsafe experience*” for victims and contributing to their SV (P6).

Perceptions of the Irish Criminal Justice System

When asked whether experiences of SV affect their service user’s faith and/or trust in the justice system, 6 of the 7 participants believed it did. Participant 1 highlighted the resilience of victims and their ability to recover, but also that the CJS “*is the only show in town. There is nothing else, and anything else is not legal*”. The absence of standardised alternatives to justice could arguably result in negative attitudes towards the CJS following experiences of SV, as all other participants indicated it did: “*they definitely lose faith with secondary trauma. Definitely lose faith in the justice system, for sure*” (P5). Even if encounters with the CJS are regarded as more positive by victims due to its outcome, the experience of progressing through the system is “*not a good experience ... for any [victim]*” (P5). This has been reflected in codes including ‘loss of trust’, ‘loss of faith’ and ‘disengagement with services’. According to participant 7, victims are “*being told by society [to] ‘come forward, tell us what happened ... we believe you ... we’re a different country now’*”, only for them to progress through the system and become “*really clearly upset ... with the system and how it works and how they’ve been treated*”, ultimately negatively impacting their outlook on the system itself (P5). While it may take “*years for [victims] to work that through in their minds*” (P3), the effects remain. The “*extra level of victimisation*” added by the CJS has a “*very damaging effect on victims*” (P3), and congruent with Orth’s findings (2002), the ramifications of this manifest themselves as a loss of trust and faith in (P1; P2; P3; P5; P7), and a sense of hopelessness about, the “*only system that they have*” (P6):

They come out with like, “what was the point? Why did I do this?” (P2).

They’ll say, “what’s the point? Why would I put myself through that?”, which is very hard to argue ... I have never met a [victim] that’s going to put themselves through that horrendous system for no reason. It just doesn’t happen because it’s so horrendous, like why would you do that? (P6).

They may feel, “well, what’s the point?” (P7).

The inherent danger of individuals or a system “*in a position of power ... [behaving] like the perpetrator in certain ways*” (P6), and the effects this has on victims’ faith/trust in the CJS, reside in the possibility of victims disengaging with the legal system and relevant support organisations (P5; P7): “*it is that fear, always ... that they just won’t use the system*” (P6).

A disengagement with services was considered a fear of many participants for their service users. The ramifications of SV “*puts up barriers*” to victims seeking justice, as victims are unlikely to return to a system they can no longer trust (P5). Victims will “*retreat*” and “*protect themselves*” (P6) from a process within which everyone is regarded as “*suspect*” due to the SV perpetrated by them or the system in which they reside (P1). This can result in regrets for victims around engaging with the CJP to begin with, and conceptualisations of the CJS as a perpetrator in and of itself:

Anybody who has worked in this area will tell you they have heard at least one person, and I’ve heard a few say, “you know what, [participant 1]? The whole criminal justice bit was worse than the actual [victimisation] itself”. I have heard them say that, that it actually ... diminishes in comparison to what has happened to them since (P1).

I’d say, 90% of [victims] I work with would say that if they had of known it was going to be this bad, they would never have started the process to start with (P2).

And [victims] will come out and say, “that was a horrendous experience and ... I’m never putting myself through that ever again” (P6).

At the end ... just being like, “you know what, I’m sorry I did it. I just want to forget about it now” ... I think if you spoke to victims and you ask them, they would say it was horrendous ... and a lot of times, the actual [victimisation], what happens after far outweighs the damage that’s done by the physical act (P7).

There also exists wider societal implications from victims disengaging and regretting their interactions with the legal system. The psychologically damaging effects of SV, and the impact it has on victims’ faith/trust in the CJS, has resulted in some participants service users warning other victims against engaging with the legal system at all: “*they would never suggest to [victims] to go to court or rely on the legal system*” (P2). Such warnings are apparently “*very common*” (P7), as some victims are “*in complete disbelief*” that they have been “*retraumatised through this system*” they consider to be “*very unfair*” (P5). In some instances, even a victim’s family members and significant others have been “*utterly dumbstruck*” by the manner with

which victims are treated in the CJS, claiming that “*if anybody asked me, I’d say to them don’t do it. It’s not worth it*” (P7). The “*overwhelming and damaging*” effects of SV results in “*no sense of relief or justice*” for victims (P7).

Theme 2: “The Window of Tolerance has Closed”: Effects of Secondary Victimization on Victims Psychological Well-Being

As with the experiences of SV, the effects of those experiences on victims’ psychological well-being are varied and subjective to the individual (P7): “*some people will cope better with it than others*” (P3). It is also dependant on what stage of the CJP they are in, which will affect how victims interact with and/or perceive the SV they experience (P3). Positive experiences were acknowledged (P2; P5), which can result in victims feeling “*jubilant*”, “*proud*”, (P5) and “*empowered if they’ve been successful and gone through the trauma*” of the legal system (P2). Regardless, the consensus was that participants’ service users feel disempowered “*at the end of a huge system in which they’re nothing but a small part*” (P1). This has been reflected in codes including ‘disempowerment’, ‘fear’, ‘further traumatising’, and ‘mental health issues’, to name a few. Indeed, “*any kind of difficulty*”, such as those born of SV, “*will have a very negative effect on people*” (P3). Participant 4 pointed out the difficulty which can sometimes exist with differentiating between the effects of primary and secondary victimisations: “[SV] might be part of the first ... there mightn’t always be a line between [them]”. Nonetheless, it was agreed that the “*distress*” caused by SV experiences exacerbate the effects of a primary victimisation (P4; P7), Thus, the “*emotionally draining*” duality of healing with which victims are burdened was highlighted (P4); not only must they “*heal*” and “*recover*” from their victimisation, but they must also heal and recover from the retraumatisation of the CJS (P6), and “*sometimes it’s too much for people to do both*” (P7).

When asked how SV effects victims psychologically, and the types of emotions and/or opinions they have expressed after experiencing it, all participants agreed that SV has a significantly negative impact on their service users psychological and emotional well-being. Participants described their service users as “*deflated*”, “*further abused*” and “*further traumatised*” (P2), with the “*terrible effect*” of SV evident in victim’s voices (P1; P4). This can amount to a discernible difficulty for victims in coping with the “*serious*” psychological ramifications of SV: “*their cognitive abilities to be able to manage it is gone, because the window of tolerance has closed*” (P2). Participant 1 described how victims “*can feel obsessed with it*”, with the effects of SV occupying a significant portion of “*their available ...*

bandwidth” and distracting focus from other aspects of their lives. Congruent to former empirical studies (Campbell & Raja, 1999; Campbell, 2005), those effects of SV directly negatively impact the mental health of crime victims, with participants reporting their service users experiencing depression and anxiety because of their retraumatization (P2; P5; P6; P7). The effects of SV on victims’ psychological well-being have been severe enough for some participants service users to seek medical attention:

We’ll always link them in with their doctors if we see we’ve got huge concerns (P2).

Definitely a lot of [victims] say that they end up in the doctors ... talking to the doctors about depression, anxiety ... not being able to sleep, maybe having to go on medication, using the ... different psychiatric services, mental health services if they have to (P5).

They may have to go on antidepressants closer to the time, they have to take sleeping tablets (P7).

Indeed, participant 2 discussed the trauma-informed training necessary to fulfil their role, including skills in self-harm and suicide awareness, “*because a lot of the support would be given to the [victims] following a court case because of the psychological impact that would have on them*”. The present study also indicates that the effects of SV extend beyond those aforementioned to include “*post-traumatic stress disorder, panic attacks, anxiety attacks*” (P2); emerging, or returning, addiction issues (P2), with victims “*turning to alcohol or drugs substances ... to cope with how they’ve been affected psychologically*” (P5) and succumbing to “*drug induced psychos[es]*”, ultimately struggling to “*[get] their lives back together*” (P2); negative impacts on victims “*ability*” and “*capacity*” to parent (P2; P6); negative impacts on victims professional life, with victims struggling to “*get to work, stay in work*” (P6) and “*concentrate in work*”, sometimes needing to take time off work (P5); and difficulties or an inability to sleep (P5; P7). All of this culminates into feelings of exhaustion for victims, leaving them as “*a shell of themselves*” (P7) because “*it takes so much energy*” (P6) to put oneself through a rigorous process within which they are subjected to SV. Even if the experience is positive and they achieve a desired outcome from the criminal proceedings (P6), victims are still exhausted by simply engaging with the CJP: “*but they don’t feel ... any feeling that justice has been done, because they’re so exhausted from the process*” (P7).

In addition to the negative mental health impacts of SV that this research has highlighted, such experiences also appear to negatively affect a victim’s self-perception. It was believed that being subjected to SV “*brings up a lot of issues in relation to how [victims] feel*

about themselves (P7). Participants reported that their service users often felt “*frozen*”, “*silenced*” (P5), and “*alone*” (P6) following revictimisation, with significant effects on their “*identity*” and “*sense of self*” (P5):

I think it really effects the self-confidence and their self-esteem. I think that really impacts a lot of [victims] ... they're really not themselves (P5).

You're traumatised, you're not believed, and I think ... that's going to have a huge impact on your confidence, your self-esteem, your self-worth (P6).

They find that ... they can't engage with the world the way they would have (P7).

Such negative impacts operate to affect “*how [victims] feel in the world*” (P7). Thus, experiences of SV may also result in victims “[*becoming*] *quite introverted*” (P5), causing them to “*isolate*” (P6), “*stay home a lot*” (P7) and “*withdraw*” from a world that silenced them with disbelief, invalidation, and impactful negative experiences (P5).

Conclusion

A discussion of the themes has outlined victims' experiences of SV as they progress through the various stages of the CJP, and the negative impacts such experiences have on a victim's psychological well-being, self-perception, and trust/faith in the Irish CJS, supporting the hypothesis of this research. It is important to acknowledge that the experiences of participant's service users are subjective and varied, with positive experiences increasingly possible due to improvements and proactive government departmental goals. However, the totality of such antitherapeutic experiences for those the system does retraumatise, and its impacts on victims' psychological well-being, significantly damage their faith in the Irish justice system and contribute to victims' perceptions of it as a pointless and untrustworthy perpetrator of trauma. As succinctly put by participant 7: “*that's the lasting impact, that the system let them down, for different people in various ways*”.

Chapter 5

Theme 3: “There Is a Grey Bit & It’s Called Emotions”: Assessing the Benefits, Risks, & Logistical Implications of a Legal System Victim Impact Statement

Introduction

Erez et al. (2020) argue that for the successful implementation and integration of a victim-centred process, such as a Legal System Victim Impact Statement (Wexler, 2011; 2008), five criteria should be satisfied. First, the proposed process should be *practical*, or simplistic and ‘doable’, so as not to exacerbate the existing time pressures and complexities of the legal process. Secondly, the proposed process should be *marketable* and *comprehensible* so that its purpose, mode, and impact are easily understood by all, and easily implemented by criminal justice personnel. Tertiary is *affordability* so as not to add additional time or cost to an already under resourced system. Fourth, the proposed process must be *testable* to ensure user satisfaction, in this instance crime victims, with its implementation and operation, and whether any improvements to the process are necessary to further accommodate the needs and interests of victims. Lastly, the proposed process should “hold the whole of the criminal justice system to *account* for its treatment and responsiveness to victims” (Erez et al., 2020: 333, emphasis added by this author). The proposed process should facilitate the mainstreaming and standardisation of appropriate and empathetic behaviour towards victims and hold accountable those who fall short of those standards. This chapter will critically evaluate the potential of a LSVIS as a tool for criminal justice reform, with reference to these five criteria (Erez et al., 2020) and facilitated by a thematic analysis of interview responses, relevant empirical and theoretical research, and appropriate examples of victim-centred practice in other jurisdictions.

Benefits

When the concept and purpose of a LSVIS was explained to participants, and when asked whether they think such a mechanism would be beneficial for their service users, almost all participants expressed enthusiasm for the LSVIS, both for themselves as practitioners and on behalf of their service users. This was reflected in codes such as ‘enthusiasm’, ‘interest’, ‘feedback/learning tool’, ‘informal encouragement’, ‘prosocial motives’, ‘therapeutic’, and ‘expressive’. Participants described the LSVIS as an “*interesting*”, “*very beneficial*”, and

“*really important*” idea that their service users would “*love*” (P1; P3; P5; P6; P7), as within the legal system “*there is a grey bit*” in which emotion, empathy, and the “*psychological aspect to law*” reside (P2). The potential of the LSVIS as a mechanism for feedback was highlighted by participants, which would arguably satisfy the *accountability* criteria outlined by Erez et al. (2020). Participant 1 explained that “*no system is going to really do anything but benefit from properly anonymised ... evaluation*”. The LSVIS “*isn't about criticism*”, but there is “*learning*” to be achieved by it (P2). It can be used to “*raise awareness*” with the legal system (P5) about the positive and negative impacts it has on the victims who progress through it (P2) and “[*inform*] *how in the future they could look at changing*” (P5). In this regard, the LSVIS can be used to identify and mitigate/eradicate the antitherapeutic properties of the CJS, as identified by one of the cohorts most impacted by them, holding to account those processes or individuals that contribute to the secondary victimisation of victims. This may be achieved by identifying processes or aspects of necessary therapeutic jurisprudence reform within the criminal justice process, such as a widening of the application of special protective measures and “*tailoring the special measure to fit the particular needs of the [victim]*”, or the introduction of pretrial hearings to reduce delays within the system and its associated negative impacts (P1). It can also be used to identify SV behaviours by individual, or a cohort of, criminal justice personnel and promote training to improve the therapeutic nature with which those individuals interact with victims. Indeed, several participants highlighted training as a vital recommendation for future improvements, such as mandatory training on specific offences for members of the bar (P1; P6); the introduction of divisional specific offence experts in An Garda Síochána (P2); and face-to-face training between victims and criminal justice personnel to provide “*some level at which [psychology and law] can intermingle*” to promote empathy and understanding in subsequent interactions (P3).

The LSVIS also operates to satisfy the expressive and participation needs of crime victims (Bottoms & Roberts, 2010) by providing a voice to victims within the system and addressing prosocial motives. The LSVIS can “*give a voice to the [victim]*” that they do “*not really have with the present system*” (P5). It provides victims with the opportunity to “*express themselves*” (P5) and “*get closure on it*” (P2). Providing a forum which allows “*a [victim] to actually be able to say this and to be heard and have a place*” (P5) can be “*therapeutic in itself*” (P2). In fact, participants 1, 2, and 7 informally encourage their service users to engage in a similar activity to what the LSVIS would request them to do:

It regularly happens ... they might write a letter and I say, “to the minister, there’s no reason why you shouldn’t write a letter to the minister and say all that” (P1).

One of the things I’ve started to do with ... [my service users] would be, following a court case ... to write down how it made them feel (P2).

I ask [them] to write an email about how they felt ... from the time they reported until the time it finished, the effect it had on them (P7).

Not only is this exercise therapeutic in nature but standardising such a practice through the formal introduction of a LSVIS would address a victim’s prosocial motives. As participant 1 explains, many victims want “*their own bad experience to be fed into some process that will lead to improvements for others*”. Participant 2 had several victims email defence legal teams to detail the negative impact of their treatment on the victim in the hopes that “*the next time they go into court, they might think twice before doing it*”. It could be argued that such informal encouragement, as well as victims’ desires to change the system for the better, also speak to the *marketability* of the LSVIS (Erez et al., 2020). If detailing the impact that progressing through the CJS has on victims is already informally encouraged by victim support organisations (P1; P2; P7), then transposing this practice to the wider CJS as a formal feedback tool is arguably a logical progression of its development. Moreover, there is a high likelihood that calls for its introduction would be supported by victims and victim support organisations alike, as reflected by the present study and in existing recommendations for a similar process (see One in Four, 2021).

Risks & Logistical Implications

Several important observations about the LSVIS were made by participants, including potential risks and logistical implications to its introduction/application. This has been reflected in codes such as participant willingness, potential for retraumatisation, and logistical issues. The potential for such a process to further the retraumatisation experienced by victims throughout the CJP was highlighted by participant 4: “*if you didn’t really enjoy being part of a system, and you get a form saying, ‘how did you like our service today?’. Like, ‘oh please! I want to forget about that. Delete’*”. This could arguably impact upon the willingness of victims to complete a LSVIS, as “*once the case is finished people want to get it out of their head and don’t necessarily want to relive it*” (P1). Participant 1 remarked that it could be “*quite painful revisiting the [SV]*”, and that you may only have a certain number of victims who have the “*psychological wherewithal ... the fortitude*” to complete one. Indeed, supporting victims to

complete a LSVIS was considered important by participant 6, as “*it would need to be done in a very safe way*” so as not to further their retraumatisation. Participant 3 also highlighted how the “*timing of such an exercise might have a big impact on the quality of the feedback*”. An immediate response shortly after experiencing SV could result in “*a barrage of negative responses*” from victims, whereas “*better-quality*” responses may be received once a victim has had time to process their experiences (P3). This raises interesting logistical considerations around the timing of the LSVIS, and how it might be designed to capture the experiences of “*the angry victim*” as well as “*the victim who has processed their anger*” (P3).

Moreover, while explaining that the intention of a LSVIS would need to be clearly communicated to victims, highlighting the important criteria of *comprehensibility* (Erez et al., 2020), participant 4 also alluded to an important logistical issue:

It would want to be really well explained ... what it is you're going to do with those feedback forms, and ... who gets the feedback form? Who is going to manage the system to find out, or to put in place the changes that needs to take place? ... you're talking about hardnose lawyers and guards and court presenters or court clerks who are going to say, “what do you want us to do with this?”.

Participant 4 has rightly called attention to the importance of this issue when considering the management of the LSVIS as it impedes the *practicality* of its implementation (Erez et al., 2020). One potential solution to this could be with the establishment of an umbrella victim's organisation, such as the Victims' Rights Ombudsman (United States Department of Justice, 2021) or Office of the Federal Ombudsman for VOC (Government of Canada, 2021) in the United States and Canada, respectfully. The function of these Ombudsman's is to provide a complaints process for victims who seek to file a complaint against individuals or agencies of their respective justice systems, as well as to provide information about their rights as a victim, and the relevant services available for VOC (Government of Canada, 2021; United States Department of Justice, 2021). The need for such an organisation was also raised by participants 2 and 3, who believed that this would allow for an “*interagency*” system of support for VOC which promotes “*accountability*” for those operating within the CJP (P2), because at present, “*if there is a breach of a legal right for a victim, what do you do about it? Where do you go? There is nowhere*” (P3). Thus, not only would the establishment of such an organisation reinforce the *accountability* offered by the LSVIS, but it would also mitigate any impediments to the *practicality* of its introduction to, and subsequent management within, the Irish justice

system (Erez et al., 2020). Furthermore, the responsibility of *testing* could arguably fall to such an organisation by putting in place a systematic review process to ensure continued user satisfaction with the LSVIS (Erez et al., 2020). The method of review/testing to which the LSVIS would be subjected is still unclear, and further research is needed to determine how it could be most appropriately tested without overwhelming victims with continuous review processes. However, the establishment of such an office does not speak to the criterion of *affordability* (Erez et al., 2020), and alternative, cost-efficient methods for management should be considered.

Participant 4 alluded further to a significant consideration regarding the design of the LSVIS itself: “*you call it the legal system, but the legal system is made up of a lot of players on that team*”. Indeed, not every victim who files a complaint with AGS is successful in having their case proceed to a criminal trial: “*when people hear back from the DPP as to whether their case is going to result in charges being directed or not ... I’d say roughly two thirds of them are disappointed and that’s hard, and the DPP rarely changes her mind*” (P1). Having to complete a LSVIS which specifically asks about their experiences with legal personnel and of the criminal proceedings could be retraumatising in itself, as it may operate to remind victims that they were not believed or denied their victimhood for whichever reason (Strobl, 2004). Conversely, having a LSVIS which asks about their experiences of the CJS in general is arguably too broad, and could therefore result in certain therapeutic or antitherapeutic properties of the CJP not being recorded (Wexler, 2020; 1994). Thus, careful consideration would need to be given to the specific design of a LSVIS to capture the full breadth of the therapeutic and antitherapeutic properties of the CJS, without further retraumatising victims with unnecessary questions regarding experiences/processes within the CJP to which they were denied.

Conclusion

The LSVIS satisfies the criteria of *accountability*, by the very nature of its purpose, and *marketability*, by its existing informal encouragement and recommendations. Thus, it could be hypothesised that the introduction of a LSVIS to the Irish CJS would be highly supported and profitable in its endeavour to identify therapeutic and/or antitherapeutic agents and processes of criminal justice, given a similar informal process of review is already encouraged by certain victim support organisations. Nevertheless, several areas requiring significant consideration prior to any introduction of a LSVIS were highlighted, with implications to its *practicality*, *comprehensibility*, *affordability*, and *testability* (Erez et al., 2020), as well as the design of the

LSVIS itself (P4). Due consideration should be given to each of these limitations when conceptualising the design and management of the LSVIS, and further research is needed to address such issues and facilitate the successful integration of this victim-centred process to the Irish CJS.

Chapter 6

Discussion & Concluding Remarks

This research aimed to critically assess the nature and experience of secondary victimisation in the Irish criminal justice system, and the effects that such experiences have on a victim's psychological well-being and perceptions of the legal system. Adopting a mixed methods approach and using data from 14 anonymised digital surveys and seven semi-structured interviews, the findings of this research support the hypothesis that the Irish CJS has aspects and/or processes which retraumatise victims, and criminal justice personnel who exhibit SV behaviours towards VOC. These findings are significant, as although the Victims or Crime Act⁶⁴ specifically states that the statutory provisions detailed therein are intended to protect victims from secondary or repeat victimisation, the Irish CJS derogates from this ethos in practice. As a result, participants have observed their service users being retraumatized by the only formal system of justice available, with the CJS taking on the role of a perpetrator and significantly negatively impacting a victim's mental health, psychological well-being, and perceptions of the legal system. The culmination of such negative experiences leaves victims with one lasting impression of our justice system: "*what's the point?*" (P2; P6; P7). The Legal System Victim Impact Statement was positively regarded by most participants as a potential tool for criminal justice reform to address SV, while others raised important limitations and logistical implications which would require appropriate consideration prior to the introduction of a LSVIS to the Irish CJS. Recommendations to address these logistical implications/limitations will be discussed in further detail forthwith.

Recommendations

In an idyllic outcome, the introduction of a LSVIS into the Irish CJS would co-occur with the establishment of a Victim Ombudsman Office, similar to that of Canada (Government of Canada, 2021) or the United States (United States Department of Justice, 2021). This Victim Ombudsman Office could act as an umbrella organisation overseeing several services, including: managing a complaints process for breaches of a victims rights or poor/inappropriate treatment from criminal justice personnel; operating as an information hub for victims to easily access information pertaining to their rights, their role in the CJS, and the process of progressing through the legal system; facilitating a multi-agency approach to victim recovery, similar to the offender-rehabilitation community court model adopted in Red Hook, Brooklyn

⁶⁴ Criminal Justice (Victims of Crime) Act 2017.

(see Gavin & Sabbagh, 2019), by housing liaison officers and representatives from the various criminal justice agencies and victim support organisations on site for ease of contact, communication, and information sharing; and most pertinently, overseeing the distribution, analysis, written outputs, and general management of the LSVIS. Moreover, a Victims Ombudsman Office could satisfy the *testability* criteria (Erez et al., 2020) of the LSVIS by establishing a process of evaluation for it to ensure systemic review, revision, and continued user satisfaction. Such an office has been called for by Rape Crisis Network Ireland (2017) and the Irish Council for Civil Liberties (2021), with both stating that such an office would function to uphold the statutory rights of the victim as set out in the Victims of Crime Act⁶⁵. However, this recommendation does not come without an acknowledgement of the significant resources that would be necessary for the establishment of such an office. Thus, to meet the criteria of *practicality* and *affordability* (Erez et al., 2020), the Victims of Crime Office (2009) within the Department of Justice and Equality could suffice as a pre-existing alternative. The purpose of this office is to ‘support the development of competent, caring and efficient services to VOC’ (Victims of Crime Office, 2009: online). Therefore, the development, introduction, and subsequent management of a LSVIS would fall within the remit of its function and could be straightforwardly integrated into the key activities of the office (Victims of Crime Office, 2009), mitigating the *practicality*, *affordability*, and *testability* issues of a LSVIS (Erez et al., 2020).

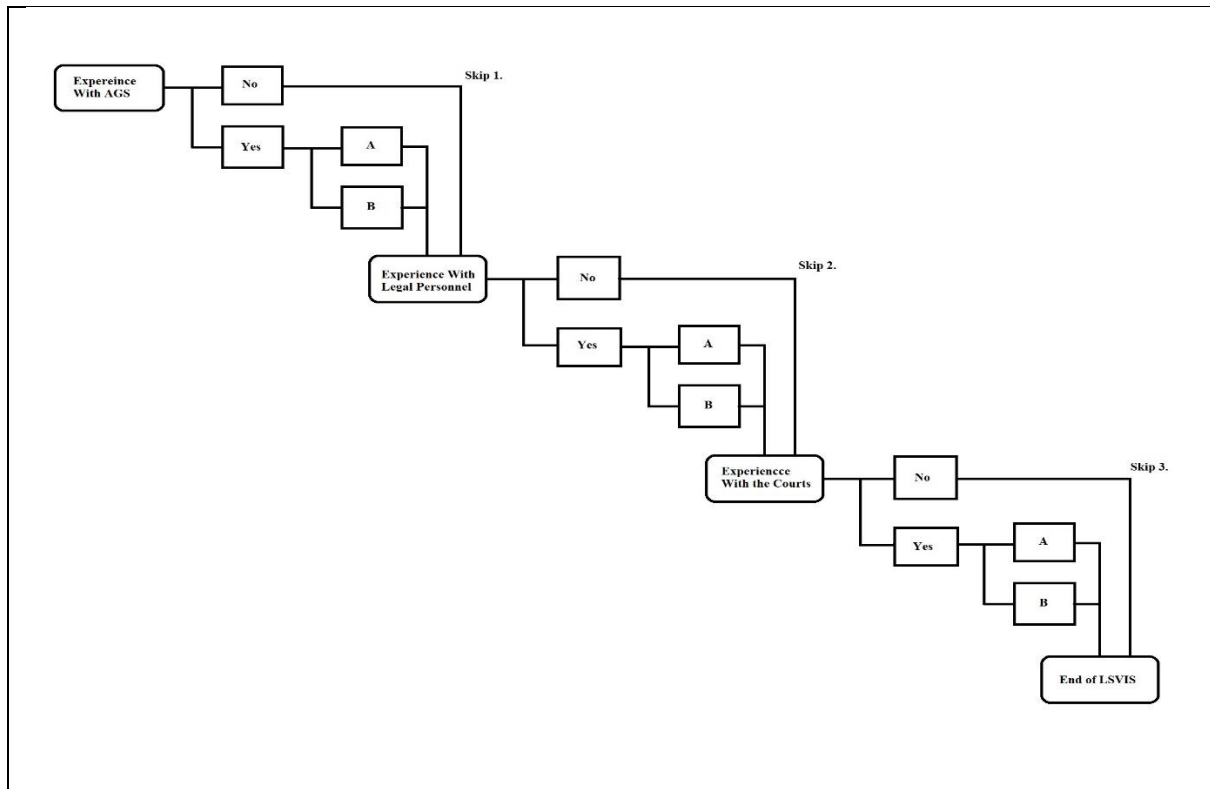
A potential solution for the logistical implications and design limitations of a LSVIS may be found in the values of restorative justice (RJ). RJ seeks to repair and address the harms caused by a conflict or criminal offence (Roche, 2006) and its practice is underpinned by a set of integral values, including voluntariness, stakeholder participation, empowerment, accountability, and expectation clarity (Braithwaite, 2003; Johnstone & Van Ness, 2013; O’Dwyer & Payne, 2015; Rossner, 2017; Van Camp & Wemmers, 2013). Participant willingness and the potential to retraumatise were highlighted by participants 1 and 4, respectively, as potential issues for the LSVIS, for which RJ values may provide a solution: voluntariness (Braithwaite, 2003; Johnstone & Van Ness, 2013; O’Dwyer & Payne, 2015; Rossner, 2017). The completion of a LSVIS should be an entirely voluntary process and under no circumstances should a victim be compelled, coerced, or forced to complete one (Johnstone & Van Ness, 2013; O’Dwyer & Payne, 2015). Victims may choose to complete one, change their minds, withdraw at any time without reason, or not complete one at all, without

⁶⁵ Criminal Justice (Victims of Crime) Act 2017.

repercussions or consequences. Moreover, the value of voluntariness (Johnstone & Van Ness, 2013; O'Dwyer & Payne, 2015) may also be used to address the potential issue raised by participant 3 regarding the timing of completion impacting the quality of the feedback received from the LSVIS. Allowing victims to choose when they complete the LSVIS, if at all, would arguably capture the voice of the angry victim recently retraumatised by the system, as well as the victim who has had time to process that anger (P3). Such an approach means that only those victims who wish to, and who feel psychologically capable of completing a LSVIS, would do so. Supporting victims to complete the LSVIS, as suggested by participants 6, could also be undertaken by the Victim Ombudsman Office, if established, by facilitating the completion of the LSVIS on-site and with the presence of a victim support officer (i.e., member of staff) if requested. However, in keeping with *practicality* and *affordability* (Erez et al., 2020), details of relevant victim support organisations and mental health services should be provided to victims prior to and following the completion of the LSVIS. Additionally, comprehensive information sheets should be provided to victims prior to their completion of a LSVIS which clearly state its purpose and intended use, addressing the *comprehensibility* issue raised by participant 4 (Erez et al., 2020) and adhering to the RJ value of expectation clarity (Van Camp & Wemmers, 2013).

Regarding the issues raised by participant 4 about the design of the LSVIS, should the survey be administered online, the use of conditional branching (Manfreda & Vehovar, 2008; Norman, 2001) in its design could address the potential for retraumatisation that may arise from asking victims about aspects of the CJS with which they did not interact. The use of conditional branching is a mechanism of adaptive questionnaires in which the questions asked of a respondent are tailored to that respondent depending on the answers they provide in previous questions (Manfreda & Vehovar, 2008), as shown in Figure 1 (below).

Figure 1. An Example of Skip Linear Pattern Branching in the Proposed LSVIS.



This feature allows questions to be added or omitted based on respondents' answers, and a linear skip pattern would allow for specific sets of questions to be omitted (Norman, 2001). Incorporating such a mechanism into the design of the LSVIS would eradicate the need to speak to experiences with An Garda Síochána, legal personnel, and/or criminal proceedings for those victims who did not have such experiences, therefore reducing the potential of the LSVIS to further retraumatise victims.

Further congruent with RJ values (Braithwaite, 2003; Johnstone & Van Ness, 2013; O'Dwyer & Payne, 2015; Rossner, 2017; Van Camp & Wemmers, 2013), the actual process of detailing the impact that progressing through the CJS has had on victims, and the knowledge that their experience could inform criminal justice reform, may potentially empower them. However, the questions should be phrased in a therapeutic manner which promotes the healing of crime victims and reduces the potential for retraumatization (P1; P4). For this, RJ may also provide the solution: the restorative questions (White, 2012). The restorative questions are used to help those impacted by a wrongdoing or conflict process an incident, their feelings around that incident, and determine what is needed to reconcile and make right the harms caused (White, 2012). To that end, the restorative questions could be adapted and implemented to

determine the therapeutic and antitherapeutic properties of the Irish CJS, while also maintaining their original purpose of processing a harm or wrongdoing, the feelings associated with it, and what must be changed to improve the experience for future victims (*see* Table 1) (Wexler, 2020; 1994; White, 2012).

Table 1. The Restorative Questions and Their Recommended Adaptation for Use in a LSVIS.

Restorative Questions	Recommended LSVIS Questions e.g., Interactions With AGS
<ol style="list-style-type: none"> 1. What happened? 2. What were you thinking at the time? 3. What have you thought about since then? 4. What impact has this incident had on you and others? 5. What do you think needs to happen to make things right? <p>(Childhood Development Initiative, 2013; White, 2012: online).</p>	<ol style="list-style-type: none"> 1. Can you please detail your experience with An Garda Síochána? 2. What were you thinking about your experience with An Garda Síochána at the time? 3. What have you thought about An Garda Síochána since then? 4. What impact has your experience with An Garda Síochána had on you? 5. What do you think needs to change, or remain the same, about Gardaí interactions with VOC?

Utilising such questions for the LSVIS and implementing therapeutic jurisprudence reforms based on the data collected therein could arguably promote and foster a criminal justice culture that consistently promotes ‘awareness, empathy and responsibility’ (Wachtel, 2016: 9) in interactions with VOC. Such questions could also further address the impact that the timing of completion could have on feedback from the LSVIS (P3) by encouraging victims to reflect on their thoughts/emotions at the time of the SV, and their thoughts/emotions since those experiences, to promote a processing of their feelings and contribute to their recovery (White, 2012).

In short, while the concept of a LSVIS was born out of TJ, the design and implementation of any practical application should be underpinned by RJ values (Braithwaite, 2003; Johnstone & Van Ness, 2013; O’Dwyer & Payne, 2015; Rossner, 2017; Van Camp & Wemmers, 2013) to further satisfy the criteria outlined by Erez et al. (2020), address the limitations/logistical issues raised by participants, and satisfy the needs and interests of VOC (Bottoms & Roberts, 2010). Whatever the final design of a LSVIS may look like, it is of the utmost importance to promote stakeholder participation and involve victims in the design of a

process intended exclusively for their use and the improvement of the system through which they progressed (Braithwaite, 2003; Johnstone & Van Ness, 2013; O'Dwyer & Payne, 2015; Rossner, 2017; Van Camp & Wemmers, 2013). This requires further research directly with VOC to discern their first-hand experience of the criminal justice process, how it has impacted them, and the ideal design of a LSVIS that would most benefit their needs and interests (Bottoms & Roberts, 2010).

Strengths & Limitations of the Present Study

While the current global health crisis mandated the use of virtual interviews due to health and safety concerns, they also allowed for a cost effective and efficient method of data collection which provides for a larger pool of potential respondents due to a reduction of geographical dependence and time constraints (Chrichton & Kinash, 2003). Virtual interviews have been criticised for missing important cues normally present in face-to-face interviews, such as facial expression (Chrichton & Kinash, 2003), but the use of video communications software (Zoom, 2021) for the conduction of interviews allowed for a similar face-to-face interaction, thereby eradicating the limitation of missing cues. The use of in-depth, semi-structured interviews allowed for the necessary adjustment of questions to probe for additional information and/or ask follow-up questions, providing rich information on the lived experience and impact of SV for victims in the Irish CJS (Queirós et al., 2017). The quality of information provided by such interview types means that fewer participants were needed, and thematic analysis allowed for the identification of commonalities across responses. However, as the sole researcher in this study, the consistency of the findings is limited in the absence of inter-rater reliability⁶⁶ (Armstrong et al., 1997). Thus, the generalisability of this study may be impacted by the absence of inter-rater reliability (Armstrong et al., 1997) and its small number of participants (Queirós et al., 2017) rendering it a non-representative sample. However, the latter limitation is arguably mitigated by the purposive sampling of a homogeneous participant pool based on their shared characteristic and experience of working directly with VOC (Durdella, 2019). Each participant was acting as a representative on behalf of a multitude of their service users (i.e., victims) and were therefore speaking to the general and collective experience of the wider victim community with which they work. Thus, the method of data collection employed, and the sample yielded for this study were consistent with its overall purpose, and the purposive

⁶⁶ Inter-rater reliability is a process whereby two or more researchers independently code data and subsequently compare the coding's for agreement to promote reliability and validity of the analysis process and resulting conclusions (Armstrong et al., 1997).

homogenous nature of interview participants arguably mitigate the limitations of the generalisability of the research findings (Durdella, 2019).

The use of digital surveys captured descriptive statistical data about the extent and sources of SV for VOC in the Irish CJS, and allowed it to be conducted in a cost-effective, time-efficient manner with a high audience-reach potential and ease of statistical analysis (Queirós et al., 2017). Moreover, the anonymous nature of the surveys beneficially avoided respondents self-reporting in a socially desirable manner⁶⁷ (Holtgraves, 2004; Ziegler & Buehner, 2009). The quality of surveys is, however, impacted by the overall structure of the survey and how accurately respondents answer the questions, and non-response poses significant limitations to their use (de Leeuw & Hox, 2012; Queirós et al., 2017). Indeed, non-response was a significant limitation of this study, with only 14 respondents for a survey initially desired to have 50. However, careful and considerate phrasing of the recruitment email and accompanying information sheet diminished the risk of non-response error, as did the purposive and homogenous nature of target respondents (de Leeuw & Hox, 2012; Durdella, 2019). A further limitation of surveys is their inability to capture the experiences, behaviours, and emotions of respondents (Queirós et al., 2017). This limitation was addressed, however, by the mixed-methods approach adopted for this research as, according to Migiro and Magangi, it takes ‘advantage of the representativeness and generalizability of quantitative findings and the in-depth, contextual nature of qualitative findings’ (2011: 3758). Thus, the strengths of this research are rooted in its ability to provide a broader and more complete knowledge of the lived experience of SV, with mixed methods compensating for the weaknesses in one another, providing conclusions based on the corroboration and convergence of evidence provided by the qualitative and quantitative elements herein (Heap & Waters, 2019; Migiro & Magangi, 2011).

Concluding Remarks

Recent strides have been made to increase the therapeutic properties of the Irish CJS, yet this research indicates that such improvements have failed to fully address victim’s needs and interests. While the recent victim-centred proactive goals of the Department of Justice and Equality (2021a; 2021b) can be cautiously regarded as a positive step towards future improvements, the onus remains on the Irish State, and in particular the Irish CJS, to heal the

⁶⁷ Socially desirable responding refers to the process by which participants respond in a manner which makes them ‘look good rather than to respond in an accurate and truthful manner’ (Holtgraves, 2004: 161).

trauma it has caused to one of its most vulnerable populations. The LSVIS provides a potential first step with which the State may begin to reconcile with victims by providing a mechanism to hold to account the Irish CJS and identify areas of necessary improvements to strive for a guarantee of non-repetition of retraumatisation. While further research is needed to address certain issues, as highlighted above, the present study has provided the foundational basis on which the integration of a LSVIS to the Irish CJS can begin.

Bibliography

Books

- Bloor, M. & Wood, F. (2006) *Keywords in Qualitative Methods*. London, UK: SAGE Publications, Inc.
- Bottoms, A. & Roberts, J. (2010) *Hearing the Victim: Adversarial Justice, Crime Victims and the State*. Oxon: Routledge.
- Braithwaite, J. (2003) Principles of Restorative Justice In: Von Hirsch, A., Roberts, J., Bottoms, A., Roach, K. & Schiff, M. eds. (2003) *Restorative Justice and Criminal Justice: Competing or Reconciling Paradigms?* Oxford, UK: Hart Publishing.
- Christie, N. (1986) The Ideal Victim In: Fattah, E. eds. (1986) *From Crime Policy to Victim Policy*. London, UK: Palgrave Macmillan. Pp. 17-30.
- Condry, R. (2010) Secondary Victims and Secondary Victimization In: Shlomo, S., Knepper, P & Kett, M., eds., (2010) *International Handbook of Victimology*. New York, NY: Taylor and Francis Group. Ch. 8.
- Daly, K. & Wade, D. (2017) Sibling Sexual Violence and Victims' Justice Interests: A Comparison of Youth Conferencing and Judicial Sentencing In: Zinsstag, E. & Keenan, M., eds. (2017) *Restorative Responses to Sexual Violence: Legal, Social and Therapeutic Dimensions*. Abingdon: Routledge. Ch. 7.
- de Kock, M. (2015) *Ontology and a Mixed Methods Epistemology in Applied Research*. Kidmore End, UK: Academic Conferences International Limited. Pp. 172 – X.
- Diesen, C. (2012) Therapeutic Jurisprudence and the Victim of Crime In: Oei, T. & Groenhuijsen, M. eds. (2012) *Progression in Forensic Psychiatry*. Netherlands: Kluwer.
- Erez, E., Jiang, J. & Laster, K. (2020) From Cinderella to Consumer: How Crime Victims Can Go to the Ball In: Tapley, J. & Davies, P. eds. (2020) *Victimology*. London, UK: Palgrave Macmillan Cham. Ch. 13.
- Fowler, F. (2009) *Survey Research Methods*. 4th ed. London, UK: SAGE Publications, Inc.
- Goodey, J. (2005). *Victims and Victimology: Research, Police and Practice*. Essex, UK: Pearson Education Limited.

- Heap, V. & Waters, J. (2019) *Mixed Methods in Criminology*. Abingdon, UK: Routledge.
- Jann, B. & Hinz, T. (2016) Research Question and Design for Survey Research In: Wolf, C., Joye, D., Smith, T. & Fu, Y. eds. (2016) *the SAGE Handbook of Survey Methodology*. London, UK: SAGE Publications, Inc. Ch. 9.
- Johnstone, G. & Van Ness, D. (2013) The Meaning of Restorative Justice In: Johnstone, G. & Van Ness, D. eds. (2013) *Handbook of Restorative Justice*. London, UK: Routledge. Ch. 1.
- Karmen, A. (2007) *Crime Victims: An Introduction to Victimology*, 6th ed. Belmont, CA: Thomson/Wadsworth.
- Knapp, H. (2018) *Intermediate Statistics Using SPSS*. Thousand Oaks, CA: SAGE Publications, Inc.
- Mligo, E. (2016) *Introduction to Research Methods and Report Writing: A Practical Guide for Students and Researchers in Social Sciences and the Humanities*. Eugene, OR: Wipf and Stock Publishers.
- Morgan, D. (2014) *Pragmatism as a Paradigm for Mixed Methods Research*. London, UK: SAGE Publications, Inc.
- Noaks, L. & Wincup, E. (2004) *Criminological Research*. London, UK: SAGE Publications, Inc.
- Norton, S. (2007) The Place of Victims in the Criminal Justice System In: O'Neill, J. & O'Donovan, D., eds., (2020) *Irish Probation Journal*. Dublin: Institute of Public Administration. 63-76.
- O'Dwyer, K. & Payne, B. (2016) Restorative Justice In: Healy, D., Hamilton, C., Daly, Y. & Butler, M. (2016) *The Routledge Handbook of Irish Criminology*. London, UK: Routledge. Ch. 11.
- Orth, U. (2009) The Effects of Legal Involvement on Crime Victims' Psychological Adjustment In: Oswald, M., Bieneck, S. & Hupfield-Heinemann, J. eds. (2009) *Social psychology of Punishment of Crime*, Chichester, UK: Wiley. P.427-442.

- Rossner, M. (2017) Restorative Justice in the Twenty-First Century: Making Emotions Mainstream In: Maruna, S., Liebling, A. & McAra, L. eds. (2017) *The Oxford Handbook of Criminology*, 6th ed. Oxford, UK: Oxford University Press. Ch. 42.
- Rossner, M. (2018) Restorative Justice and Victims of Crime: Directions and Developments In: Walklate, S., ed. (2018) *Handbook of Victims and Victimology*, 2nd ed. Abingdon, UK: Routledge. Ch. 12.
- Schwartz-Shea, P. & Yanow, D. (2011) *Interpretive Research Design: Concepts and Processes*. Oxfordshire, UK: Taylor and Francis Group.
- Strang, H. (2002) *Repair or Revenge: Victims and Restorative Justice*. Oxford: Clarendon Press.
- Taylor, S., Bogdan, R. & DeVault, M. (2015) *Introduction to Qualitative Research Methods: A Guidebook and Resource*. Hoboken, NJ: John Wiley and Sons, Inc.

Journal Articles

- Armstrong, D., Gosling, A., Weinman, J. & Marteau, T. (1997) The Place of Inter-Rater Reliability in Qualitative Research: An Empirical Study. *Sociology*, 31(3), 597-606.
- Balson, J. (2013) Therapeutic Jurisprudence: Facilitating Healing in Crime Victims. *Phoenix Law Review*, 6(4), 1017-1038.
- Boom, A. & Kuijpers, K. (2012) Victims' Needs as Basic Human Needs. *International Review of Victimology*, 0(0), 1-25.
- Braun, V. & Clarke, V. (2006) Using Thematic Analysis in Psychology. *Qualitative Research in Psychology*, 3(2), 77-101.
- Campbell, R. & Raja, S. (1999) Secondary Victimization of Rape Victims: Insights from Mental Health Professionals Who Treat Survivors of Violence. *Violence and Victims*, 14(3), 261-275.
- Campbell, R. (2005) What Really Happened? A Validation of Rape Survivors' Help-Seeking Experiences With the Legal and Medical Systems. *Violence and Victims*, 20(1), 55-68.

- Campbell, R., Wasco, S., Ahrens, C., Sefl, T. & Barnes, H. (2001) Preventing the “Second Rape”: Rape Survivors’ Experiences with Community Service Providers. *Journal of Interpersonal Violence*, 16(2), 1239-1259.
- Christie, N. (1977) Conflicts as Property. *British Journal of Criminology*, 17(1), 1-15.
- Clarke, V. & Braun, V. (2017) Thematic Analysis. *The Journal of Positive Psychology*, 12(3), 297-298.
- Cusack, A. (2020) Addressing Vulnerability in Ireland’s Criminal Justice System: A Survey of Recent Statutory Developments. *The International Journal of Evidence and Proof*, 24(3), 280-306.
- Elliot, I., Thomas, S. & Ogloff, J. (2011) Procedural Justice in Contacts with the Police: Testing a Relational Model of Authority in a Mixed Methods Study. *Psychology, Public Policy, and Law*, 17(4), 592– 610.
- Gavin, P. and Kawalek, A. (2020) Viewing the Dublin Drug Treatment Court through the Lens of Therapeutic Jurisprudence. *International Journal for Court Administration*, 11(1), 1-5.
- Gavin, P. and Sabbagh, M. (2019) Developing Community Courts with Restorative Justice in Ireland. *British Journal of Criminal Justice*, 15(2), 19-40.
- Gekoski, A., Adler, J. & Gray, M. (2013) Interviewing Women Bereaved by Homicide: Reports of Secondary Victimization by the Criminal Justice System. *International Review of Victimology*, 1-23.
- Goldstein, H. (1963) Police Discretion: The Ideal versus the Real. *Public Administration Review*, 23(3), 140-148.
- Harrison, T., Waite, K., & Hunter, G. (2006) The Internet, Information and Empowerment. *European Journal of Marketing*, 40(9/10), 972–993.
- Harrits, G. (2011) More Than Method?: A Discussion of Paradigm Differences Within Mixed Methods Research. *Journal of Mixed Methods Research*, 5(2), 150-166.
- Heffernan, L. (2021) Irish Criminal Trials and European Legal Culture: A Backdrop to Brexit. *The Journal of Criminal Law*, 85(2), 144-157.

- Herman, J. (2003) The Mental Health of Crime Victims: Impact of Legal Intervention. *Journal of Traumatic Stress*, 16(2), 159-166.
- Hockett, J., Smith, S., Klausing, C. & Saucier, D. (2016) Rape Myth Consistency and Gender Differences in Perceiving Rape Victims: A Meta-Analysis. *Violence Against Women*, 22(2), 139-167.
- Holtgraves, T. (2004) Social Desirability and Self-Reports: Testing Models of Socially Desirable Responding. *Personality and Social Psychology Bulletin*, 30(2), 161-172.
- Hora, P. & Schma, W. (1998) Therapeutic Jurisprudence. *Judicature*, 82(1), 9-12.
- Katirai, N. (2020) Retraumatized in Court. *Arizona Law Review*, 62(81), 82-124.
- Kilcommins, S. (2017) The Victim in the Irish Criminal Process: A Journey from Dispossession towards Partial Repossession. *Northern Ireland Legal Quarterly*, 68(4), 505-517.
- King, M. (2008) Restorative Justice, Therapeutic Jurisprudence and the Rise of Emotionally Intelligent Justice. *Melbourne University Law Review*, 32(3), 1096-1126.
- Leahy, S., & Spain, E. (2017) Exploring the Impact of the Victims' Directive on Service Provision for Victims of Crime in Ireland. *Northern Ireland Legal Quarterly*, 68(4), 519-538.
- Liang, L. (2017) Secondary Victimization: Domestic Violence Survivors Navigating the Family Law System. *Violence Against Women*, 23(11), 1314-1335.
- Nowacki, J. (2015) Organizational-Level Police Discretion: An Application for Police Use of Lethal Force. *Crime & Delinquency*, 61(5), 643-688.
- Nowell, L., Norris, J., White, D. & Moules, N. (2017) Thematic Analysis: Striving to Meet the Trustworthiness Criteria. *International Journal of Qualitative Methods*, 16, 1-13.
- O'Hara, E. (2005) Victim Participation in the Criminal Process. *Journal of Law and Policy*, 13(1), 229-24.
- Orth, U. (2002) Secondary Victimization of Crime Victims by Criminal Proceedings. *Social Justice Research*, 15(4), 313-325.
- Parsons, J. & Bergin, T. (2010) The Impact of Criminal Justice Involvement on Victims' Mental Health. *Journal of Traumatic Stress*, 23(2), 182-188.

- Patterson, B. (2011) The Linkage Between Secondary Victimization by Law Enforcement and Rape Case Outcomes. *Journal of Interpersonal Violence*, 26(2), 328-347.
- Pires, G., Stanton, J., & Rita, P. (2006) The Internet, Consumer Empowerment and Marketing Strategies. *European Journal of Marketing*, 40(9/10), 936-949.
- Roche, D. (2006) Dimensions of Restorative Justice. *Journal of Social Issues*, 62(2), 217-238.
- Saeki, M. (2010) Victim Participation in Criminal Trials in Japan. *International Journal of Law, Crime and Justice*, 38, 149-165.
- Spencer, P. (2014) From Alternative to the New Normal: Therapeutic Jurisprudence in the Mainstream. *Alternative Law Journal*, 39(4), 222-226.
- Stretesky, P., Shelley, T., Hogan, M & Unnithan, N. (2010) Sense-making and Secondary Victimization Among Unsolved Homicide Co-victims. *Journal of Criminal Justice*, 38, 880-888.
- Strobl, R. (2004) Constructing the Victim: Theoretical Reflections and Empirical Examples. *International Review of Victimology*, 11(2-3), 295-311.
- Tong, A., Sainsbury, P. & Craig, J. (2007) Consolidating Criteria for Reporting Qualitative Research (COREQ): A 32-Item Checklist for Interviews and Focus Groups. *International Journal for Quality in Health Care*, 19(6), 349-357.
- Tuli, F. (2010) The Basis of Distinction Between Qualitative and Quantitative Research in Social Science: Reflection on Ontological, Epistemological and Methodological Perspectives. *Ethiopian Journal of Education and Sciences*, 6(1), 97-108.
- Uviller, H. (1984) The Unworthy Victim: Police Discretion in the Credibility Call. *Law and Contemporary Problems*, 47(4), 15-33.
- Van Camp, T. & Wemmers, J. (2013) Victim Satisfaction with Restorative Justice: More Than Simply Procedural Justice. *International Review of Victimology*, 19(2), 117-143.
- Wexler, D. & Winnick, B. (1993) Patients, Professionals, and the Path of Therapeutic Jurisprudence: A Response to Petrila. *Therapeutic Jurisprudence: Restructuring Mental Disability Law*, 10(3), 907-914.

- Wexler, D. (1994) An Orientation to Therapeutic Jurisprudence. *New England Journal on Criminal and Civil Confinement*, 20(2), 259-264.
- Wexler, D. (2008) Two Decades of Therapeutic Jurisprudence. *Tuoro Law Review*, 24(1), 17-30.
- Wexler, D. (2010) Therapeutic Jurisprudence and its Application to Criminal Justice Research and Development. *Irish Probation Journal*, 7, 94-107.
- Wexler, D. (2011) The Relevance of Therapeutic Jurisprudence and Its Literature. *Federal Sentencing Reporter*, 23(4), 278-279.
- Wexler, D. (2014a) Moving Forward on Mainstreaming Therapeutic Jurisprudence: An Ongoing Process to Facilitate Therapeutic Design and Application of the Law. *Arizona Legal Studies*, Discussion Paper No. 15-10, 2-10.
- Wexler, D. (2014b) New Wine in New Bottles: The Need to Sketch a Therapeutic Jurisprudence “Code” of Proposed Criminal Processes and Practices. *Arizona Legal Studies*, Discussion Paper No. 12-16, 463-479.
- Wexler, D. (2020) The DNA of Therapeutic Jurisprudence. *Arizona Legal Studies*, Discussion Paper No. 20-43, 3-13.
- Wijk, J. (2013) Who is the ‘Little Old Lady’ of International Crimes? Nils Christie’s Concept of the Ideal Victim Reinterpreted. *International Review of Victimology*, 19(2), 159-179.
- Williams, B. (1999) The Victim’s Charter: Citizens as Consumers of Criminal Justice Services. *The Howard Journal*, 38(4), 384-396.
- Williams, J. (1984) Secondary Victimization: Confronting Public Attitudes About Rape. *Victimology*, 9(1), 66-81.
- Winkel, F. & Koppelaar, L. (1991) Rape Victims’ Style of Self-Presentation and Secondary Victimization by the Environment. *Journal of Interpersonal Violence*, 6(1), 29-40.
- Winnick, B. (2009) Foreword: Therapeutic Jurisprudence Perspectives on Dealing with Victims of Crime. *Nova Law Review*, 33(3), 535-544.
- Ziegler, M. & Buehner, M. (2009) Modeling Socially Desirable Responding and Its Effects. *Educational and Psychological Measurement*, 69(4), 548-565.

Website

An Garda Síochána (2021) *Garda Victim Service* [online]. Available at: <https://www.garda.ie/en/victim-services/garda-victim-service/> (Accessed 14 July 2021).

An Garda Síochána (2021a) *Publications – Research Publications* [online]. Available at: <https://www.garda.ie/en/information-centre/quarterly-public-attitudes-surveys/> (Accessed 14 July 2021).

An Garda Síochána (2021b) *An Garda Síochána Divisional Protective Services Units now Operational Nationwide* [online]. Available at: <https://www.garda.ie/en/about-us/our-departments/office-of-corporate-communications/press-releases/2020/september/an-garda-siochana-divisional-protective-services-units-now-operational-nationwide-.html> (Accessed 06 August 2021).

Audacity (2021) *About Us* [online]. Available at: <https://www.audacityteam.org/about/> (Accessed 01 July 2021).

Blackwell, N. (2020) *Sexual Violence Victims Have Lived Too Long in Dread of the Criminal Justice System* [online]. Available at: <https://www.irishtimes.com/opinion/sexual-violence-victims-have-lived-too-long-in-dread-of-the-criminal-justice-system-1.4324118> (Accessed 26 July 2021).

Department of Children, Equality, Disability, Integration and Youth (2021) *Final Report of the Commission of Investigation into Mother and Baby Homes* [online]. Available at: <https://assets.gov.ie/118565/107bab7e-45aa-4124-95fd-1460893dbb43.pdf> (Accessed 13 July 2021).

Department of Justice and Equality (2021c) *Criminal Injuries Compensation Scheme* [online]. Available at: http://www.justice.ie/en/JELR/Pages/criminal_injuries_compensation_scheme (Accessed 02 August 2021).

Government of Canada (2021) *Office of the Federal Ombudsman for Victims of Crime* [online]. Available at: <https://www.victimfirst.gc.ca/abt-apd/wwwa-qsn.html> (Accessed 13 August 2021).

- Irish Council for Civil Liberties (2021) *Tell Your TD We Need a Victims Ombudsman* [online]. Available at: <https://www.iccl.ie/tell-your-candidates-we-need-a-victims-ombudsman/> (Accessed 16 August 2021).
- Kilcommins, S. (2020) *The Victim in Law – The Emergence of a New Juridical Subject in the Crime Conflict* [online]. Available at: https://ulir.ul.ie/bitstream/handle/10344/7493/Kilcommins_2019_Victim.pdf?sequence=4 (Accessed 25 July 2021).
- McAleese, M. (2013) *Report of the Inter-Departmental Committee to establish the facts of State involvement with the Magdalen Laundries* [online]. Available at: <https://www.gov.ie/en/collection/a69a14-report-of-the-inter-departmental-committee-to-establish-the-facts-of/> (Accessed 13 July 2021).
- Mullally, U. (2021) *Sexual Attack Survivor to Discuss Legal Reforms with Minister* [online]. Available at: <https://www.irishtimes.com/news/crime-and-law/sexual-attack-survivor-to-discuss-legal-reforms-with-minister-1.4522380> [Accessed 26 July 2021].
- One in Four (2021) *6 Recommendations for Change in Trials of Sexual Crime* [online]. Available at: <https://www.oneinfour.ie/blog/6-recommendations-for-change-in-trials-of-sexual-crime> (Accessed 26 July 2021).
- Rape Crisis Network Ireland (2017) *RCNI Call for Victim's Ombudsman* [online]. Available at: <https://www.rcni.ie/rcni-call-victims-ombudsman/> (Accessed 16 August 2021).
- Ryan, S. (2009) *Final Report of the Commission to Inquire into Child Abuse* [online]. Available at: <http://www.childabusecommission.ie/publications/> (Accessed 13 July 2021).
- United States Department of Justice (2021) *Crime Victims' Rights Ombudsman* [online]. Available at: <https://www.justice.gov/usao/resources/crime-victims-rights-ombudsman> (Accessed 13 August 2021).
- Victims of Crime Office (2009) *Victims of Crime Office* [online]. Available at: <http://www.victimsofcrimeoffice.ie/> (Accessed 16 August 2021).

- Wachtel, T. (2016) *Defining Restorative* [online]. Available at: <https://www.nassauboces.org/cms/lib/NY01928409/Centricity/Domain/1699/Defining%20Restorative.pdf> (Accessed 17 August 2021).
- Walsh, K. (2021) *Dublin Rape Crisis CEO Noeline Blackwell: 'Women who have been raped tell us that going through court is as bad as the rape experience'* [online]. Available at: <https://www.rsvplive.ie/news/irish-news/dublin-rape-crisis-ceo-noeline-24479690> (Accessed 26 July 2021).
- Wexler, D. (1999) *Therapeutic Jurisprudence: An Overview* [online]. Available at: https://www.researchgate.net/profile/David_Wexler2/publication/228244466_Therapeutic_Jurisprudence_An_Overview/links/00b7d524375db0253c000000.pdf (Accessed 19/03/2021).
- White, S. (2012) *Time to Think: Using Restorative Questions* [online]. Available at: <https://www.iirp.edu/news/time-to-think-using-restorative-questions> (Accessed 17 August 2021).
- Zoom (2021) *About Us* [online]. Available at: <https://zoom.us/about> (Accessed 01 July 2021).

Legislation & Legal Documents

- Directive 2012/29/EU, (sometimes known as the Victims' Directive) of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime.*
- Government of Ireland, *Criminal Justice (Victims of Crime) Act 2017*, Dublin Stationery Office: Dublin.
- Government of Ireland, *Criminal Justice (Victims of Crime) Act 2017*, s. 2(1), Dublin Stationery Office: Dublin.
- Government of Ireland, *Criminal Justice (Victims of Crime) Act 2017*, s. 6, Dublin Stationery Office: Dublin.
- Government of Ireland, *Criminal Justice (Victims of Crime) Act 2017*, s. 7, Dublin Stationery Office: Dublin.

Government of Ireland, *Criminal Justice (Victims of Crime) Act 2017*, s. 8(2), Dublin
Stationery Office: Dublin.

Government of Ireland, *Criminal Justice (Victims of Crime) Act 2017*, s. 8(2)(a), Dublin
Stationery Office: Dublin.

Government of Ireland, *Criminal Justice (Victims of Crime) Act 2017*, s. 8(2)(b), Dublin
Stationery Office: Dublin.

Government of Ireland, *Criminal Justice (Victims of Crime) Act 2017*, s. 8(2)(m), Dublin
Stationery Office: Dublin.

Government of Ireland, *Criminal Justice (Victims of Crime) Act 2017*, s. 12, Dublin
Stationery Office: Dublin.

Government of Ireland, *Criminal Justice (Victims of Crime) Act 2017*, s. 14, Dublin
Stationery Office: Dublin.

Government of Ireland, *Criminal Justice (Victims of Crime) Act 2017*, s. 15, Dublin
Stationery Office: Dublin.

Government of Ireland, *Criminal Justice (Victims of Crime) Act 2017*, s. 15(2)(b), Dublin
Stationery Office: Dublin.

Government of Ireland, *Criminal Justice (Victims of Crime) Act 2017*, s. 15(2)(c), Dublin
Stationery Office: Dublin.

Government of Ireland, *Criminal Justice (Victims of Crime) Act 2017*, s. 15(2)(d), Dublin
Stationery Office: Dublin.

Government of Ireland, *Criminal Justice (Victims of Crime) Act 2017*, s. 15(2)(e), Dublin
Stationery Office: Dublin.

Government of Ireland, *Criminal Justice (Victims of Crime) Act 2017*, s. 15(2)(f), Dublin
Stationery Office: Dublin.

Government of Ireland, *Criminal Justice (Victims of Crime) Act 2017*, s. 15(3), Dublin
Stationery Office: Dublin.

Government of Ireland, *Criminal Justice (Victims of Crime) Act 2017*, s. 15(4)(b), Dublin
Stationery Office: Dublin.

Government of Ireland, *Criminal Justice (Victims of Crime) Act 2017*, s. 19, Dublin
Stationery Office: Dublin.

Secondary Victimisation & Legal System Victim Impact Statements

Government of Ireland, *Criminal Justice (Victims of Crime) Act 2017*, s. 31, Dublin Stationery Office: Dublin.

Government of Ireland, *Criminal Justice Act 1993*, Dublin Stationery Office: Dublin.

Government of Ireland, *Criminal Justice Act 1993*, s. 5, Dublin Stationery Office: Dublin.

Government of Ireland, *Criminal Law (Sexual Offences) Act 2017*, Dublin Stationery Office: Dublin.

Government of Ireland, *Criminal Law (Sexual Offences) Act 2017*, s. 36, Dublin Stationery Office: Dublin.

Other

An Garda Síochána (2016) *Public Attitudes Survey 2016*. Dublin: An Garda Síochána.

An Garda Síochána (2019) *Public Attitudes Survey 2019*. Dublin: An Garda Síochána.

Department of Justice and Equality (2021a) *A Safe, Fair and Inclusive Ireland: Statement of Strategy 2021 – 2023*. Dublin: Dublin Stationery Office.

Department of Justice and Equality (2021b) *Supporting A Victims Journey: A Plan to Help Victims and Vulnerable Witnesses in Sexual Violence Cases*. Dublin: Dublin Stationery Office.

Fives, A., Keenaghan, C., Canavan, J., Moran, L. & Coen, L. (2013) *Evaluation of the Restorative Practice Programme of the Childhood Development Initiative*. Dublin: Childhood Development Initiative.

Healy, D. (2019) *Exploring Victim's Interactions with the Criminal Justice System: A Literature Review*. Dublin: Department of Justice and Equality.

O'Malley, T. (2020) *Review of Protections for Vulnerable Witnesses in the Investigation and Prosecution of Sexual Offences*. Dublin: Department of Justice and Equality.

Office of the Director of Public Prosecutions (2020) *Annual Report 2019*. Dublin: Office of the Director of Public Prosecutions.

Victims of Crime Office (2010) *Victims Charter*. Dublin: Dublin Stationery Office

Victims of Crime Office (2020) *Victims Charter*. Dublin: Dublin Stationery Office.

Appendix A: Survey

Survey

General

10. Based on your experience of working with victims of crime, do you think your service users experience secondary victimisation in the Irish criminal justice system? *

Yes	Somewhat	No
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

11. If you would like to elaborate further, please do so below:

Enter your answer

12. Do you think secondary victimisation in the Irish criminal justice system is a prevalent issue for your service users? *

Always	Usually	Sometimes	Unsure	Sometimes but infrequently	Rarely	Never
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

13. If you would like to elaborate further, please do so below:

Enter your answer

14. Do you think your service users experience secondary victimisation by: *

	Always	Usually	Sometimes	Unsure	Sometimes but infrequently	Rarely	Never
An Garda Síochána	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Legal personnel	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The courts	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

15. If you would like to elaborate further, please do so below:

Enter your answer

An Garda Síochána

16. Of those service users who have had interactions with An Garda Síochána, have any ever: *

	A great deal	A moderate amount	Occasionally	Rarely	Never
Discouraged service users from filing a report?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Been reluctant to file service users report?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Refused to file service users report?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Told service users the case was not serious enough to pursue?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Not explained to service users the steps of reporting/prosecuting?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

17. If you would like to elaborate further, please do so below:

Enter your answer

18. Of those service users who have had interactions with An Garda Síochána, have any ever: *

	A great deal	A moderate amount	Occasionally	Rarely	Never
Withheld information from your service users?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Ignored requests for additional information from your service users?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Used information to obtain something in return from your service users?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

19. If you would like to elaborate further, please do so below:

Enter your answer

20. Of those service users who have had interactions with An Garda Síochána, have any ever: *

	A great deal	A moderate amount	Occasionally	Rarely	Never
Questioned how your service users were dressed?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Questioned the choices and/or behaviour of your service users?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Questioned your service users about their prior sexual history?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Questioned whether your service users responded sexually to an assault?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Secondary Victimization & Legal System Victim Impact Statements

21. If you would like to elaborate further, please do so below:

Enter your answer

22. Of those service users who have had interactions with An Garda Síochána, have any ever: *

	A great deal	A moderate amount	Occasionally	Rarely	Never
Questioned why your service users were with the perpetrator(s)?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Questioned if your service users had a prior relationship with the perpetrator(s)?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Questioned if your service users resisted and/or fought the perpetrator(s)?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

23. If you would like to elaborate further, please do so below:

Enter your answer

24. Of those service users who have had interactions with An Garda Síochána, have any ever: *

	A great deal	A moderate amount	Occasionally	Rarely	Never
Questioned the credibility of your service users as a victim and/or witness?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Insinuated that your service users were to blame for their victimisation?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Blamed your service users for their victimisation?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

25. If you would like to elaborate further, please do so below:

Enter your answer

Legal Personnel

26. Of those service users who have had interactions with legal personnel, have any ever: *

	A great deal	A moderate amount	Occasionally	Rarely	Never
Discouraged service users from participating in their trial?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Been reluctant to allow service users to participate in their trial?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Refused to allow service users to participate in their trial?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Not explained to service users the process of prosecuting and/or a trial?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Told service users there was insufficient evidence to prosecute their case?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

27. If you would like to elaborate further, please do so below:

Enter your answer

28. Of those service users who have had interactions with legal personnel, have any ever: *

	A great deal	A moderate amount	Occasionally	Rarely	Never
Withheld information from your service users?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Ignored requests for additional information from your service users?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Used information to obtain something in return from your service users?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

29. If you would like to elaborate further, please do so below:

Enter your answer

Secondary Victimization & Legal System Victim Impact Statements

30. Of those service users who have had interactions with legal personnel, have any ever: *

	A great deal	A moderate amount	Occasionally	Rarely	Never
Been disrespectful to your service users?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Been judgemental of your service users?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Been inconsiderate of the effects the victimisation has had on your service users?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

31. If you would like to elaborate further, please do so below:

Enter your answer

32. Of those service users who have had interactions with legal personnel, have any ever: *

	A great deal	A moderate amount	Occasionally	Rarely	Never
Questioned the credibility of your service users as a victim and/or witness?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Insinuated that your service users were to blame for their victimisation?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Blamed your service users for their victimisation?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

33. If you would like to elaborate further, please do so below:

Enter your answer

The Courts

34. Of those service users whose case was prosecuted in a criminal trial, have any ever felt re-traumatized or re-victimized by the process? *

Yes	Somewhat	No
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

35. If so, what proportion of your service users have felt re-traumatized or re-victimized by the process? *

All	Most	Some	Not many	None
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

36. Of those service users whose case was prosecuted in a criminal trial, have any ever: *

	A great deal	A moderate amount	Occasionally	Rarely	Never
Been dissatisfied with the verdict?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Been dissatisfied with the sentence given to the perpetrator(s)?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

37. If you would like to elaborate further, please do so below:

Enter your answer

38. Please indicate your level of agreement and/or disagreement with the following statements: *

	Strongly agree	Agree	Somewhat agree	Neither agree nor disagree	Somewhat disagree	Disagree	Strongly Disagree
Confronting their perpetrator(s) in a trial is distressing for my service users.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Reliving their victimisation through testimony in a trial is distressing for my service users.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Cross examination by lawyers in a trial is distressing for my service users.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Hearing submissions of evidence in a trial is distressing for my service users.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Secondary Victimization & Legal System Victim Impact Statements

39. If you would like to elaborate further, please do so below:

40. What proportion of your service users whose case was prosecuted in a criminal trial have felt that the process of a criminal trial was harmful to their psychological well-being? *

All	Most	Some	Not many	None
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

41. If you would like to elaborate further, please do so below:

42. Is there anything else you would like to add about your service users experience with the Irish criminal justice system? *

Appendix B: Interview Questions

Secondary Victimization & Legal System Victim Impact Statements

Interview Questions	
P: = Positive Response	N: = Negative response
<ol style="list-style-type: none"> 1. Can you tell me, in general terms, the experience that your service users have progressing through the Irish criminal justice system? 2. Do you think SV is prevalent in the Irish criminal justice system for your service users? Why/not? 3. P: How do you think experiencing SV effects your service users' perceptions of their primary victimisation? N: How do you think experiencing the criminal justice system effects your service users' perceptions of their primary victimisation? 4. P: How do you think experiencing SV effects your services user's perception of, and relationship with, themselves? N: How do you think experiencing the criminal justice system effects your services user's perception of, and relationship with, themselves? 5. P: What type of emotions and/or opinions have your service users expressed after experiences of SV? N: What type of emotions and/or opinions have your service users expressed after progressing through the criminal justice system? 6. P: How have experiences of SV affected your service user's psychological wellbeing? N: How have experiences of the criminal justice system affected your service user's psychological wellbeing? 7. P: If your service users have been subjected to SV by AGS, how do you think this has affected their perceptions of, and relationship with, the Gardaí? N: If your service users have had interactions with AGS, how do you think this has affected their perceptions of, and relationship with, the Gardaí? 8. P: If your service users have been subjected to SV by legal personnel, how do you think this has affected their perceptions of, and relationship with, them? N: If your service users have had interactions with legal personnel, how do you think this has affected their perceptions of, and relationship with, them? 	

9. P: If your service users have experienced SV by the courts, how do you think this has affected their perceptions of the legal system?
N: If your service users have experienced a criminal trial, how do you think this has affected their perceptions of the legal system?
10. P: Do you think experiencing SV has an effect on your service user's faith and/or trust in the justice system? Why/not?
N: Do you think experiencing the criminal justice system has an effect on your service user's faith and/or trust in the justice system? Why/not?
11. [Researcher briefly explains second purpose of research re: LSVIS]. Do you think something like this would be beneficial for you service users? Why/not?

Appendix C: Coding Framework

Theme	Initial Code	Data Extract Example
<p>“The Victim is on Trial”: Victims’ Experiences of the Irish Criminal Justice System.</p>	<ul style="list-style-type: none"> ○ Challenging ○ Frustrating ○ Daunting ○ Disregard for victims ○ Minimisation ○ Varied experience ○ Further traumatising/victimising ○ Lack of communication/information ○ Instrumentalisation of victims ○ Victim blaming 	<p>P1: So, there are many daunting prospects</p> <p>P2: Their experience would be further traumatising to them. They feel further victimised. They feel silenced. They feel ... the whole system is alien to them.</p> <p>P2: The minimisation of the [victimisation] ... That [they’re] lying, that it’s all in [their] head, that [they’re] mad ... the legal system takes over from the perpetrator because the perpetrator ... is very good at grooming the whole legal system.</p> <p>P3: I suppose, the short answer would be many and varied, you know? ... I think most people find it very difficult, it’s fair to say.</p> <p>P5: So, a lot of [victims] feel like they’re on the stands trying to defend themselves ... they end up feeling like they’ve done something wrong</p> <p>P5: The courts are very intimidating places to be ... the secondary trauma ... I think it’s actually part and parcel of going through that system.</p>
<p>“What’s The Point?”: Effects of Secondary Victimization on Victims Psychological Well-Being & Perceptions of the Criminal Justice System</p>	<ul style="list-style-type: none"> ○ Disempowered ○ Stress ○ Fear ○ Disappointment ○ Silenced ○ Lost ○ PTSD ○ Loss of trust ○ Pointlessness ○ Regret 	<p>P1: They’re very frightened of being seen as the bad guy and being ostracised ... for having made a complaint against somebody.</p> <p>P2: They would lose trust in the system, lose trust in themselves</p> <p>P5: I suppose, they lose their faith in the justice system, and they don’t feel that they can maybe go back to court ... So, they lose their faith. They don’t feel protected ... I think they feel completely unsupported.</p> <p>P6: Low mood, depression ... a sense of hopelessness maybe ... that’s probably the defining one is kind of feeling hopeless ... angry and upset ... their kind of sense of wellbeing is really affected.</p> <p>P7: It certainly makes it worse. If they had feelings of shame or feelings of anger, it brings that out ... I think it makes them feel like basically nobody cares about the victims.</p> <p>P7: At the end just being a shell of themselves and just being like, “you know what, I’m sorry I did it. I just</p>

Secondary Victimization & Legal System Victim Impact Statements

		<p>want to forget about it now”, because they’re not able ... it ... has a huge psychological effect on them ... it can be incredibly overwhelming and damaging to the point that ... there’s no sense of relief or justice or anything.</p>
<p>“There Is a Grey Bit & It’s Called Emotions”: Assessing the Benefits, Risks, & Logistical Implications of a Legal System Victim Impact Statement</p>	<ul style="list-style-type: none"> ○ Beneficial ○ Feedback tool ○ Potential to retraumatise ○ Accountability measure ○ Prosocial motives ○ Voice to victims ○ Logistical issues ○ Closure ○ Therapeutic ○ Expressive 	<p>P1: I certainly think that’s worth exploring, it would be very interesting.</p> <p>P2: I definitely do think it would be beneficial for everybody. For the victim, for the court service, for the legal practitioners because there’s learning in it. It isn’t about criticism.</p> <p>P3: I think it would be very, very beneficial ... the timing of such an exercise might have a big impact on the quality of the feedback ... if you’re asking a victim whose been through a very traumatic experience ... how they feel about it, you’re going to get a barrage of negative responses.</p> <p>P4: Could it be more secondary victimisation? ... it would want to be really well explained, it would want to be really backed out by what it is you’re going to do with those feedback forms.</p> <p>P5: I think it would give a voice to the [victim]. I think that’s actually a really good idea.</p> <p>P6: A hundred percent ... I think it would be really good ... [they] would need a lot of support and the system would have to find a way that would be the safest way for [them] to do that.</p> <p>P7: That would be great! ... they’d love it! ... I ask [them] to write an email about how they felt ... from the time they reported until the time it finished, the effect it had on them. Exactly what you’re doing now</p>