

Welcome to our latest edition of *Connections*.

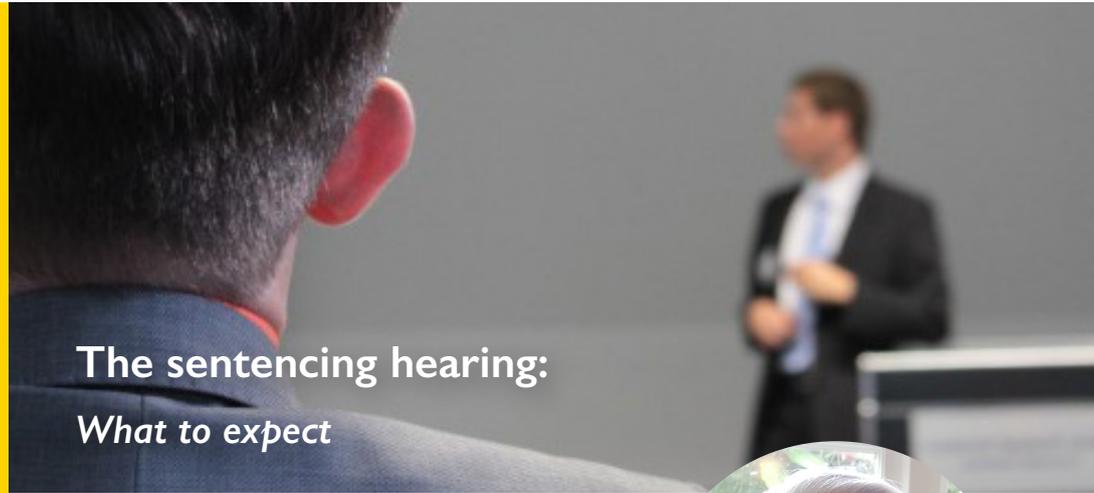
This edition is focused on the Sentencing Hearing – the final step in the prosecution process.

Many researchers agree that that the grieving process can be delayed, disrupted or distorted by the demands of the criminal justice proceedings, and that once these are concluded, feelings which had put been 'on hold' may start to take over. It's a new chapter.

While many agencies often disappear at this point, Victim Support does not.

We are here to provide support at every step of your journey, for as long as you need us, including after sentencing. Victim Support are here for you as long as you would like and you can reengage with us at any time in the future. Simply contact your Support Worker or call us on 0800 842 846.

For more information on the criminal justice system, including Victim Impact Statements and the Victim Notification Register, visit www.victimsupport.org.nz.



The sentencing hearing: *What to expect*

Sentencing is a significant milestone in the court process and may be an important step for a sense of resolution after the offending.



by Shelley Jonas, Auckland-based Court Victim Advisor managing all homicide cases from Auckland Metro and Waitemata districts

Sentencing happens after the defendant has been convicted. Sentencing hearings may be unpredictable in scheduling and format. It is important to talk with your Victim Support Worker or Court Victim Advisor about your hopes and expectations and discuss any possible mismatch with the reality of what may happen in the courtroom on the day.

There is a high likelihood that the defendant's family and supporters will be present at sentencing and emotions can run high. It is important to keep everybody safe and you will notice security personnel around the court and in the courtroom. Talk to Victim Support about any tensions involved so security can be made aware and keep everyone safe.

Media may also be present outside the courthouse and, when granted permission, inside the courtroom.

Victim Impact Statement

One of the most important parts of sentencing for a victim of crime, friend or close family member is the Victim Impact Statement (VIS).

The VIS is an opportunity to tell the court about the effects of the offending and assist the Judge in understanding the victim's views. This may be taken into consideration by the Judge in determining an appropriate sentence. It is also an opportunity to inform the offender about the impact of the offending from the victim's perspective. **It is the victim's voice.**

The VIS focuses on the harm suffered ranging from physical, psychological, emotional and financial damage and or loss. It may include the type and extent of the injuries, including any long-term effects and medical treatment required, where the offence has resulted in changes of behaviour and lifestyle, or if counselling or treatment has been necessary, as well as details about loss or damage to property that resulted from the offence. >>





>> Reading a VIS in court can be challenging but can give a sense of empowerment. It is normal to feel anxious, frightened, emotional or angry when preparing or reading a VIS. These are natural responses for someone who has experienced trauma of offending, either directly or indirectly. You are able to have a support person standing beside you while you read your VIS, or you can request someone else to read it for you.

Being in the courtroom with court staff, lawyers, perhaps media, members of the public and family and friends of the defendant can be anxiety provoking and unpleasant, but some people find that facing an offender and speaking directly to them is an empowering experience.

It is not easy to write, read aloud or listen to someone else reading a VIS, but it is an important milestone in navigating trauma and reprocessing traumatic events. Even writing a VIS helps to change the way a person remembers and processes events, and helps integrate events into life.

There are a number of ways in which you can present your VIS. Victims who want to read their VIS out in court but are not comfortable confronting the defendant or if they are a vulnerable victim, can do so with the use of screens. A victim living overseas may be able to give a VIS via an audio-visual link. You might wish to record your VIS, you can be creative, some adults and children might draw how they feel the crime impacted them.

Sentencing process

The Crown and Defence counsel each present their submissions to court for the Judge's consideration. The content of the submissions are made available to the Judge prior to sentencing so adequate attention and research can be done prior to the sentencing hearing.

When the submissions are completed the defendant is instructed to stand. The Judge will read out the summary of facts, and make comments about different aspects of the cases, and reports which the court may have requested regarding the defendant.

The intimate details of the offending will sometimes be read out and this can be challenging to listen to. They will then deliver the sentence. Once the Judge has completed their sentence, everyone in the court stands while the Judge leaves the courtroom.

Reparation

Reparation is considered and delivered at sentencing. Police provide copies of quotations, accounts or receipts, treatment costs and costs for repair or replacement. Sometimes there is an amount awarded for emotional harm suffered. A defendant's ability to pay reparation is always taken into account.

Debrief after sentencing

Sometimes what is said in the courtroom is not fully heard or understood by victims who may be feeling highly emotional during the sentencing. Other victims for reasons of location, mobility, fear, work commitments etc may not have attended on the day. It is possible to request the sentencing notes, though the release is at the Judge's discretion, and the time frame for provision of notes is uncertain. If they are available, the Crown Prosecutor may meet before or after the sentencing with the victims.

Victim Notification Register

A victim of specified offences under section 29 of the Victim Rights Act 2002 has the right to be enrolled on the Victim Notification Register. Being registered on the VNR means that the Department of Corrections will provide you with information relating to the offender. Some of this information could include, dates for release from prison and parole hearings for the defendant. If you want to know if you are eligible, or would like to know more about this, talk to your Victim Support worker or the Officer in charge of the case, about being on the Register. ■

“ It is not easy to write, read aloud or listen to someone else reading a VIS, but it is an important milestone in navigating trauma and reprocessing traumatic events. ”



Victim's perspective

? How did you find the sentencing process?

It wasn't great for me personally. After the long haul of the trial that felt like it ended in victory, when we got to the sentencing the relief of the verdict was overcome by the reality that it didn't change the outcome of the crime. There was no sentence that really gave us relief. Of course we were glad justice was done but it didn't change our reality and that weighed quite heavily at the sentencing. It was a line in the sand that we could move on with some closure but for me it didn't bring relief like the verdict. It was more the justice system running its course.

Hard but pleased we were there.

I was very impressed with the way the court system dealt with sentencing. I was very impressed with the support provided by Victim Support and everyone involved, and the ongoing support from Victim Support. In our case we had a good outcome with the sentence which reflected the gravity of the crime.

? What advice would you give to others about what to expect?

In my scenario it was a case of the process coming to a stage of completion. I wouldn't expect it to be a cure or fix for the impact of the crime. The emotional hurt and sadness was quite separate from this part of the court process. Other people in our group (particularly those who didn't attend the trial) did see it as an opportunity to face the offender and that was a part of their healing, but that wasn't my experience. This was an important part of bringing some closure to the trial and for me that is the primary expectation and anything more than that would be a bonus.

Because we had attended each day of the trial, we had a rough idea of what to expect. The prosecutor and Victim Support had explained the situation to us very well.

Expect the criminal justice system to be slow. Don't expect sentencing to occur on the same day as conviction. Expect sentencing to occur some weeks later.

? Were you surprised by any element of what occurred or how you felt?

For me it was the contrast with the verdict at the trial which was like a victory and a relief at the time after a long and gruelling process, whereas the sentencing for me was more heavy and sad. Not because of the sentence because I think what was served was justified

- but more because it didn't change the fact that our friend was gone. The sentencing didn't fix any of the pain.

Yes, we were totally surprised about the huge relief we felt after hearing the guilty verdict, as most of our immediate family were with us at the time. It was almost joyously received.

I was extremely nervous on the day. I went in expecting the unexpected as I didn't want to have high hopes and have them dashed. I was surprised at how delighted I was with what happened, it was really unexpected. After hearing the sentencing, I was surprised at how happy and sad I felt at the same time.

? How did you feel afterwards?

I did feel lighter and able to move on. For the first time in years it became easier to consistently focus on other things and continue with life. It wasn't that the sadness was gone, but we were able to change focus from the ugliness of the crime and live our life and have memories that were good and look forward to things. It was a bit of closure that was good.

Sadness, but also relief that after two years we could finally start to put it behind us and my sister could start her healing.

Every time there was a hearing prior to the sentencing I felt trepidation, attending court is a hard thing to do. The whole unknown, none of us ever been in a court before, it is frightening. Each time it felt like we were back at the beginning. He was there with us, and he was freshly dead. So, although we were on a high after hearing the sentencing, there was equally a feeling of sadness. It brought back memories. Everyone has a different story of their grief, their experience of sentencing. It very much is the unknown. ■



The sentencing hearing:

A lawyer's perspective



by **Bernadette O'Connor**,
Crown Prosecutor and partner at
MWIS Lawyers in Whangarei

This is a brief summary of the sentencing process – more specific details relevant to your case will come from your Victim Support Worker, Court Victim Advisor, the Crown, and Police.

I'd like to begin by acknowledging that if you have lost someone to homicide you have my deepest sympathies. The Court process following a homicide can be a lengthy one, and sentencing is at the very end. It could be occurring after either the offender pleading guilty, or by a guilty verdict being reached following trial.

A date will be set by the court for sentencing. Prior to that date, the Crown and defence will file written submissions, and Victim Impact Statements will also be filed from you, and any other victims (as defined in the Victims Rights Act 2002) who wish to provide them.

Victim Impact Statements are read by the Judge prior to sentencing. They are also provided to the lawyer for the offender. They can be shown to the offender, so he or she can read them, but the offender is not allowed to keep a copy of the statements.

Victims can request to read all or any part of their Victim Impact Statement to the court themselves, or have it read on their behalf. Your Victim Support Worker or Court Victim Advisor can read your statement if you feel unable to do so.

At the sentencing hearing, you will hear the lawyers and the Judge talk about **aggravating** and **mitigating** features, and the **starting point**.

- **Aggravating features** are features which make the offending worse.

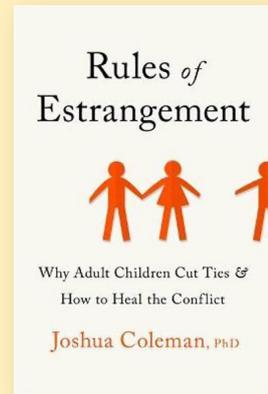
- **Mitigating features** are features which may result in a reduction of the sentence.
- The **starting point** is the starting sentence before any increases to the sentence for aggravating features and reductions to the sentence for mitigating features.

In setting the starting point, the offending is compared to other cases to ensure consistency between sentences. That is a very important principle in sentencing, but it can be hard for families of homicide victims to hear why the case involving your loved one is said to be not as bad or worse than other cases. No disrespect is meant at all by those comparisons. It is done to ensure consistency between the sentences imposed for different types of homicide. No sentence can ever bring your loved one back, or make up for their loss, and that is acknowledged by all involved.

After any increases or reductions, the end sentence is then reached.

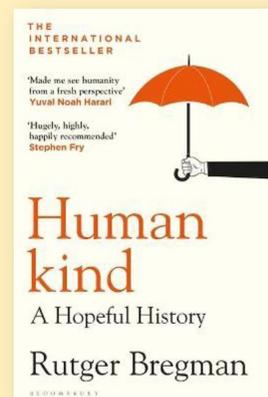
In all the homicide trials and sentencings I have appeared at, many families have shared with me their feelings and memories about their loved ones. To walk that process with families and victims is a privilege, and the dignity of those involved will always remain with me. ■

Library corner



Rules of Estrangement

by Joshua Coleman, PhD



The Humankind

by Rutger Bregman



The Many Colours of Grief Book 3: As the First Anniversary Approaches and Beyond

by Lynne Ewart and
Tricia Irving Hendry
(available from your support worker
or Skylight Trust) ■

CONTACT

Victim Support

Get Help: 0800 VICTIM (0800 842 846)
enquiries@victimsupport.org.nz
victimsupport.org.nz
facebook.com/victimsupportnz

