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Speech delivered by Dr Kim McGregor

### **2016 Victims' Conference, Victoria**

Tena koutou katoa. Good afternoon. My name is Kim McGregor and I am the inaugural Chief Victims Advisor to the Government of Aotearoa/New Zealand. Thank you for inviting me to this conference, and giving me the opportunity to talk with you today.

I would like to acknowledge the Wurundjeri people of the Kulin Nation and their Ancestors and other First Nation People here today. I would also like to thank the Conference Organisers and Conference Delegates for coming together to focus on improving outcomes for victims of crime.

I would like to tell you a little about my role and why the CVA role established in NZ.

The NZ Government has made a commitment to improve services and support for victims. This means that, among other things, there's a focus on the justice system being more responsive to victims needs, and easier for victims to navigate.

The role of the Chief Victims Advisor was established as part of the NZ Government's recent focus on reducing sexual violence and family violence victimisation. This focus has already resulted in new initiatives, including rolling out a target hardening service for high risk victims of family violence who wish to stay in their own homes, more funding for sexual violence support services for victims, and updating family violence legislation.

I was appointed to this inaugural role in November 2015. Although I may be new to this role, I'm certainly not new to victims issues, victims advocacy, or working with government Ministers. I was extremely honoured to have been chosen for this important position, but also very surprised given that, prior to this role, I had spent 30 years in the NGO sector consistently advocating for funding and expanded NGO services for victims! I seriously thought that I, someone who had badgered the NZ govt for 30 years and with no previous experience working within government, would be highly unlikely to be selected. Since my appointment, I felt humbled when several NGO and government colleagues, as well as a variety of opposition MPs have commented that my appointment signaled to them, that our current government is truly committed to improving systems and services for victims.

*So what is the scope of the new CVA role?*

Although the role is not a full Victims Commissioner, and does not directly advocate on behalf of individual victims, it is still a very effective role for victims' issues to be heard.

A key value of the CVA role, as I see it, is in its independence. I am not a government employee. I am more like a specialist consultant employed to provide our Minister of Justice directly with independent advice solely focused on victims issues. Having a position entirely devoted to incorporating a victims' voice in decision-making, is a good start to improving the services provided to them. A second key element of this new role is the extraordinary opportunity to provide information and advice from the coal face and current research, directly to the highest level. Although my role is part time, I have the benefit of two government officials working for me full time and a generous research budget. The role is a 2 year pilot and Government will decide at the end of the pilot if the role is effective in its current form or whether it needs to be altered (no pressure here).

I believe it's to our Government's credit that they are trialing this new Office.

### *Victims have rights*

These rights should put victims at the centre of victims' services

For the past 900 years, rights and responsibilities for the compensation, investigation and prosecution of personal wrongdoing has shifted from victims to States. I believe it is important to remember this shift when focusing on the State's responsibilities to victims and the fundamental basis of victims rights. We now recognize that this arrangement is fairest when victims feel well represented and included in the criminal justice system that they are subject to.

In the last few decades, there has been increased recognition that victims of crime and their families, especially those that suffer serious harm, should be provided with services that address those harms, and should not suffer further from the justice system designed to address victims' rights and needs.

### *NZ has a Victims Code*

The 1980s was an important decade for the law relating to victims of crime in NZ. We co-sponsored the United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, which then encouraged lawmakers at home to implement these principles.

Victims in NZ got their own piece of legislation in 1987, and the current Victims Rights Act was subsequently enacted in 2002. The last amendment to this Act in 2014 required the Ministry of Justice to publish a separate Victims Code of Rights. This separate document has crystallised the themes and entitlements in the legislation, and despite a general lack of enforceability, it is still a powerful statement of the terms of the contract under which the state promises to practice criminal justice on victims' behalf.

### *Challenges and issues*

Currently my office is focusing on a number of challenging areas including: family violence, sexual violence, child victims, and working with Maori to ensure there is a victims' voice in any Maori justice strategy.

My office is pleased to note that in recent years the government in NZ has shown a strong commitment to improving services and recognition for victims – especially for victims who suffer the greatest traumas and have the greatest needs. Recent initiatives have included:

- The Police in NZ putting considerable resources into recognising and reducing the harm of family violence
- Sexual Violence services receiving an extra \$46m over the next 4 years to improve: crisis responses, services for male survivors and services for harmful sexual behaviour
- A national target hardening scheme for high risk victims of family violence who need to stay in their homes being rolled out
- Reliable, understandable, and up to date information about the criminal justice system for victims now being available on a government funded website
- The government continuing to fund NZ Victim Support to provide 24/7 advice, information, one-on-one attention, and targeted financial assistance, and,
- NZ's no-fault social insurer, ACC, will spend over \$40m this year providing counseling for victims of sexual violence.

There are of course other important initiatives and programmes which I don't have time to mention, including, of course, the establishment of my office.

While this sounds like a significant list of government initiatives for victims there is still an enormous amount of work to do to in the prevention of harm, the provision of timely, tailored, quality services and supports, and in improving criminal justice responses to victims.

#### *How do we join up services to benefit victims?*

Because of an historic lack of focus on integrated development, the current system of victim services has evolved as a patchwork of government and NGOs agencies. Consequently there have been recent examples of victims approaching as many as 25 different services and having to reiterate personal information to each of these agencies in an effort to gain assistance or support. There is certainly an obligation to do more for victims and their families who find themselves trying to navigate multiple, complex, siloed systems and services. Government agencies are beginning to realise the burden for victims when they work in silos, and the critical need of a coordinated response when providing support to victims of crime. My office is working with many other agencies at senior levels to assist our government to address this problem.

#### *There is a Lack of Information on Victims*

The breadth and depth of what we know about victims and their interactions with the justice system dwarfs in comparison with the collection and analysis of offender data. What are the patterns of victimisation and re-victimisation across a life-course? What are the life course trajectories for victims? What are the factors of resilience for serious victimisation, and how can we promote those? What causes some victims to drop out throughout the criminal justice system?

The fact that many of these questions remain unanswered is yet another consequence of decades of an offender-centered criminal justice system.

The lack of victim information is also a real challenge in understanding what victims' justice needs are, and how systems and services can be improved to meet these. My office is focusing on identifying gaps in our overall information on victims, and will work to improve the overall understanding of victims' rights and needs.

*Is the court system the only option for justice?*

The very fact that we are challenging the court system to be more responsive to the needs of victims, is making many people question whether we are simply asking too much of it in the first place. The current traditional, adversarial, punitive process, may be incapable of responding satisfactorily to many victims' desires for justice. Modern concepts of restorative justice and therapeutic jurisprudence have emerged to challenge the monopoly of judge-centered Westminster-derived ideas of justice.

Traditional punitive solutions seem to have been largely ineffective in reducing offending – and therefore victimisation – and also seem relatively ineffective in responding to the complex mix of factors that victims' lives present. For victims of serious interpersonal crimes such as family and sexual violence, a significant overhaul of the current traditional court system is likely to be required in order to deliver tangible justice outcomes and help to make all of our communities safer.

Victims of serious crimes, and mounting pressures in courts' and corrections' capacities have prompted the New Zealand Government to explore new systems for achieving justice – systems outside of what has been described as an increasingly impersonal court process. This notion has already resulted in initiatives including more provision of Restorative Justice processes and Iwi justice panels, which were developed to hold offenders to account for low level offending without having to use traditional courts. It has been pleasing to see the NZ Government recently extend the scope of the Iwi panels following a successful evaluation.

I am also aware of a range of treatment courts, such as the Alcohol and Other Drugs Court, the New Beginnings Court for homeless people, the Matariki Court in Northland, alternative processes such as Restorative Justice and indigenous initiatives.

*How can victims services better respond to Maori overrepresentation in the criminal justice system?*

Westminster forms of justice have not been effective for Aotearoa's indigenous Maori population. Maori are negatively over-represented in every criminal justice measure. Even when our statisticians control for the relative deprivation and youth of the Maori population, they conclude that there are other factors that make the tangata whenua (people of the land) a more victimised group of people. And looking deeper, we find that some Maori are even more likely than other Maori to be victimised. It's probably no surprise that this often includes young, female, financially stressed Maori living in urban areas and those not in a legally registered relationship.

These statistics have become intractable in recent years, and effective solutions will require bold thinking and courageous action, both from Iwi and government. My office, along with many others, has begun to meet with Maori forums and Iwi leaders to discuss future innovative solutions. When listening to and talking with Maori Judges, police, justice officials, and iwi leaders I get a real sense that there is some creative thinking, and potentially fruitful relationships developing between key

people. Improving Maori outcomes in the justice sector is, in my mind, a prime opportunity for all stakeholders to embody the principles of Te Tiriti o Waitangi/the Treaty of Waitangi.

*How do we deal better with vulnerable children in the criminal justice system?*

As the most vulnerable participants in the criminal justice system, it is vitally important to focus on the justice needs of children and young people. The stories I've heard that have shocked me the most are the ones that involve children and young witnesses who have been left to deal with the brutality of the adversarial court process with little specialist support.

My office is currently looking closely at gaps that exist for children and young people within the justice system and ways to improve systems so that these vulnerable witnesses can have their justice needs better addressed.

*Bringing these challenges together*

*"How do we make the criminal justice system easier to navigate?"*

To answer this question I will focus on justice for victims of sexual violence - which has been the biggest focus of my professional life, having worked both as a therapist and advocate in this area for 30 years.

We are all too aware that reporting, prosecution, and conviction rates for sexual violence are disturbingly low. Figures we have in NZ suggest that, for every 100 cases of sexual violence, just 1 is likely to lead to a conviction. These statistics indicate that the vast majority of offenders who commit crimes of sexual violence have no treatment or sanctions against them. Part of the reason for the appalling attrition rate, is that victims, understandably, do not want to be re-traumatised by a hostile, adversarial, judicial system. Investigation, prosecution and incarceration functions all recognise that victims are important to the success of the justice process, but the job of navigating, negotiating and translating between these functions is largely left to the victims themselves. Throughout the often 2 or more year process, some victims receive help from part-time volunteer support agencies. A lucky few receive excellent specialist support.

In December last year, our independent Law Commission released a 241 page report, which made a series of recommendations currently being considered by the NZ Government. One recommendation made to improve court processes for victims of sexual violence was having a personalized, independent, specialist support function that would help victims navigate the often lengthy, confusing and hostile criminal justice process. The idea is that these independent advisors would support victims at each stage of the process and would ensure that victims were mentally and emotionally prepared, and supported through the rigours of the actual court process.

Something that I have heard over and over again is that, due to the complex nature of sexual and family violence and the needs of families of homicide victims, those providing services for victims need to be specialised. They need to have the knowledge and understanding of the dynamics of family and sexual violence, and homicide, in order to challenge myths and stereotypes and to avoid re-traumatising victims. My conclusion is that services must be tailored to meet specific victim needs.

*Finally - "How do we make the criminal justice system more responsive to victims' needs?"*

Victims often ask for very little. In my experience they want the harm they experienced to be acknowledged. They want the person who harmed them to apologise for the harm and they want to make sure the person who harmed them does not harm others. Sometimes they want treatment and/or meaningful consequences for the harmer too.

Victims also want information in a format that will allow them to understand the processes they are facing and will enable them to make their own decisions about their part in the process.

Being treated fairly, and with respect, is of vital importance to most victims. Often, giving victims the chance to talk about their experience and actually be heard, ties into the concept of feeling respected. It is a powerful thing to be able to tell the offender how you've been impacted, and also to have your experience acknowledged from a place of authority, whether the authority is the Police, Judge or jury.

There is much we can do to improve the criminal justice process for victims. The process the victim goes through is hugely important to them. When victims feel that the process has been fair and considerate of them, they can often feel that their justice needs have been met, even sometimes when there is no guilty verdict and no conviction as the final outcome.

We can improve processes by listening to and better valuing victims. The State has accepted its responsibility to represent victims and uphold their rights. My office is fully committed and will work as hard as we possibly can to guide the improvement of systems and processes for victims.

In Conclusion– what I want to achieve is to have:

- Victims rights to be understood and valued
- The voices of victims to be clearly heard by Government
- The role of victims in the criminal justice system to be fully understood, and the impacts of the criminal justice system on victims to be recognised
- Government to understand what justice means for victims and,
- Victims and their needs recognised, and excellent systems and services in place, able to support the full range of victim needs

Thank you again to the indigenous people of this land and to this conference for allowing me to visit and talk with you today.

I look forward to listening and learning at this impressive conference and I hope that as a result of all of our discussions and learnings there will be some tangible improvements for victim/survivors of crime, as well as increased efforts at preventing victimisation and re-victimisation.

Tena koutou, Tena koutou, Tena tatou katoa