Public Safety Canada | Sécurité publique Canada

ARCHIVED - Archiving Content

ARCHIVÉE - Contenu archivé

Archived Content

Information identified as archived is provided for reference, research or recordkeeping purposes. It is not subject to the Government of Canada Web Standards and has not been altered or updated since it was archived. Please contact us to request a format other than those available.

Contenu archivé

L'information dont il est indiqué qu'elle est archivée est fournie à des fins de référence, de recherche ou de tenue de documents. Elle n'est pas assujettie aux normes Web du gouvernement du Canada et elle n'a pas été modifiée ou mise à jour depuis son archivage. Pour obtenir cette information dans un autre format, veuillez communiquer avec nous.

This document is archival in nature and is intended for those who wish to consult archival documents made available from the collection of Public Safety Canada.

Some of these documents are available in only one official language. Translation, to be provided by Public Safety Canada, is available upon request.

Le présent document a une valeur archivistique et fait partie des documents d'archives rendus disponibles par Sécurité publique Canada à ceux qui souhaitent consulter ces documents issus de sa collection.

Certains de ces documents ne sont disponibles que dans une langue officielle. Sécurité publique Canada fournira une traduction sur demande.

Canada

VICTIMS OF CRIME

Research Digest

2008 – Issue No. 1 www.canada.justice.gc.ca/eng/pi/rs

Welcome

The theme of this year's National Victims of Crime Awareness Week is "Finding the Way Together." In recognition of this theme, the Policy Centre for Victims Issues and the Research and Statistics Division at the Department of Justice are pleased to announce a new collaborative publication, the *Victims of Crime Research Digest.* The *Digest* will be an annual, joint publication featuring short articles dedicated to victims of crime research. Research is an important tool in helping to incorporate victims' voices on many issues in the criminal justice system and to affect change in legislation, policy or practice.

In Canada, the body of research on victim issues is growing, but there remains much data to be collected to further our understanding of criminal justice processes, as well as the expectations, perceptions and needs of victims. We hope that the *Digest* will help to highlight some of the research that is being undertaken and that it will help share some of the findings.

We begin Issue 1 with an article by Professor Julian Roberts examining research on the past twenty years of Victim Impact Statements in Canada. In the second article, Aubrie McGibbon then summarizes the current state of Codes of Ethics for Victim Services. Next, Lisa Warrilow and Susan McDonald describe research on the Federal Victim Surcharge and Charlotte Fraser offers a short background piece on Fetal Alcohol Syndrome Disorder. Pearl Rimer and Barb McIntyre offer some observations on the collaborative methodology used to collect data on testimonial aids for children in criminal cases. Finally, Jodi-Anne Brzozowski, from the Canadian Centre for Justice Statistics, provides an overview of data from the 2005/06 Victim Services Survey. Full reports on many of these studies are forthcoming, so please contact the Research and Statistics Division for more information at rsd-drs@justice.gc.ca.

Catherine Kane
A/Senior General Counsel
Criminal Law Policy Section

Policy Centre for Victim Issues

Susan McDonald
Sr. Research Officer

Research and Statistics Division

Department of Justice Canada
Ministère de la Justice Canada
Canada

Contents

Contributors

EDITOR

Susan McDonald

EDITORIAL TEAM

Stephen Mihorean
Jeff Latimer
Ab Currie
Kwing Hung
Suzanne Wallace Capretta
Margo Jenner

PUBLICATION OFFICER

Charlotte Mercier

Feedback

We invite your comments and suggestions for future issues of *Victims of Crime Research Digest*. We welcome your ideas for upcoming themes and are happy to accept original submissions for publication. We may be contacted at: rsd@justice.gc.ca

Issue No. 1 - Spring 2008

The opinions expressed herein are those of the authors and not necessarily those of the Department of Justice Canada or the government of Canada.

Victim Impact Statements: Lessons Learned and Future Priorities

By Julian V. Roberts, Professor of Criminology, Faculty of Law, Oxford University [1]

Introduction and Overview

Since first appearing in the United States in the 1970s, the use of Victim Impact Statements (hereafter "VIS") has proliferated across all common law jurisdictions. They constitute the primary means by which crime victims provide input into the sentencing process. VIS are also used in some civil law countries such as Holland, and proposals to use them have been made in other continental jurisdictions such as Belgium. In Canada, VIS were introduced into the *Criminal Code* in 1988 through Bill C-89. They have since become an important component of the sentencing process. The original legislation was amended in 1999 when a number of substantive amendments were made to the statutory regime. Victims acquired the right to submit impact statements at federal parole hearings in Canada in 2001. Appendix A summarizes the enabling legislation and subsequent amendments. This article summarizes the most important findings from the relevant socio-legal research. It reflects a systematic review of the most recent research conducted in Canada and elsewhere. Since this jurisdiction has conducted more research on the issue than any other country, much of what the international community has learned about the utility of VIS comes from the experience in Canada.[2] The article is divided into two parts: Part 2 - Lessons Learned and Part 3 - Outstanding Issues and Research Priorities. References are provided for the most recent publications in this rapidly-expanding area;[3] for earlier reviews of the literature the reader is directed to Roberts (2003) and Young (2001). Finally, the review excludes the considerable literature on the use of Victim Impact Statements in capital cases in the United States (see Callihan [2003] for a bibliography of this literature).

Lessons Learned

Only a minority of all victims submit impact statements

One important lesson is that the mere introduction of a Victim Impact Statement regime will not result in widespread use of the statements; only a minority of victims appear to wish to submit such a statement at sentencing. The VIS is thus different from other sources of information at sentencing such as a Pre-Sentence Report which is relevant to the majority of sentencing decisions. This does not mean that the VIS is less important as a source of information for sentencers, but simply that a significant number of victims, for a variety of reasons, seem to be content to remain out of the sentencing process or to be satisfied with the Crown placing crime impact information before the court. The same is true at parole hearings where VIS are still relatively rare,[4] and appear only in the most serious cases (Prairie Research Associates 2004). However, for the minority of victims who do submit a statement, the VIS is

1 I would like to thank Tom Finlay and the library of the Centre of Criminology at the University of Toronto for conducting the literature search on which this article is based; Jessica Black from the Faculty of Law, University of Oxford and Nicole Myers from the Centre of Criminology, University of Toronto, for assistance in collecting the articles; Julien Lalande from the University of Ottawa for preparing the legislative summary contained in Appendix A; Susan McDonald from the Department of Justice Canada for helpful comments upon an earlier draft; and Michelle Grossman from the University of Oxford for editorial assistance.

2 In many other jurisdictions there has been a flurry of research publications following introduction of the VIS scheme, but little ongoing research thereafter.

3 For the sake of brevity, representative references are provided for the conclusions drawn in this article. A number of articles exploring victim impact evidence at sentencing and parole can be found in Issue 2 of Volume 19 of the *Federal Sentencing Reporter* (O'Hear 2006).

4 Since 2001, the National Parole Board has conducted over 40,000 parole hearings. Victim input was present in less than 500 cases (National Parole Board 2007). The frequency of victim impact statements—either in writing or by videotape—is much more frequent at provincial parole board hearings.

clearly an important way of expressing themselves to the court and participating in the sentencing process.

Few victims request oral delivery of the statement, but those that do so find it beneficial

As a result of the 1999 amendments, crime victims in Canada have a right to deliver a VIS orally if it has been prepared in accordance with an officially designated program. For a variety of reasons, only a small minority of victims avail themselves of this opportunity (Roberts and Edgar 2006). However, research involving individuals who do orally deliver Victim Impact Statements suggests that they benefit greatly from the experience. It is important, therefore, to ensure that victims are aware of this right, even if only a small number of people will ultimately exercise it. In all probability, the number of victims electing to deliver their statement orally will grow in future years as the concept becomes more embedded in the criminal justice culture.

Obstacles to the systematic use of statements

An obvious barrier to higher rates of participation is that courts may face practical difficulties in terms of contacting victims. It is sometimes difficult to contact the crime victim when sentencing is imminent. The result is that the sentencing hearing often proceeds either without a statement or even without the court knowing whether the victim has been apprised of his or her right to submit a statement and present it orally in court. This problem has existed since the earliest research into the functioning of VIS in Canada (Department of Justice Canada 1990). Although matters have improved considerably with the proliferation of victim support services, judges still acknowledge difficulty in establishing whether the victim has had an opportunity to submit a statement (Roberts and Edgar 2006).

Other obstacles [5] that have been identified include the following:

- difficulties in explaining to victims the purpose and nature of the VIS;
- insufficient assistance provided to crime victims regarding the VIS regime;
- literacy or linguistic barriers to understanding VIS-related materials;
- insufficient time for the victim to adequately prepare the statement;
- constraints on the time of victim service personnel to assist crime victims;
- unrealistic expectations leading to a negative attitude towards the statements on the part of some victims;
- lack of awareness on the part of victims of their right to submit impact statements at the stage of parole.[6]

Most victims who submit a VIS, report being more satisfied with sentencing

Do VIS promote victim satisfaction with the sentencing process? [7] This is perhaps the most frequently researched question in the field. A small minority of victims who submit a statement report being dissatisfied; however, the more frequent response is one of satisfaction. Most victims appear to believe that submitting a statement is a positive way of participating in the sentencing process. A good illustration comes from the latest evaluation of the Victim Statement Scheme piloted in Scotland. When asked after their case had concluded, almost nine victims out of ten expressed the view that the decision to submit an impact statement had been the right one. Moreover, almost two-thirds reported that making a statement had made them feel better (see Leverick, Chalmers and Duff 2007; Chalmers, Duff and Leverick 2007). The most recent research conducted for the Department of Justice Canada found an equally positive response: four out of five victims who submitted a VIS were pleased that they had done so (Prairie Research Associates 2004; see also Miller 2007).

Research has shown that VIS are more likely to be submitted when:

- the offence is serious, involving personal injury or great or unexpected financial loss;

5 Crown counsel interviewed by Prairie Research Associates (2004) identified the need to disclose the VIS to defence counsel as an obstacle to the use of statements. However, if the purpose of the statement is to allow direct victim input and to communicate a message to the offender, sharing the statement with defence counsel should surely not constitute a barrier.

6 A decade ago, lack of awareness among victims of the use of VIS at sentencing was clearly an obstacle. However, it seems clear that today most victims are aware of the existence of Victim Impact Statements. Recent research sponsored by the Department of Justice Canada found that fully 80% reported receiving information about VIS (Prairie Research Associates 2004). The most frequent source of information was victim services personnel.

7 It is significant that the criminal justice professionals with the most contact with victims, and who accordingly might be regarded as the most well-informed regarding victim welfare—victim services personnel—regard the VIS as a very positive development.

- the victim wishes to communicate a message to the offender;
- the victim received the VIS form early after victimization and had intensive or repeated contact with victim services personnel or the prosecutor;
- victims have a clear and realistic expectation of the purpose of the VIS;
- victims have more positive attitudes towards the criminal justice system; and
- the Crown is particularly motivated to enter a VIS at the sentencing hearing.

It is important to avoid creating expectations that cannot be fulfilled

VIS have the potential to arouse expectations that cannot be fulfilled within an adversarial model of criminal justice. If victims are led to believe that their statements will result in an appreciably harsher disposition or that their "sentence recommendations" will be adopted by the court, they may well be disappointed when this expectation is not fulfilled (e.g., Hinton 1995). Indeed, resentment of the sentencing process may ensue. This was one of the causes of dissatisfaction amongst crime victims according to research reported by Meredith and Paquette (2001). For this reason it is very important that victims understand the essentially communicative rather than instrumental nature of the regime (see Smanzia and Gracyalny 2006).[8] In most—but by no means all [9]—jurisdictions, victims are discouraged or prohibited from making recommendations for specific sentences. Despite this, courts in Canada and elsewhere still report seeing victim "submissions" at sentencing. This underlines the importance of educating the victim about the appropriate use of the statement. It is important to note, however, that the most recent research suggests that while statements still contain victims' sentencing recommendations, this occurs less often than in the past. Prairie Research Associates (2004) found that only approximately one quarter of the victims interviewed held the view that their statement would influence the sentence ultimately imposed.

The mode of delivery of any VIS program is important to its success

One of the most important lessons emerging from the research literature is that the way in which VIS are administered will have a critical impact on the utility of the statements for victims and courts. Considerable variability exists with respect to the administrative arrangements. Although no systematic research review has compared different means of providing the statement form and ancillary information, when the VIS is provided to the victim in person, and with adequate background information, submission of a statement is more likely.

It is important to educate victims about the purpose and nature of VIS

The most often-cited criticism of the VIS is that it can have an adverse effect on crime victims who, having been encouraged to believe that they may directly affect the sentence, are disappointed when their sentence recommendation is either edited out by the Crown or discarded by the court. This indeed occurs from time to time and underlines the importance of providing crime victims with a clear idea of the purpose of the VIS. Knowing that the VIS is not designed to give the court specific dispositions to consider may diminish the interest of some victims in submitting a statement, but it is essential that they have an accurate idea of the role of the victim and the purpose of the statement. For this reason, the impact statement form should provide clear instructions regarding the purpose of the VIS and the role of the victim at sentencing. In addition, the victim should have the opportunity to discuss the statement's purpose with a legally trained professional, preferably the Crown with carriage of their case. Failing this, victim services workers should ensure that victims fully understand why they are provided with the opportunity to submit the statement to a court. Research has also shown that more consideration must be given to how the information is imparted to victims who may be suffering from trauma (Miller 2007; McDonald 2000).

Studies reveal that the VIS sometimes includes extraneous material

It is sometimes the case that victim impact statements include inappropriate material such as information that is prejudicial or antagonistic to the defendant. Better education of victims along with forms that provide more information and clarity are needed to maximize the amount of relevant information and minimize the amount of extraneous or prejudicial material included in VIS. Both defence and Crown counsel interviewed

8 This perspective is also referred to as "expressive" or "therapeutic" in nature.

9 In Michigan, for example, crime victims are allowed to make recommendations regarding the sentence that should be imposed.

as part of the Department of Justice research initiative in 2004 reported that extraneous or irrelevant material was the most important problem with VIS (Prairie Research Associates 2004).[10] Miller (2007) found a lack of clarity regarding the expressive purpose of the VIS. When irrelevant material is contained in the statement, Crown counsel must edit the document or judges may disallow parts of the statements (Prairie Research Associates 2004). This may be distressing for victims. Finally, some commentators have advocated development of better evidentiary standards which would need to be met before the VIS could be entered as evidence (see Hill 2005).

Judges report that VIS are useful, particularly in cases involving violence

Introducing VIS without encouraging legal professionals to consider the statement at sentencing is unlikely to have beneficial effects. It is noteworthy that the statutory framework in Canada directs courts to consider the statements at sentencing. Most of the research on VIS has explored the utility of the statements from the perspective of the victim—as reviewed above. However, it is equally important to determine the extent to which VIS serve the interests of justice. Canadian research conducted over the past decade has clearly demonstrated that VIS are useful to sentencers. Quantitative surveys and qualitative studies of judges and prosecutors in Canada and elsewhere have shown that both groups see a role for VIS in the sentencing process (see Roberts and Edgar 2006; Prairie Research Associates 2004; Cole 2003; D'Avignon 2001). The most recent research involving judges found that approximately four-fifths of those interviewed reported using victim impact statements at sentencing (see Roberts and Edgar 2006; Prairie Research Associates 2004).

This line of research sustains the following conclusions:

- VIS represent a unique source of information relevant to the purpose and objectives of sentencing;
- VIS are seen to be particularly useful for crimes of violence;
- VIS do not necessarily or often result in more protracted sentencing hearings;
- judges often refer to the VIS in their reasons for sentence; and
- a significant minority of judges surveyed in Canada noted that in their experience, VIS increase victim satisfaction with the sentencing process.

There is little evidence that VIS have adverse effects on the sentencing process

A number of adverse effects have been attributed to the use VIS at sentencing. Empirical research across many jurisdictions has generally found that little evidence exists of such effects. For example, in the UK, Morgan and Sanders (1999) reported that VIS rarely, if ever, influence charging practices by the prosecutor, nor did they influence sentencing outcomes or result in much lengthier sentencing hearings. The impact of VIS on sentencing practices has been evaluated by means of a number of research designs, and the results generally support the conclusion that sentencing patterns do not become more severe or less consistent following the introduction of these statements. For example, Erez, Roeger and Morgan (1994) conducted a comprehensive "pre-post" analysis of sentencing statistics before and after the introduction of a VIS scheme in Australia and found no change in the severity of sentencing patterns.

It is important to avoid "banalization" of the concept of victim impact

A number of scholars have warned that the VIS may be, and in some contexts has been, assimilated into the routine of the criminal justice system (e.g., Erez and Laster 1999; Young 2001). If victims approach the task of completing the statement the way that they complete an insurance claim form, the exercise will carry little psychological significance. It is important, therefore, for the criminal justice system to ensure that the VIS is distinguished from other administrative requirements associated with a judicial proceeding.

Outstanding Issues and Research Priorities

Conduct a "Best Practices" service delivery review

The most common method of placing victim impact information before a court is by means of an impact statement form. A variety of forms exist which provide varying degrees of information about the statement and guidance with respect to the best way to describe

10 It significant that this research found little objection from defence counsel to the use of VIS at sentencing—traditionally members of the defence bar have expressed reservations about, or overt opposition to, the use of such statements.

the experience of victimization. In addition, across Canada there is considerable variation in the way that victims are informed about their ability to submit a statement. No review has been conducted to determine a "best practices" model which could then be offered to all jurisdictions to consider adopting. If the same generic model was used across the country there would be greater uniformity of treatment of crime victims with respect to this important issue. A review of this nature would profit from examining forms and protocols used in other countries. It is significant in this respect that victims in a number of jurisdictions (including Canada) describe the information that they receive about VIS to be incomplete and/or unclear (e.g., Prairie Research Associates 2004). Some jurisdictions provide more information to victims than do others. For example, in New South Wales, crime victims are given a very comprehensive package.[11]

Explore the impact of the VIS on the offender

As noted, Victim Impact Statements were introduced to enhance victim satisfaction and to ensure that the nature of the offence was accurately conveyed to the court at sentencing. More recently, interest has focused on the impact of the statements on the offender. A limited research literature exists on "Victim Impact Panels" in the United States (e.g., Rojek, Coverdill and Fors 2003; Fors and Rojek 1999). These panels consist of groups of offenders meeting groups of victims. The offenders hear presentations from the victims with respect to crime impact. There is some evidence that participating in these exchanges lowers the likelihood that the offender will re-offend. This suggests that hearing—or reading a VIS—may have some impact on the offender, but the issue has yet to be explored by empirical research.

The need to document attitudes and training of legal professionals

The role of criminal justice professionals is critical to the success of any victim impact statement regime. A number of research projects have explored the attitudes of criminal justice professionals such as Crown counsel and victim support personnel (e.g., Prairie Research Associates 2004; Miller, 2007). It is important, however, that training of these professionals include a component dealing with victim input generally and in particular the VIS. It does not appear as though any survey of criminal justice training has been undertaken in this area, but anecdotal evidence suggests that such a survey would be useful.

The need to know more about the impact of VIS at parole hearings

Most of the empirical research exploring the use and utility of VIS has focused on the sentencing stage of the criminal process. Far less is known about the use of VIS at parole hearings (see Gaudreault [2003] for a qualitative study of crime victims in the correctional system). Victim participation in parole hearings is less frequent than at the stage of sentencing.

Conclusions

Perhaps the most important lesson to be learned about the VIS is that it is not a panacea that will fulfill all victims' expectations of sentencing. However, if the regime is administered appropriately, if victims are provided with enough information about the VIS and provided with sufficient contact with criminal justice professionals, the concept has considerable merit. One way of summarizing the experience with VIS to date is that both the benefits and disadvantages of the statements have been overstated by advocates and critics alike. With respect to the former, it is clear that only a minority of victims submit a statement, although for these individuals the benefits appear to be considerable. With respect to the latter, none of the dangers ascribed to VIS by critics—such as lengthy sentencing hearings, more punitive or inconsistent sentencinghave emerged in any jurisdiction that has introduced this reform.

Almost a decade ago, a leading criminal law journal published a critical commentary on the use of Victim Impact Statements at sentencing (Sanders et al. 1999). Since then the steady accretion of research findings has addressed many of the criticisms of these statements and it seems clear that the VIS has been embraced by most western nations. There is a growing consensus amongst scholars and practitioners around the world that the benefits of allowing victim input at sentencing clearly outweigh any dangers associated with their use (e.g., Chalmers, Duff and Leverick 2007; Garkawe 2006; Erez 2004). We have witnessed a slow evolution in common law jurisdictions, away from the position that prosecutors provide adequate representation of the interests of victims, to one in which victims themselves place crime impact information before the court at the time of sentencing.

11 The package is available at: www.lawlink.nsw.gov.au/vs

Appendix A: Legislative History of Victim Impact Statements
Part I: Victim Impact Statements and Sentencing (*Criminal Code*)

Date	Citation	Provision
November 1, 1988 to September 2, 1996	R.S.C. 1985, c.23 (4th Supp.), s.7	*Report by probation officer* 735. (1) Where an accused, other than a corporation, pleads guilty to or is found guilty of an offence, a probation officer shall, if required to do so by a court, prepare and file with the court a report in writing relating to the accused for the purpose of assisting the court in imposing sentence or in determining whether the accused should be discharged pursuant to section 736. *Victim impact statement* (1.1) For the purpose of determining the sentence to be imposed on an offender or whether the offender should be discharged pursuant to section 736 in respect of any offence, the court may consider a statement, prepared in accordance with subsection (1.2), of a victim of the offence describing the harm done to, or loss suffered by, the victim arising from the commission of the offence. *Procedure for victim impact statement* (1.2) A statement referred to in subsection (1.1) shall be (a) prepared in writing in the form and in accordance with the procedures established by a program designated for the purpose by the Lieutenant Governor in Council of the province in which the court is exercising its jurisdiction; and (b) filed with the court. *Other evidence concerning victim admissible* (1.3) A statement of a victim of an offence prepared and filed in accordance with subsection (1.2) does not prevent the court from considering any other evidence concerning any victim of the offence for the purpose of determining the sentence to be imposed on the offender or whether the offender should be discharged pursuant to section 736. *Definition of "victim"* (1.4) For the purpose of this section, "victim", in relating to an offence, a) means the person to whom harm is done or who suffers physical or emotional loss as a result of the commission of the offence, and b) where the person described in paragraph (a) is dead, ill or otherwise incapable of making a statement referred to in subsection (1.1), includes the spouse or any relative of that person, anyone who has in law or in fact the custody of that person or is responsible for the care or support of that person or any dependant of that person. *Copies to be provided* (2) Where a report or statement is filed with the court under subsection (1) or (1.2), the clerk of the court shall forthwith cause a copy of the report or statement to be provided to the offender or counsel for the offender and to the prosecutor.

Date	Citation	Provision
September 3, 1996 to November 30, 1999	R.S.C. 1985, c. 23 (4th Supp.); s. 7.; S.C. 1995, c. 22, s. 6	*Victim impact statement* 722. (1) For the purpose of determining the sentence to be imposed on an offender or whether the offender should be discharged pursuant to section 730 in respect of any offence, the court shall consider any statement that may have been prepared in accordance with subsection (2) of a victim of the offence describing the harm done to, or loss suffered by, the victim arising from the commission of the offence. *Procedure for victim impact statement* (2) A statement referred to in subsection (1) must be (a) prepared in writing in the form and in accordance with the procedures established by a program designated for that purpose by the lieutenant governor in council of the province in which the court is exercising its jurisdiction; and (b) filed with the court. *Other evidence concerning victim admissible* (3) A statement of a victim of an offence prepared and filed in accordance with subsection (2) does not prevent the court from considering any other evidence concerning any victim of the offence for the purpose of determining the sentence to be imposed on the offender or whether the offender should be discharged pursuant to section 730. *Definition of "victim"* (4) For the purposes of this section, "victim", in relation to an offence, (a) means the person to whom harm was done or who suffered physical or emotional loss as a result of the commission of the offence; and (b) where the person described in paragraph (a) is dead, ill or otherwise incapable of making a statement referred to in subsection (1), includes the spouse or any relative of that person, anyone who has in law or fact the custody of that person or is responsible for the care or support of that person or any dependant of that person. *Copies of documents* 722.1 The clerk of the court shall provide a copy of a document referred to in section 721 or subsection 722(1), as soon as practicable after filing, to the offender or counsel for the offender, as directed by the court, and to the prosecutor.

Date	Citation	Provision
December 1, 1999 to July 30, 2000	R.S.C. 1985, c. 23 (4th Supp.); s. 7.; S.C. 1995, c. 22, s. 6.; S.C. 1999, c.25, s. 17	*Victim impact statement* 722. (1) For the purpose of determining the sentence to be imposed on an offender or whether the offender should be discharged pursuant to section 730 in respect of any offence, the court shall consider any statement that may have been prepared in accordance with subsection (2) of a victim of the offence describing the harm done to, or loss suffered by, the victim arising from the commission of the offence.

Procedure for victim impact statement

(2) A statement referred to in subsection (1) must be

(a) prepared in writing in the form and in accordance with the procedures established by a program designated for that purpose by the lieutenant governor in council of the province in which the court is exercising its jurisdiction; and
(b) filed with the court.

Presentation of statement

(2.1) The court shall, on the request of a victim, permit the victim to read a statement prepared and filed in accordance with subsection (2), or to present the statement in any other manner that the court considers appropriate.

Evidence concerning victim admissible

(3) Whether or not a statement has been prepared and filed in accordance with subsection (2), the court may consider any other evidence concerning any victim of the offence for the purpose of determining the sentence to be imposed on the offender or whether the offender should be discharged under section 730.

Definition of "victim"

(4) For the purposes of this section, "victim", in relation to an offence,

(a) means a person to whom harm was done or who suffered physical or emotional loss as a result of the commission of the offence; and
(b) where the person described in paragraph (a) is dead, ill or otherwise incapable of making a statement referred to in subsection (1), includes the spouse or any relative of that person, anyone who has in law or fact the custody of that person or is responsible for the care or support of that person or any dependant of that person.

Copy of statement

722.1 The clerk of the court shall provide a copy of a statement referred to in subsection 722(1), as soon as practicable after a finding of guilt, to the offender or counsel for the offender, and to the prosecutor.

Inquiry by court

722.2 (1) As soon as practicable after a finding of guilt and in any event before imposing a sentence, the court shall inquire of the prosecutor or a victim of the offence, or any person representing a victim of the offence, whether the victim or victims have been advised of the opportunity to prepare a statement referred to in subsection 722(1).

Adjournment

(2) On application of the prosecutor or a victim or on its own motion, the court may adjourn the proceedings to permit the victim to prepare a statement referred to in subsection 722(1) or to present evidence in accordance with subsection 722(3), if the court is satisfied that the adjournment would not interfere with the proper administration of justice.

Date	Citation	Provision
July 31, 2000 to date	R.S.C. 1985, c. 23 (4th Supp.), s. 7.; S.C. 1995, c. 22, s. 6.; S.C. 1999, c.25, s. 17; S.C. 2000, c.12, s.95(d)	722. (1) For the purpose of determining the sentence to be imposed on an offender or whether the offender should be discharged pursuant to section 730 in respect of any offence, the court shall consider any statement that may have been prepared in accordance with subsection (2) of a victim of the offence describing the harm done to, or loss suffered by, the victim arising from the commission of the offence. *Procedure for victim impact statement* (2) A statement referred to in subsection (1) must be (a) prepared in writing in the form and in accordance with the procedures established by a program designated for that purpose by the lieutenant governor in council of the province in which the court is exercising its jurisdiction; and (b) filed with the court. *Presentation of statement* (2.1) The court shall, on the request of a victim, permit the victim to read a statement prepared and filed in accordance with subsection (2), or to present the statement in any other manner that the court considers appropriate. *Evidence concerning victim admissible* (3) Whether or not a statement has been prepared and filed in accordance with subsection (2), the court may consider any other evidence concerning any victim of the offence for the purpose of determining the sentence to be imposed on the offender or whether the offender should be discharged under section 730. *Definition of "victim"* (4) For the purposes of this section and section 722.2, "victim", in relation to an offence, (a) means a person to whom harm was done or who suffered physical or emotional loss as a result of the commission of the offence; and (b) where the person described in paragraph (a) is dead, ill or otherwise incapable of making a statement referred to in subsection (1), includes the spouse or common-law partner or any relative of that person, anyone who has in law or fact the custody of that person or is responsible for the care or support of that person or any dependant of that person. *Copy of statement* 722.1 The clerk of the court shall provide a copy of a statement referred to in subsection 722(1), as soon as practicable after a finding of guilt, to the offender or counsel for the offender, and to the prosecutor. *Inquiry by court* 722.2 (1) As soon as practicable after a finding of guilt and in any event before imposing a sentence, the court shall inquire of the prosecutor or a victim of the offence, or any person representing a victim of the offence, whether the victim or victims have been advised of the opportunity to prepare a statement referred to in subsection 722(1).

		Adjournment (2) On application of the prosecutor or a victim or on its own motion, the court may adjourn the proceedings to permit the victim to prepare a statement referred to in subsection 722(1) or to present evidence in accordance with subsection 722(3), if the court is satisfied that the adjournment would not interfere with the proper administration of justice.
Date	**Citation**	**Provision**
September 1996 to 1999	1996, c. 34, s. 2;	745. Subject to section 745.1, the sentence to be pronounced against a person who is to be sentenced to imprisonment for life… 745.6 (1) Subject to subsection (2), a person may apply, in writing, to the appropriate Chief Justice in the province in which their conviction took place for a reduction in the number of years of imprisonment without eligibility for parole… 745.63 (1) The jury empanelled under subsection 745.61(5) to hear the application shall consider the following criteria and determine whether the applicant's number of years of imprisonment without eligibility for parole ought to be reduced d) any information provided by a victim at the time of the imposition of the sentence or at the time of the hearing under this section… (2) In paragraph (1)(*d*), "victim" has the same meaning as in subsection 722(4).
June 1999 to present	1996, c. 34, s. 2; 1999, c. 25,s. 22 (Preamble).	745. Subject to section 745.1, the sentence to be pronounced against a person who is to be sentenced to imprisonment for life… 745.6 (1) Subject to subsection (2), a person may apply, in writing, to the appropriate Chief Justice in the province in which their conviction took place for a reduction in the number of years of imprisonment without eligibility for parole… 745.63 (1) The jury empanelled under subsection 745.61(5) to hear the application shall consider the following criteria and determine whether the applicant's number of years of imprisonment without eligibility for parole ought to be reduced d) any information provided by a victim at the time of the imposition of the sentence or at the time of the hearing under this section… (1.1) Information provided by a victim referred to in paragraph (1)(d) may be provided either orally or in writing, at the discretion of the victim, or in any other manner that the judge considers appropriate. (2) In paragraph (1)(d), "victim" has the same meaning as in subsection 722(4).

Part II: Victim Impact Statements and Disposition Hearings (*Criminal Code*)

Date	Citation	Provision
June 1999 to May 2005	1991, c. 43, s. 4; 1997, c. 18, s. 84; 1999, c. 25, s. 11 (Preamble);	672.45 (1) Where a verdict of not criminally responsible on account of mental disorder or unfit to stand trial is rendered in respect of an accused, the court may of its own motion, and shall on application by the accused or the prosecutor, hold a disposition hearing…. 672.5 (1) A hearing held by a court or Review Board to make or review a disposition in respect of an accused shall be held in accordance with this section…. (14) A victim of the offence may prepare and file with the court or Review Board a written statement describing the harm done to, or loss suffered by, the victim arising from the commission of the offence.
May 2005 to date	1991, c. 43, s. 4; 1997, c. 18, s. 84; 1999, c. 25, s. 11 (Preamble); 2005, c. 22, ss. 16, 42(F).	672.45 (1) Where a verdict of not criminally responsible on account of mental disorder or unfit to stand trial is rendered in respect of an accused, the court may of its own motion, and shall on application by the accused or the prosecutor, hold a disposition hearing…. 672.5 (1) A hearing held by a court or Review Board to make or review a disposition in respect of an accused shall be held in accordance with this section…. (14) A victim of the offence may prepare and file with the court or Review Board a written statement describing the harm done to, or loss suffered by, the victim arising from the commission of the offence. (15.1) The court or Review Board shall, at the request of a victim, permit the victim to read a statement prepared and filed in accordance with subsection (14), or to present the statement in any other manner that the court or Review Board considers appropriate, unless the court or Review Board is of the opinion that the reading or presentation of the statement would interfere with the proper administration of justice (15.2) The court or Review Board shall, as soon as practicable after a verdict of not criminally responsible on account of mental disorder is rendered in respect of an offence and before making a disposition under section 672.45 or 672.47, inquire of the prosecutor or a victim of the offence, or any person representing a victim of the offence, whether the victim has been advised of the opportunity to prepare a statement referred to in subsection (14). (15.3) On application of the prosecutor or a victim or of its own motion, the court or Review Board may adjourn the hearing held under section 672.45 or 672.47 to permit the victim to prepare a statement referred to in subsection (14) if the court or Review Board is satisfied that the adjournment would not interfere with the proper administration of justice. (16) In subsections (14) and (15.1) to (15.3), “victim” has the same meaning as in subsection 722(4).

May 2005 to date	1999, c. 25, s. 12 (Preamble); 2005, c. 22, s. 21.	672.54 Where a court or Review Board makes a disposition under subsection 672.45(2) or section 672.47 or 672.83, it shall, taking into consideration the need to protect the public from dangerous persons, the mental condition of the accused, the reintegration of the accused into society and the other needs of the accused, make one of the following dispositions…. 672.541 When a verdict of not criminally responsible on account of mental disorder has been rendered in respect of an accused, the court or Review Board shall, at a hearing held under section 672.45, 672.47, 672.81 or 672.82, take into consideration any statement filed in accordance with subsection 672.5(14) in determining the appropriate disposition or conditions under section 672.54, to the extent that the statement is relevant to its consideration of the criteria set out in section 672.54.

Part III: Victim Impact Statements and Parole Hearings (*Corrections and Conditional Release Act*)

Date	Citation	Provision
June 1992 to Date	*Corrections and Conditional Release Act* S.C. 1992, c. 20, s. 23	Service to obtain certain information about offender 23(1) When a person is sentenced, committed or transferred to penitentiary, the Service shall take all reasonable steps to obtain, as soon as is practicable,… (e) any other information relevant to administering the sentence or committal, including existing information from the victim, the victim impact statement and the transcript of any comments made by the sentencing judge regarding parole eligibility.
July 2001 to date	*National Parole Board*	Victims of crime are permitted to read prepared statements at National Parole Board hearings. Victims are allowed to choose whether they want to make their presentation orally and in person or on audio or videotape, provided that the statements are provided in advance to the assigned corrections officer, to be distributed to all parties involved in the hearing. NOTE: On July 1st, 2001, the National Parole Board implemented a policy allowing victims to participate at federal parole hearings. On April 20, 2005, Public Safety and Emergency Preparedness Canada tabled legislative amendments to the CCRA and announced a number of new program measures that will greatly benefit victims, such as financial assistance to attend parole hearings. However, the CCRA amendments were not passed. To date, the rights of a victim remain simply policy of the National Parole Board.

REFERENCES

Callihan, J. 2003. *Victim impact statements in capital trials: A selected bibliography*. Working Paper 6. Cornell: Cornell Law School.

Chalmers, J., P. Duff, and F. Leverick. 2007. Victim impact statements: Can work, do work (for those who bother to make them). *Criminal Law Review*, (December): 360-379.

Cole, M. 2003. *Losing one's voice: The victim impact statement at sentencing*. M.A. Thesis. Ottawa: Department of Justice Canada.

D'Avignon, J. 2001. *Victim impact statements: A judicial perspective*. Winnipeg: University of Manitoba.

Erez, E. 2004. Integrating restorative justice principles in adversarial proceedings through victim impact statements. In *Reconcilable rights: Analysing the tension between victims and defendants*, ed. E. Cape. London: Legal Action Group.

Erez, E., and K. Laster. 1999. Neutralizing victim reform: Legal professionals' perspectives on victims and impact statements. *Crime & Delinquency* 45:530-53.

Erez, E., L. Roeger, and F. Morgan. 1994. *Victim impact statements in South Australia: An evaluation*. Adelaide: South Australian Attorney General's Department.

Fors, S., and D. Rojek. 1999. The effect of victim impact panels on DUI/DWI re-arrest rates: A twelve-month follow-up. *Journal of Studies on Alcohol* 60:514-520.

Garkawe, S. 2006. The effect of victim impact statements on sentencing decisions. Paper presented at the "Sentencing: Principles, Perspectives and Possibilities" conference, Canberra, February 2006.

Gaudreault, A. 2003. *Victims of crime: A look at their experiences with Canada's correctional system*. Montreal: School of Criminology.

Hill, T. 2005. Victim impact statements: A modified perspective. *Law and Psychology Review* 29:211-221.

Hinton, M. 1995. Expectations dashed: Victim impact statements and the common law approach to sentencing in South Australia. *University of Tasmania Law Review* 14:81-98.

Leverick, F., J. Chalmers, and P. Duff. 2007. An evaluation of the pilot victim statement schemes in Scotland. *Research Findings*, no. 92. Available at: http://www.scotland.gov.uk/socialresearch.

McDonald, S. 2000. The right to know: Women, violence, ethnicity and learning. Doctoral dissertation, Ontario Institute for the Studies in Education of the University of Toronto.

Miller, K. 2007. *Empowering victims through the use of victim impact statements in cases of sexual assault in Nova Scotia*. Policy Centre for Victim Issues, Department of Justice Canada.

Morgan, R., and A. Sanders. 1999. *The uses of victim statements*. London: Home Office, Research, Development and Statistics Directorate.

Meredith, C., and C. Paquette. 2001. *Summary report on Victim Impact Statement Focus Groups*. Ottawa: Department of Justice, Policy Centre for Victim issues.

National Parole Board. 2007. *Parole statistics*. Available at: http://www.npb-nlc.gc.ca/infocntr/factsh/parole_stats_e.htm.

O'Hear, M. 2006. Victims and criminal justice: What's next? *Federal Sentencing Reporter* 19:83-90.

Prairie Research Associates. 2004. *Multi-site survey of victims of crime and criminal justice professionals across Canada*. Ottawa: Department of Justice, Policy Centre for Victim Issues.

Roberts, J. V. 2003. Victim impact statements and the sentencing process: Enhancing communication in the courtroom. *Criminal Law Quarterly* 47:365-396.

Roberts, J. V., and A. Edgar. 2006. *Victim impact statements at sentencing: Judicial experiences and perceptions: A survey of three jurisdictions*. Ottawa: Department of Justice Canada.

Rojek, D., J. Coverdill, and S. Fors. 2003. The effect of victim impact panels on DUI re-arrest rates: A five-year follow-up. *Criminology* 41:1319-1340.

Sanders, A., C. Hoyle, R. Morgan, and E. Cape. 2001. Victim impact statements: Don't work, can't work. *Criminal Law Review*, (June): 447-458.

Smanzia, S., and M. Gracyalny. 2006. Addressing the court, the offender and the community: A communication analysis of victim impact statements in a non-capital sentencing hearing. *International Review of Criminology* 13: 231-249.

Young, A. 2001. The role of the victim in the criminal process: Literature Review – 1989-1999. *Victims of Crime Research Series* Ottawa: Department of Justice.

For Further Reading

Department of Justice Canada. *Victim Impact Statements in Canada: A Summary of the Findings*. Ottawa: Department of Justice Canada, Research Section, 1990.

Erez, E. "Victim Voice, Impact Statements and Sentencing: Integrating Restorative Justice and Therapeutic Jurisprudence Principles in Adversarial Proceedings." *Criminal Law Bulletin* 40 (2004): 483-500.

Erez, E., and J. V. Roberts. "Victim Participation in the Criminal Justice System." *In Victims of Crime*, edited by R. Davis, A. Lurigio and S. Herman. 3rd ed. Beverly Hills: Sage, 2007.

Langstraat, L. *Emotion and Community Rhetorics: Victim Impact Statements as Cultural Pedagogy*. New Jersey: Lawrence Erlbaum Associates, 2006.

Muir, J. *Victim Impact Statements in Canada*. Ottawa: Department of Justice Canada, 1990.

Walker, S. "Victim Impact Statements. Voices to be Heard in the Criminal Justice Process?" In *Reparation and Victim Focused Social Work*, edited by B. Williams. London: Kingsley Publishers, 2002.

Young, P. 2003. "Victim Statements." *Australian Law Journal* 77:270. ❖

Codes of Ethics for Victims Services: An Annotated Bibliography

By Aubrie McGibbon, Research Assistant, Research and Statistics Division, Department of Justice

Introduction

The exploratory study carried out by McDonald in 2007 on the professionalization of victim services in Canada highlighted the need for a better understanding of victim services in other Western, democratic countries. Based on this identified need, the members of the goverrnent's Federal/Provincial/Territorial Working Group on Victims of Crime agreed that a research project would be undertaken to develop an annotated inventory of codes of ethics for victim services in Canada, the United States, the United Kingdom, Australia, and New Zealand.
The purpose of this research project was twofold: (1) to identify what jurisdictions have codes of ethics for their victim services providers, and (2) to identify and compare the common elements present in these codes, as well as in the development of these codes. This article provides a summary of the findings from the annotated inventory of codes of ethics for victim services.

Methodology

The examples of codes of ethics identified in this article were obtained by conducting general internet searches and searching the websites of each jurisdiction's provincial, state, or territorial government. Based on the initial search results, additional sources were identified from the links provided by the original sites. When a code of ethics was mentioned but not included on a website, an email was sent to the service provider requesting an electronic copy.

Findings

Canada

Victim services in Canada are largely administered by the 13 provincial or territorial governments. They can assume the role of funder, service provider, or a combination of both. In general, the provincial or territorial governments oversee victim services directly relating to the justice system (e.g., victim compensation or restitution, victim impact statements, and victim notification). An exception to this rule is the territories, where the federal government collaborates with the territorial governments to provide certain victim services. Crisis intervention, court preparation and attendance, counselling, and referral services are offered by both the government and non-governmental organizations in all provinces and territories.

At present, the use of a code of ethics for victim services is completely voluntary. This has translated into varied levels of development and implementation amongst the provinces and territories. For example, in British Columbia, the Attorney General's office commissioned the development of a code of ethics for victim services to provide a comprehensive set of

ethical principles to guide their victim service providers[1] in relationships with clients[2], colleagues, governing agencies, the criminal justice system, and the public. Similarly, New Brunswick is currently drafting a code of ethics for their victim service providers. Certain national and provincial non-governmental organizations (e.g., Mothers Against Drunk Driving [MADD] Canada and Victim Assistance Services of Ottawa-Carleton [VASOC]) have also taken the initiative of developing their own codes as a mandatory component of training, while other local non-governmental organizations (e.g., Red Deer Crisis Centre) have adopted existing codes of ethics (e.g., *The Canadian Social Workers' Code of Ethics*).

The development and implementation of codes of ethics varies amongst the provinces and territories. Alberta, for example, has drafted the *Victims of Crime Protocol*, which outlines what a victim can expect throughout the criminal justice process. It is similar to the *Code of Practice for Victims of Crime* developed by the Home Office in the United Kingdom and the victim charters adopted by the states and territories of Australia.

United States

The United States offers a diverse selection of training opportunities for victim service providers. This is a reflection of the multi-jurisdictional nature of victim services. These training options have been grouped into four broad categories: (1) certification for federal employees, (2) state certification, (3) national/international certification, and (4) academic certification. Depending on the jurisdiction, training can vary from mandatory certification to voluntary professional development. In certain instances, individuals require certification for practice eligibility or client confidentiality privileges (e.g., similar to the privileges lawyers or doctors have with their clients). Other circumstances dictate that programs must have certified staff in order to qualify for state funding.

The U.S. Attorney General has developed guidelines for victim and witness assistance. These guidelines define a victim of a crime, outline the steps to take for various types of victims, describe the *Victims' Bill of Rights*, and outline mandatory training for all new federal employees having contact with victims of crime. The minimum training requirement for all federal employees in regular contact with victims is a one-hour briefing on the *U.S. Attorney General Guidelines* that is to be administered within 60 days of hiring. In addition to this, the *Justice for All Act* (2004) adds an element of enforcement to the *Victim's Bill of Rights*. U.S. Attorney General offices are now required to complete and submit annual compliance reports. As a result, employees can be suspended or terminated for failing to comply with these provisions (section 102 sub.3771 (f) (2) (c)). Finally, section 102 sub.3771(d)(1) of the *Justice for All Act* (2004) permits victims (or the Government) to assert their rights in a district court if they feel that their rights were not recognized during the original proceedings. Although this clause does not provide grounds for a new trial, it does a permit victims to make a motion to re-open a plea or sentence under certain circumstances (section 102 sub. 3771(d)(5)).

State certification differs considerably from the certification of federal employees. Unlike federal employees who receive mandatory training for victim services, individuals employed by state-administered or state-financed victim assistance programs require different levels of certification. To this end, the United States Department of Justice's Office for Victims of Crime (OVC) established the *Standards for Victim Assistance Programs and Providers* and created the National Victim Assistance Academy (NVAA). The NVAA developed a week-long university-based training course that includes modules specific to victimology, victims' rights, ethics, and victim services for practitioners employed in victim services and allied areas (Office for Victims of Crime 2007).

To augment the availability of training opportunities across the United States, the OVC began funding State Victim Assistance Academies (SVAA). To date, 29 states offer victim assistance training in conjunction with a university. Based on the same principles and core training as the NVAA (which includes a module on ethics), each SVAA offers state-specific training for victim assistance providers. Since the training is linked with an academic institution, participants can acquire, for an additional fee, academic credit in addition to their certificate of completion.

Similarly, most states have domestic violence and/or sexual assault coalitions which can administer, manage, and evaluate training provided to domestic

1 Numerous terms were identified for individuals who work within the field of victims services. These terms included *victim service provider, victim assistance provider, victim service practitioner, victim advocate, victim advisor. Victim service provider* is used to encompass all of the aforementioned terms.

2 Clients include victims of crime as well family members and others close to the victim.

violence and sexual assault specialists. The role of the coalition in providing training is dependent upon the certification requirements of the individual state. All training programs that are offered as criteria for certification include an ethics component within the curriculum.

In addition to federal and state training requirements, victim service providers also have the option to acquire national and/or international credentials. Both options are governed by independent non-governmental organizations and include an ethics module. Credentialing is voluntary and includes a continuing education requirement for renewal eligibility. The National Organization for Victim Associations (NOVA) offers a National Advocate Credentialing Program (NACP) for individuals who provide services to victims. It offers three levels of credentials—provisional advocate credentialing, basic advocate credentialing, and advanced advocate credentialing—with an option to renew every two years. The Association of Traumatic Stress Specialists (ATSS) offers a voluntary, international credentialing process for trauma responders. The ATSS offers three types of certification: Certified Trauma Specialist, Certified Trauma Responder, and Certified Trauma Service Specialist. Renewal for all three categories is every three years. Both credentialing processes include a code of ethics to assist members in maintaining a professional and ethical practice.

Academic certification is growing in popularity and arguably shifting the field of victim services closer to a professional designation. California State University at Fresno, Washburn University, and the University of New Haven in conjunction with the Joint Centre for Violence and Victim Studies offer undergraduate and master's concentrations in victim services or victimology. California State University at Fresno is also developing a doctorate in Criminal Sciences with a victimology option.

United Kingdom

The United Kingdom utilizes well-developed networks of community-based organizations to deliver the majority of its victim services. These networks include multidisciplinary organizations as well as service-specific organizations (e.g., sexual violence and domestic violence centres). Certain networks have expanded their jurisdiction beyond the United Kingdom to include 30 European countries by taking a lead in policy and research initiatives (Fantini 2003).

The first network, Victim Support Inc., helps people cope with the effects of crime. Similar to the Australasia model, Victim Support Inc. is an umbrella organization for victim services in the United Kingdom. The national office of Victim Support Inc. is responsible for managing the funding provided by the Home Office, developing national policies, and training paid staff and volunteers. Amongst the policies developed are the *National Standards*, which "describe a desired quality of governance, management and service delivery that people can expect from [the organization]" (Fantini 2003). Branching off from the national office are four regional offices located in (1) England and Wales, (2) Northern Ireland, (3) Republic of Ireland, and (4) Scotland. They coordinate and oversee the service delivery provided by local Victim Support offices.

The second network, Rape Crisis Network Europe, is the umbrella organization for crisis centres in 30 countries across Europe. The United Kingdom has three chapters: (1) England and Wales; (2) Scotland; and (3) Ireland. The Irish chapter has taken the lead on research and policy projects with the development of Models for Training and Strategies for Accreditation (Fantini 2003). This report assesses the advantages and disadvantages of professionalizing rape crisis workers across Europe. Two principal challenges were identified in the report: (1) the amount of variance amongst rape crisis centres from staff, to ideology, to clients and available services; and (2) the lack of regulation concerning the field of counseling in Ireland. This last challenge mirrors the current discourse in North America and Australia, where victim service providers are contemplating the professionalization of victim services.

The third network, Women's Aid, is a central network of domestic violence centres consisting of 370 local organizations in England providing shelters (over 500), helplines, advocacy, and outreach services. To ensure the provision of high quality services, Women's Aid has developed a set of national service standards for all member organizations. The standards have combined the service standards from the Supporting People program[3] and the Independent Domestic Violence Advisor (IDVA) Charter to produce a comprehensive set of standards for its membership. Similar to other standards documents, it includes ethical components such as confidentiality, safety, equal access to services, and accountability.

3 The Supporting People programme offers vulnerable people the opportunity to improve their quality of life by providing a stable environment which enables greater independence. For further information, see http://www.spkweb.org.uk/

In addition to these networks, the Home Office plays a dual role in victim services. As funders, they provide the financial resources necessary to non-governmental organizations. Given this position as a funder and the reporting requirements (e.g., services offered, target clientele) for recipients of funding, the Home Office also serves as an information centre that can provide a comprehensive list of services available to victims. It has also begun to take a leadership role in policy development for victims. In April of 2006, the *Code of Practice for Victims* was adopted. Differing slightly from a code of ethics, the Code provides the minimum services standards for victim and witness services offered by the government.

Australia

With few exceptions, criminal justice programs and services fall under the jurisdiction of the six state and two territorial governments (Victim Support Australasia 2006). However, the implementation, management, and supervision of these services vary amongst the states and territories. For example, Queensland, Western Australia, and the Australian Capital Territory have legislation specific to victims' rights. New South Wales and the Northern Territory both have legislation, which includes a charter of victims' rights. South Australia has victims' rights legislation as well as the *Declaration of Principles Governing the Treatment of Victims in the Criminal Justice System*. Victoria has a *Charter of Rights for Victims*, and Tasmania is currently developing a *Charter of Rights for Victims*.

Despite the variance amongst the documents, they are all based upon the United Nation's *Declaration of Basic Principles of Justice for the Victims of Crime and Abuse of Power* (1985). Unfortunately, these documents are limited to stating how a victim should be treated. Most do not include a complaint mechanism, and several explicitly state that they are not enforceable by civil or criminal redress. However, in select contexts, these documents are further supported by state and territorial public service standards applicable to all public servants. These standards offer an accountability mechanism and assist in addressing the lack of enforceability of victims' rights legislation and victims' charters.

This variation with codifying victims' rights translates to an equally diverse array of service delivery models. The services offered to victims can include, but are not limited to, restitution and compensation programs, information concerning an investigation and court proceedings, notification of the status of an accused/offender (e.g., bail, parole, escape or release), assistance with the preparation of victim impact statements, court preparation and accompaniment, counselling and referral services, crisis intervention, and information concerning their rights as victims.

In order to offer this extensive variety of services, each state or territory provides a combination of government- and non-government-administered victim services. For example, Western Australia and Victoria have adopted a predominantly government-administered victim services model, whereas Queensland, South Australia, the Australian Capital Territory, Tasmania, and New South Wales utilize both governmental and community-based organizations for victim service provision.

Several government ministries administer victim services: the Ministry of Justice, the Ministry of Corrections, the Attorney General's office, and the Ministry of Health and Community Services (e.g., support and counselling services in New South Wales). Generally speaking, the Ministry of Justice, the Ministry of Corrections and the Attorney General's office oversee services related to the justice and court systems (e.g., victim impact statements, restitution and compensation programs). These programs are almost exclusively administered by the government. The Ministry of Health and the Ministry of Community Services oversees crisis intervention, counselling, and other services also offered by non-governmental organizations.

New Zealand

With a relatively small population of approximately 4.1 million (Organization for Economic Co-Operation and Development 2007), New Zealand utilizes one organization to serve as an umbrella organization for victim service providers. Victim Support Inc. is a national, independent non-governmental organization that oversees 77 regional offices and works closely with various government ministries including Justice, Corrections, Social Development, and Youth Development, as well as local police departments to coordinate victim services (Victim Support Australasia 2006).

Common Elements Across Jurisdictions

Certain themes were identified across all jurisdictions. These themes addressed the rights of victims or clients as well as victim service providers' responsibilities to victims or clients.

The rights afforded to victims and clients highlight the need to strike a balance between respecting the voice of victims or clients and protecting victims or clients. Self-determination was amongst the most universal tenets across all jurisdictions and occupations. It encompasses the right victims have to choose which services best suit their needs, to refuse service, and to be given referrals to other service providers.

Victims and clients also have the right to be informed. This includes the right to be informed about the investigation, the court proceedings, the custody and release of the offender, the services available to them, and the limitations of client confidentiality. In addition, victims have the right to be protected from contact with the offenders. Finally, victims have the right to provide information. This was most commonly associated with victim impact statements.

Promoting a safe space and respecting the right to confidentiality of victims or clients were the two principle tenets of protecting victims or clients from future victimization. Promoting a safe space emphasized respectful, non-discriminatory, and compassionate service delivery with all victim services. In order to protect the confidentiality of victims or clients, any identifying characteristics pertaining to victims or their cases should be withheld from the media, members of the public, and colleagues not directly related to the victim and/or the case.

In order to uphold the rights of victims or clients, victim service providers have several responsibilities. As mentioned above, protecting victims or clients is paramount. To accomplish this, the confidentiality of victims or clients must be protected, unless the victim service provider is required to report. The exceptions to upholding confidentiality include child abuse or neglect (including threats thereof), threat of suicide, threat of homicide, and court order (i.e., subpoena).

The clarification of roles between victim service providers and victims or clients is equally vital to protecting the rights of victims or clients. Victim service providers should avoid conflicts of interest and dual relationships at all costs. In the event of a conflict of interest or dual relationship, it must be reported immediately in order that the issue may be rectified.

A final responsibility of victim service providers concerns activities not directly related to a specific victim, client, or case. In addition to their responsibilities to victims or clients, victim service providers have a larger responsibility to society. NGOs often take on the role of advocates or activists as well as that of service provider. This advocacy or activism occurs on two levels: individual, which entails supporting survivors to identify and advocate for their needs and rights (with their consent); and institutional, which encompasses the goal of influencing or changing law, policy, and practice for the benefit of victims/survivors.

Concluding remarks

This review has demonstrated that there are models of codes of ethics that have been developed and implemented in numerous jurisdictions. Despite differences in terms of the structural organization of victim services in jurisdictions (within Canada and in other countries), there are key elements that are common to codes of ethics. Any further work on this issue in Canada should strive to incorporate the findings of this review and build on the excellent work that has already been accomplished in this important area.

References

Fantini, A. 2003. *Models of training and strategies for accreditation*. Accessed June 18, 2007, from http://www.rcne.com.

McDonald, S. 2007. The professionalization of victim services in Canada. *JustResearch* 14:24 31. Accessed June 18, 2007, from http://www.justice.gc.ca/en/ps/rs/rep/justresearch/jr14/jr14.pdf. Full report forthcoming.

Office for Victims of Crime. 2007. *National Victims Assistance Academy* (NVAA). Accessed June 27, 2007, from: http://www.ojp.usdoj.gov/ovc/assist/vaa.htm.

Organization for Economic Co-operation and Development (OECD). 2007. *Demographic and population statistics*. Accessed June 11, 2007, from http://stats.oecd.org/WBOS/Default.aspx?QueryName=254&QueryType=View.

Victim Support Australasia. 2006. About VSA. Accessed May 24, 2007, from http://www.victimsupport.org.au/about.php.❖

A Summary of Research into the Federal Victim Surcharge in New Brunswick and the Northwest Territories

By Lisa Warrilow, Research Analyst, and Susan McDonald, Sr. Research Officer, Research and Statistics Division, Department of Justice Canada

Introduction

The Federal Victim Surcharge (FVS) is a monetary penalty imposed on offenders convicted or discharged of a *Criminal Code* offence or an offence under the *Controlled Drugs and Substances Act*. The underlying purpose of the FVS is to provide a rational link between an offender's crime and his or her accountability to the victim, as well as provide financial support to victim services. Provincial and territorial governments are responsible for collecting the surcharge, which is used to provide programs, services and assistance to victims of crime within their jurisdictions. This article summarizes two studies which were conducted to attempt to understand the local practices that have been adopted in relation to the federal victim surcharge legislation. The first study was completed in 2006 in New Brunswick (NB) and the second was conducted in the Northwest Territories (NWT) in 2007.[1]

Background

The FVS was first enacted in 1988 and proclaimed in 1989. The original provision required the judge to order the surcharge, while amendments in 1999 made the surcharge automatic. Under s.737(5) of the *Criminal Code*, judges retain discretion to waive the surcharge for reasons of hardship, and these reasons are to be documented. Currently, the federal surcharge is 15% of any fine imposed on the offender; or if no fine is imposed, $50 in the case of an offence punishable by summary conviction and $100 in the case of an offence punishable by indictment; or an increased surcharge, at the discretion of the judge, in appropriate circumstances.

Despite changes to the federal victim surcharge provisions in the *Criminal Code* in 1999 that were intended to increase revenues, funds collected from the surcharge continue to be well below expectations in many jurisdictions. In January 2005, the Attorney General of Manitoba proposed that the amount of the federal victim surcharge be increased from 15% on fines to 20%. It was agreed by federal, provincial, and territorial officials that more research was needed to understand how the surcharge was working in different jurisdictions and what the challenges were to increasing its potential for the generation of revenue.

Until these recent studies, there had been no comprehensive research on the federal victim surcharge in Canada.

Methodology

Both studies utilized a combination of quantitative and qualitative methods, using data from three sources in the analysis. For both studies, the quantitative data came from two sources. First, an extract of data containing all convictions from 2000 to 2005 was obtained from the administrative databases of the respective court systems; second, data was obtained from a manual file review of a random sample of individual court files retrieved from each court registry in the province/territory. The qualitative data was obtained through semi-structured interviews with judges, lawyers, victim services workers, court managers and staff, and other key informants in the provincial/territorial criminal justice systems.

Findings

New Brunswick

In New Brunswick, quantitative data were drawn from the New Brunswick Justice Information System from 2000-2005.[2] On average, the Federal Victim Surcharge was waived on two thirds of eligible dispositions during that time period; hence, it was

1 Full reports on these studies are forthcoming. See M. A. Law and S. M. Sullivan, Federal Victim Surcharge in New Brunswick: An Operational Review (Ottawa: Department of Justice Canada, 2006) and L. Warrilow, Federal Victim Surcharge in the Northwest Territories (Ottawa: Department of Justice Canada, 2007).

imposed on only one third of eligible dispositions. Where it was imposed, it was collected, on average, in just over four fifths (82.7%) of the cases. The waiver rates did vary based on the type of disposition and the nature of the offence. For example, the average waiver rate on fine dispositions is 25.2%, compared with non-fine dispositions related to summary (84.0%) and indictable (91.3%) offences.

Among offences, the lowest federal victim surcharge waiver rate is for driving under the influence (DUI) (26.0%), followed by drug convictions (61.6%) and non-violent property offences (72.8%). Interestingly, those crimes that involved an offence against a person consistently had the FVS waived at the highest rates across all regions. The data from the interviews with court personnel suggest that this appears to be a function of a "blanket" waiver strategy for custody orders, which are the typical sentence for crimes against a person. This highlights the disconnection between one of the primary purposes of the FVS—having the offender directly compensate their victim—and the court practices of imposing the FVS.

While all of the key informants were aware of all aspects of the FVS and a majority had a positive attitude towards the FVS, many expressed reservations with the current process.

There are marked variations in documentation procedures for federal victim surcharges *between* Provincial Court locations; however, consistent practices were documented *within* each of the 14 Provincial Court locations visited. When the Court waives the federal victim surcharge, it is required to provide reasons why it is not being imposed and to enter the reasons in the record of the proceedings. In 99% of the cases reviewed where the federal victim surcharge was waived (n=861), there was no documentation outlining the reasons for the waiver in the file, nor was there documentation indicating that the offender had established "to the satisfaction of the court that undue hardship…would result" (s.737(5)) and was therefore exempt from the federal victim surcharge.

All judges interviewed consistently cited the offender's inability to pay as the reason for waiving the surcharge. Judges expressed a desire for increased feedback from Victim Services and Fine Options as they are often not made aware of the effectiveness of these programs.

The sole enforcement strategy in place in New Brunswick is incarceration according to the current default formula whereby an amount equal to eight times the provincial minimum wage can be satisfied for each day spent in jail. If, for example, an offender failed to pay a $50 surcharge, this would only result in a single day's incarceration. This means that the offender serves no sentence for default as the process for one day is to admit and release at the same time.

All key informants interviewed agreed the current default formula in the *Criminal Code*, whereby an amount equal to eight times the provincial minimum wage can be satisfied for each day spent in jail, was not a meaningful consequence for offenders who do not satisfy their imposed federal victim surcharge.

The data clearly show that the anticipated revenue to be generated in New Brunswick from the 1999 amendments to the *Criminal Code* provisions relating to the automatic imposition of the federal victim surcharge has not been realized.

Northwest Territories

The situation in the NWT with regards to the federal victim surcharge is not unlike that uncovered in New Brunswick. Analysis of the data indicates high waiver rates, particularly for those cases where a custodial sentence was imposed. Also, data indicates that offenders who commit crimes that typically do not involve a victim (for example, driving while impaired) have to pay the federal victim surcharge more often than those offenders who commit a crime against a victim (for example, sexual assault). This goes against the philosophy of the surcharge legislation, which is intended to increase accountability of the offender to the victim. In addition, analysis of the FACTS [3] data on waivers and collection indicates that revenue shortfalls are due more to high waiver rates than to low collection. In fact, collection of the surcharge in the NWT is fairly high at 85% across the territory. This is true even for incarcerations, which have a collection rate of 75%. This finding is relevant given the perception among many judges that offenders serving a custodial sentence are unable to afford a surcharge.

Specifically, the FACTS data revealed waiver and collection rates broken down by disposition, offence category, and whether or not a victim was identified. In the NWT a total of 7,323 or 69.5% of 10,534

2 There were a total of 61,714 eligible dispositions drawn from the database.

convictions had the federal victim surcharge waived in the 2000-2005 time period. By region, Yellowknife had the highest waiver rate at 72.5%, followed by Inuvik, at 67.7% and Hay River at 65.6%. Custodial sentences, such as intermittent jail and incarceration had very high waiver rates at 83% and 94% respectively, territory-wide. In contrast, fines had the lowest rate of waiver at 29% at the territorial level.

While waiver rates remain high regardless of whether or not a victim was identified, all three regions had higher waiver rates for cases that had victims than for those that did not. This is particularly true in Yellowknife, where 80% of cases where a victim was identified had the federal victim surcharge waived, which is 13% higher than cases with no victim.

The manual file review of a random sample of 523 court files sought to reveal the documentation practices in the three court registries. However, due to data quality issues, the data is not reported quantitatively. A qualitative review of the coding sheets revealed that the NWT has proper documentation policies in place in the Territorial courts. In many cases, however, these practices are not being followed because the surcharge is not always addressed in court.

The key informant interviews further illuminated the federal victim surcharge regime in the NWT. A majority of informants (71%), including the judges, had a positive view of the federal victim surcharge. And, while some informants praised the surcharge for its focus on victims, others cautioned that although it is a good idea in theory, its potential is not being realized due to low enforcement. There was divergence among informants when asked if the FVS was a meaningful consequence. Many of those who felt the surcharge was not a meaningful consequence felt that this is due to the lack of connection made by the offender to the victim and a general lack of awareness of the purpose of the surcharge on the part of the offender.

While all informants were aware of the surcharge, there was generally a sense that the Government of the NWT had done little to increase knowledge of the surcharge provisions among professionals and offenders. There was also some uncertainty about where the money from the FVS goes, although for the most part, people either knew or guessed correctly that the money goes towards victims programs.

Perhaps due to this lack of awareness, a majority of informants expressed an interest in obtaining more information about the FVS and about how the revenue is used.

Slightly more than half of the respondents agreed with a symbolic increase in the amount of the FVS, although most respondents, both those who felt the surcharge should be increased and those who felt it should not, felt that the focus should be on imposition and enforcement at the current rate, rather than increasing the monetary amount of the surcharge. When asked about the automatic nature of the surcharge, more than half felt that the surcharge is not being applied automatically. In fact, the perception is that the tendency is towards an automatic waiver for custodial sentences and an automatic imposition for fines.

According to key informants, a new policy directive which emerged out of recent case law has made default time as a penalty for non-payment more difficult for the courts to impose. In fact, default time as a penalty for non-payment is not well supported among the individuals interviewed for this study. Only one informant agreed that default time is a meaningful consequence for non-payment of the surcharge; the remainder either thought it was not a meaningful consequence or felt that it was only meaningful in certain circumstances. Most believe that community service orders, license restrictions, and fine option programs are more suitable enforcement measures.

Conclusions

The findings from these two studies indicate that the purpose underlying the Federal Victim Surcharge—to provide a rational link between an offender's crime and his or her accountability to the victim as well as to provide financial support to victim services—is not being realized in New Brunswick or the Northwest Territories. Offenders of serious crimes, offenders who receive a custodial sentence and offenders who have been convicted of crimes involving victims are all having the Federal Victim Surcharge waived.

The *Criminal Code* was amended in 1999 to provide the provinces and territories with more federal surcharge revenue to devote to services for victims of crime. In New Brunswick, the federal surcharge revenue has remained at the same level as before the amendments.

3 FACTS is the court information management system.

Discussion and dialogue with interested stakeholders will continue, as will more research with other jurisdictions to further explore the issues identified in this research. These studies highlight the importance and challenges of consistent implementation of Criminal Code provisions at the local court level.❖

Victims and Fetal Alcohol Spectrum Disorder (FASD): A Review of the Issues

By Charlotte Fraser, Research Analyst, Research and Statistics Division, Department of Justice Canada

This article provides an overview of Fetal Alcohol Spectrum Disorder, commonly referred to as FASD, and a review of the issues as they pertain to the criminal justice system, and in particular, to victims of crime.

Fetal Alcohol Spectrum Disorder

Permanent central nervous system damage can occur to a fetus as a result of maternal alcohol consumption during pregnancy. The damage can affect an individual's physical makeup as well as cognitive and behavioural functioning. The degree to which prenatal exposure to alcohol damages the fetus depends on numerous factors including genetics, maternal characteristics, nutrition, environment, developmental timing, reactions to other drugs, and duration and extent of alcohol exposure. Based on these and other factors, individuals exposed to alcohol prenatally may be affected by one of the following medical diagnoses that underlie the term Fetal Alcohol Spectrum Disorder (FASD): Fetal Alcohol Syndrome (FAS), partial Fetal Alcohol Syndrome (pFAS) or Alcohol-Related Neurodevelopmental Disorder (ARND).

Individuals with FAS and pFAS display some evidence of pre- and/or post-natal growth deficits and evidence of craniofacial anomalies (small eye openings referred to as short palpebral fissure lengths, an absent or elongated groove between the upper lip and nose referred to as a smooth philtrum, and thin or flat upper lip). All individuals with FASD have central nervous system damage, which result in varying difficulties with intellect, academics, language, communication, memory, attention, executive functioning, and adaptive behaviour.

There are ten brain domains that can be affected as a result of maternal alcohol consumption during pregnancy (Chudley et al. 2005; Lang 2006). The type of central nervous system damage varies among those with FASD and not all brain domains may be affected. In terms of diagnosing FASD, individuals need to have impaired functioning in three of the ten brain domains; other brain domains may not be affected at all. This means, for example, that one person may have difficulties with memory while another person may not. Thus, it is important to recognize that not everyone with FASD will display all of the associated cognitive and behavioural characteristics of FASD. Examples of how the cognitive and behavioural characteristics of FASD apply to victims and/or witnesses are reviewed in Appendix A.

FASD is considered the leading cause of developmental disabilities and mental retardation world-wide (Journal of FAS International 2004; Roberts and Nanson 2000). While no national data exist on the incidence of FASD in Canada (Chudley et al. 2005), prevalence estimates from the general US population indicate that between 0.5–3 in 1,000 individuals have FAS and 1 in 100 have FASD (FAS, pFAS, ARND) (Abel 1995; Abel and Sokol 1987; Barr and Streissguth 2001; May and Gossage 2001). FASD is considered to be highly under-diagnosed in part because the disorder was only identified in the early 1970s and in part because diagnosis is difficult and not all physicians are trained in the area. Assessments are ideally conducted by a geneticist or paediatrician experienced with FASD in collaboration with a clinical psychologist, speech-language pathologist, and a school or social worker (Chudley et

al. 2005). The availability of FASD assessments is lacking, and provincial health care plans do not cover the cost of an assessment, which is approximately $2,000. Both government and non-governmental reports on FASD have stressed the importance of increasing and supporting diagnostic services (Chudley et al. 2005; First Nations and Inuit Health Branch 1997; Roberts and Nanson 2000; Public Health Agency of Canada 2003).

FASD and the Criminal Justice System

The impact of FASD on the Canadian justice system has received considerable attention in recent years, but very little empirical evidence is available on the prevalence or outcomes for those with FASD. Evidence suggests that individuals with FASD are at high risk of coming into repeated contact with the criminal justice system both as victims and offenders (Boland et al. 1998; Boland et al. 2002; Chartrand and Forbes-Chilibeck 2003; Conry and Fast 2000; Fast et al. 1999; Fast and Conry 2004; Moore and Green 2004; Streissguth and Kanter 1997; Streissguth et al. 2004; Verbrugge 2003). The prevalence of FASD among a sample of adult male offenders entering a federal (serving two or more years) correctional facility in Manitoba was 10% (MacPherson and Chudley 2007). This was considered a conservative estimate as it is difficult to diagnose adults with FASD (Chudley et al. 2007). The prevalence of FASD among a sample of Saskatchewan youth remanded for psychiatric or psychological assessment was 23% (Fast et al. 1999). This incidence rate was considered high as the sample was not reflective of the general prison population (Boland et al. 2002). The lifetime prevalence of incarceration among a sample of individuals with FASD in the US was 32% for adolescents and 42% for adults (Streissguth and Kanter 1997).

Most research on FASD and the justice system has focused exclusively on the offender and there has been no empirical information collected on victims or witnesses who have FASD or victims of offenders who have FASD. There have, however, been court cases where the issue of victims with FASD has been addressed.[1] A review of Canadian and American[2] caselaw suggests there is no consistent approach in responding to, or accommodating, victims with FASD.

As more diagnostic services become available and the justice system's awareness of FASD increases, it is likely that the issues surrounding victims with FASD and victims of offenders with FASD will become more pronounced in the future.

Victims of Crime

As with all disabilities, individuals with FASD are at high risk of being victims of crime. They are also vulnerable to being taken advantage of, especially by family members and friends, who may not always be looking out for their best interest. This becomes very difficult in cases of domestic abuse, where a partner may try to persuade a victim with FASD not to testify against him/her in court or to not report abuse to the police. Moreover, some victims with FASD may not realize that certain behaviours of others are wrong (e.g., sexual advances, touching). Victims with FASD may not fully understand what it means to be a victim of crime or the importance of testifying against the accused or completing a Victim Impact Statement. On the surface, victims with FASD may appear to understand the court process, but if probing was done on their comprehension of the various issues, it would become evident that many do not understand the purpose and outcomes of the court process.

Given the suspected high proportion of offenders with FASD, it is likely that some victims (with or without FASD) may come in contact with offenders who have FASD. It is important that victims are aware of the complex behavioural patterns of individuals with FASD, not to condone the offender's behaviours but in a larger context of being able to begin the healing process.

Issues for Consideration

The impact of FASD on the justice system is beginning to be addressed by governments, non-governmental agencies, and advocates. More awareness and training on the prevalence and characteristics of individuals with FASD in the justice system and on appropriate responses is needed. Future research on FASD and the justice system should address issues pertaining to victims and witnesses in terms of experiences and challenges, as well as suggestions for improving the communication process for victims with FASD. These issues need to be addressed to ensure that victims are able to

1 An excellent website developed by the FASD Ontario Justice Committee provides details of all case law that mentions FASD in Canada (Fetal Alcohol Spectrum Disorder Ontario Justice Committee 2007).

2 U.S. case law mentioning FASD is available from the FASD Legal Issues Resource Centre (Fetal Alcohol and Drug Unit 2003).

access the justice system in a fair and consistent manner.

Future research

Given that there is no consistent approach in responding to victims or witnesses with FASD, the Research and Statistics Division, on behalf of the Policy Centre for Victims Issues, Department of Justice Canada, are conducting a research study on the experiences of Victim Services workers with victims and witnesses who have or may have FASD. This research is providing the first empirical assessment of strategies and approaches used by service providers who have knowledge and experience working with victims or witnesses who have FASD (diagnosed and/or suspected). Victim Services Workers are also being asked to provide suggestions on methods or strategies that could help them better prepare and respond to clients who have FASD. Results from this research will generate further areas to address, such as developing a manual that will assist Victim Service providers in their knowledge and approaches for working with clients who have FASD.

Appendix A: Examples of how the cognitive and behavioural characteristics of FASD apply to victims and/or witnesses

Intellect

- Do not learn from previous experiences
- Difficulty generalizing from one event to another event
- Difficulty understanding legal terminology
- Confused by sarcasm or abstract examples provided by Crown or defence

Academic Achievement

- Adults with academic achievement levels of school aged children
- Writing skills are poorly developed, making it difficult to complete a Victim Impact Statement
- Difficulty in articulating thoughts and may not write out what they mean to say

Attention

- Restless (difficulty sitting still, agitated)
- Distracted by others entering and leaving the court room
- Unable to focus and concentrate on the questions being asked by the Crown
- Easily frustrated or overwhelmed in courtroom setting

Memory

- Impaired storage and retrieval system for both short and long-term memory
- Forgetful of the time of day; missed court appearances
- Difficulty recollecting events as they occurred
- Unsure of time frames or duration of events
- Confabulation, unknowingly adding in false statements when trying to recollect events

Executive Function

- Planning ahead; forethought; unknowingly putting themselves in risk situations (e.g., not realizing that telling people and walking around with large amounts of cash may put them at risk of being mugged)
- Problem solving (acting on impulse instead of thinking things through)
- Knowing when they are being taken advantage of
- Understanding consequences of actions; implications of testifying against partner or common-law spouse (e.g., not realizing they could go to jail)

Adaptive Behaviour

- Daily living skills; knowing how to use a bus or take a cab to get to court
- Self-care; dressing appropriately and professionally for court appearances
- Community functioning; knowing where and how to apply for services such as legal aid or knowing that Victim Services is available to them
- Standing up and speaking during court proceedings instead of allowing defense council to speak on their behalf

Language

- Unable to articulate thoughts effectively while on the witness stand
- Using words or phrases in the wrong way that may confuse or provide a different message to listeners
- Speech difficulties

Social Communication

- Going along with whatever argument the Crown or police is making in order to please them
- Easily agreeing to leading questions from Crown or police
- Shy or not responding to questions when asked
- Social cues (knowing when to stop talking, providing too much personal information)

Neurologic Hard or Soft Signs (regulatory systems)

- Fine (drawing, writing) and gross (balance, walking) motor skills
- Hand/eye coordination
- Difficulty typing or writing by hand clearly

References

Abel, E. L. 1995. An update on incidence of Fetal Alcohol Syndrome: FAS is not an equal opportunity birth defect. *Neurotoxicology & Teratology* 17(4): 437-443.

Abel, E. L., and R. S. Sokol. 1987. Incidence of Fetal Alcohol Syndrome and economic impact of FAS-related anomalies. *Drug and Alcohol Dependence* 19:51-70.

Barr, H. M., and A. P. Streissguth. 2001. Identifying maternal self-reported alcohol use associated with Fetal Alcohol Spectrum Disorder. *Alcoholism: Clinical & Experimental Research* 25(2): 283-287.

Boland, F. J., R. Burrill, M. Duwyn, and J. Karp. 1998. *Fetal Alcohol Syndrome: Implications for Correctional Service.* (Research Branch). Ottawa: Correctional Service Canada. Accessed November 20, 2007, from http://www.csc-scc.gc.ca/text/rsrch/reports/r71/r71e_e.shtml.

Boland, F. J., A. E. Chudley, and B. A. Grant. 2002. The challenge of Fetal Alcohol Syndrome in adult offender populations. *Forum on Corrections Research* 14(3). Accessed November 20, 2007, from http://www.csc-scc.gc.ca/text/pblct/forum/e143/143s_e.pdf.

Chartrand, L. N., and E. M. Forbes-Chilibeck. 2003. The sentencing of offenders with Fetal Alcohol Syndrome. *Health Law Journal* 11:35-91.

Chudley, A. E., J. Conry, J. L. Cook, C. Loock, T. Rosales, and N. LeBlanc. 2005. Fetal Alcohol Spectrum Disorder: Canadian guidelines for diagnosis. *Canadian Medical Association Journal* 172 (supplement 5): s1-s21.

Chudley, A. E., A. R. Kilgour, M. Cranston, and H. Edwards. 2007. Challenges of diagnosis in Fetal Alcohol Syndrome and Fetal Alcohol Spectrum Disorder in the adult. *American Journal of Medical Genetics Part C (Seminars in Medical Genetics)* 145C:261-262.

Conry, J., and D. K. Fast. 2000. *Fetal Alcohol Syndrome and the criminal justice system.* Vancouver: British Columbia Fetal Alcohol Syndrome Resource Society.

Fast, D. K., and J. Conry. 2004. The challenge of Fetal Alcohol Syndrome in the criminal justice system. *Addiction Biology* 9:161-166.

Fast, D. K., J. Conry, and C. A. Loock. 1999. Identifying Fetal Alcohol Syndrome among youth in the criminal justice system. *Developmental & Behavioral Pediatrics* 20(5): 370-372.

Fetal Alcohol and Drug Unit. 2003. *FASD Legal Issues Resource Centre.* Accessed November 20, 2007, from http://depts.washington.edu/fadu/.

Fetal Alcohol Spectrum Disorder Ontario Justice Committee. 2007. *FASD and the justice system.* Accessed November 20, 2007, from http://fasdjustice.on.ca/.

First Nations and Inuit Health Branch. 1997. *It takes a community. Framework for the First Nations and Inuit Fetal Alcohol Syndrome/Fetal Alcohol Effects Initiative.* Ottawa: Health Canada. Accessed November 20, 2007, from http://www.hc-sc.gc.ca/fnih-spni/alt_formats/fnihb-dgspni/pdf/pubs/preg-gros/2001_takes-prend-commun_e.pdf.

Journal of FAS International. 2004. Fetal Alcohol Spectrum Disorder and homelessness. Training Manual. *Journal of FAS International* 2(10): 1-107. Accessed November 20, 2007, from http://www.motherisk.org/JFAS_documents/FAS_Street_Level.pdf.

Lang, J. 2006. Ten brain domains: A proposal for functional central nervous system
parameters for FASD diagnosis and follow-up. *Journal of FAS International* 4(12). Accessed November 20, 2007, from
http://www.motherisk.org/JFAS_documents/JFAS_5012_Final_e12_6.28.6.pdf.

MacPherson, P., and A. E. Chudley. 2007. *Fetal Alcohol Spectrum Disorder (FASD): Screening and estimating incidence in an adult correctional population.* Presented at the 2nd International Conference on Fetal Alcohol Spectrum Disorder: Research, Policy, and Practice Around the World, Victoria, British Columbia.

May, P. A., and J. P. Gossage. 2001. New data on the epidemiology of adult drinking and substance use among American Indians of the northern states: Male and female data on prevalence, patterns and consequences. *The Journal of the National Center* 10(2): 1-26. Accessed November 20, 2007, from
http://aianp.uchsc.edu/ncaianmhr/journal/pdf_files/10(2).pdf.

Moore, T. E., and M. Green. 2004. Fetal Alcohol Spectrum Disorder (FASD). A need for closer examination by the criminal justice system. *Criminal Reports* 19(1): 99-108. Accessed November 20, 2007, from
http://www.acbr.com/fas/FASDCrimRep.pdf.

Roberts, G., and J. Nanson. 2000. *Best practices. Fetal Alcohol Syndrome/Fetal Alcohol Effects and the effects of other substance use during pregnancy.* Canada's Drug Strategy Division. Ottawa: Health Canada. Accessed November 20, 2007, from http://dsp-psd.communication.gc.ca/Collection/H49-156-1-2001E.pdf.
Public Health Agency of Canada. 2003. *FASD. A framework for action.* Ottawa: Public Health Agency of Canada. Accessed November 20, 2007, from http://www.phac-aspc.gc.ca/publicat/fasd-fw-etcaf-ca/pdf/fasd-fw_e.pdf.

Streissguth, A. P., F. L. Bookstein, H. M. Barr, P. D. Sampson, and K. O'Malley. 2004. Risk factors for adverse life outcomes in Fetal Alcohol Syndrome and Fetal Alcohol Effects. *Developmental and Behavioral Pediatrics* 25(4): 228-238.

Streissguth, A. P., and J. Kanter. 1997. *The challenges of Fetal Alcohol Syndrome: Overcoming secondary disabilities.* Seattle: University of Washington Press.

Verbrugge, P. 2003. *Fetal Alcohol Spectrum Disorder and the youth criminal justice
system. A discussion paper.* Ottawa: Department of Justice Canada, Youth Justice Research. Accessed November 20, 2007, from http://www.justice.gc.ca/en/ps/rs/rep/2003/rr03yj-6/rr03yj-6.pdf. ❖

The Court Observation Study: Collaborations Beyond Expectations

By Pearl Rimer, Manager, Resource Development, Research and Training, and Barbara McIntyre, Manager, Child Victim Witness Support Program, both of Boost Child Abuse Prevention and Intervention (formerly Toronto Child Abuse Centre)

Introduction

This article provides a summary of the collaborative approach used in this study and demonstrates that it was an effective method of developing partnerships and raising awareness about the key issues involved.

In the past 20 years, federal legislative changes have enabled the increased participation of children[1] as witnesses in the criminal justice system. Jurisdictional modifications and supports such as specially designed child-friendly courtrooms and specialized court preparation programs for children are commendable efforts that address the vulnerabilities and specific needs of children. The reality is that children have typically become involuntarily involved with the justice system; an adversarial system that is unfamiliar, scary, intimidating and anxiety-producing, and not what one would likely describe as "child-

1 For the purposes of this document, children are defined as individuals under the age of 18.

friendly." Many children have been victims and witnesses of abuse, violence, and other crimes, and are put in a position of retelling events that happened several years ago—horrific events from which they and their families have struggled to process, overcome, and move on.

Previous research studies of the experience of child witnesses in the Canadian criminal justice system have helped us to understand how changes in legislation, polices, procedures, and supports have translated into practice for children. In 1988, Bill C-15 (*An Act to Amend the Criminal Code of Canada and the Canada Evidence Act*) was passed, the intent of which was to improve the experience of child witnesses testifying in criminal court and to better protect children from sexual abuse through changes in child abuse prosecution. New child-specific sexual offences were introduced, and provisions were enacted to facilitate the testimony of children. The results of two studies[2] that assessed the extent to which the provisions for child witnesses were applied and their courtroom experience in the criminal justice system indicated that testifying is often a very difficult experience for children. The studies highlighted the many obstacles that continued to face child witnesses (e.g., the language and content of the questions put to children in inquiries regarding the understanding of the oath) and the importance of the need to increase the implementation of legislative provisions that takes the developmental and social vulnerabilities of children into account in order to improve their court experiences and to protect them from secondary trauma.

On January 1, 2006, additional amendments to the *Criminal Code of Canada*, namely Bill C-2 (*An Act to Amend the Criminal Code* [*Protection of Children and Other Vulnerable Persons*] and the *Canada Evidence Act*) came into effect, in an effort to further protect children from abuse and to increase the possibility for and facilitation of child witnesses. The Department of Justice Canada wished to embark on a follow-up Court Observation Study to the previous studies to determine if the criminal justice system was implementing the new legislative reforms to accommodate child witnesses in criminal court and, if so, to examine the impact on child witnesses (i.e., are they effective for children). Toronto and Edmonton were chosen as the two cities in which to observe and document the experience of children in the criminal courthouses. The objective was to track 350 cases where children were scheduled to testify in any criminal matter and to observe a total of 100-150 cases in the seven Toronto courthouses and the one Edmonton courthouse from July 2006 until the end of December 2007.
Boost Child Abuse Prevention & Intervention[3] in Toronto with the Zebra Child Protection Centre in Edmonton were selected to oversee the data collection. Both Boost and the Zebra Centre are not-for-profit community agencies that have a history of providing prevention and intervention services to child victims of abuse and violence, including support services and programs for children required to testify in court. Both agencies also have long-standing, successful collaborations and partnerships that include all levels of government, police, child protection, education, and private industry.

A study of this nature is very time-consuming and requires considerable coordination, particularly to ensure that efforts are not duplicated. Collaboration of court personnel, together with a pool of well-trained observers are essential for success. The experiences and relationships detailed in this article highlight the collaborative nature of supports and shared interest in improving services for children and their families drawn into the justice system.

Collaborative Agency Partners

Many aspects of the Court Observation Study depended on collaboration with community agencies and interested individuals: the formation of Advisory Committees in Toronto and Edmonton; a literature review related to the court experience of child witnesses; agreement from all courthouses to

2 The first study, "I'm Doing My Job in Court, Are You? Questions for the Criminal Justice System," was carried out in 1999; the second, "When Children Testify: A Court Observation Study," in 2001. For more information on these two unpublished studies, please contact Pearl Rimer at rimer@boostforkids.org.

3 Formerly Toronto Child Abuse Centre.

4 Boost Research Advisory Committee is comprised of representatives from York University, the University of Toronto, Dalhousie University, and the Suspected Child Abuse and Neglect (SCAN) Program at the Hospital for Sick Children. The role of the committee for this study is to provide feedback with respect to the Ethics Protocol and Final Report.

participate in the study; recruitment of cases; court observers; case follow-up; data input and analysis; and preparation of the final report.

Role of the Court Observation Study Advisory Committees

The purpose of the Advisory Committees is to provide guidance and feedback, particularly in: finalizing the Terms of Reference, Project Workplan, Ethics Protocol, and Literature Review; developing the Data Collection Form and accompanying forms; communicating with court personnel to ensure their understanding of the project and to help secure on-site participation; and assisting with the referral and tracking of cases. The Advisory Committees are comprised of representatives affiliated with:

- Victim Witness Assistance Programs (VWAP);
- Crown Attorneys/Prosecutor's offices;
- The Criminal Law Policy Branch (Ontario Ministry of the Attorney General);
- The Toronto Police Service (Child Abuse Coordinator; Sex Crimes Unit; Youth and Family Violence Division);
- The Edmonton Police Service (Victim Service Unit; Child Protection Section);
- The Children's Aid Society of Toronto;
- Alberta Children's Services;
- John Howard Victim Assistance Program;
- Boost Child Abuse Prevention & Intervention (Project Manager; Child Victim Witness Support Program Manager; Boost Research Advisory Committee[4]); and
- Zebra Child Protection Centre (Child Advocacy Director; Research Assistant; Project Coordinator).

Recruitment of Courthouses and Cases

In Toronto, with the assistance of the VWAP Regional Manager, the Director of Programs and Community Development for the Ontario Victim Services Secretariat, and Administrative Judges in each site, all courthouses came on board. Boost project staff met with the VWAP Managers of all sites to present an overview of the study, to address any concerns or questions raised, and to invite suggestions on how to enhance the implementation of the study, including the recruitment of cases. Although a large number of child witnesses who are scheduled to testify are referred to Boost for court preparation and subsequently tracked, a Court Observation Project Referral form was developed specifically for VWAP offices so that Boost could be informed of additional cases to track. VWAPs also made every effort to notify Boost when a child was scheduled to testify in a case in which VWAP was not involved (e.g., domestic violence cases).

Chief Justices and courthouse personnel in Edmonton were informed of the Court Observation Study by the Assistant Director, Edmonton Law Courts. Crown Prosecutors, The Alberta Law Society and The Criminal Trial Lawyers Association were also informed. In Edmonton, all criminal cases involving child victims are referred to the Zebra Child Protection Centre where cases are scheduled by the Project Coordinator. Therefore, recruitment of all eligible cases for the study was guaranteed.

VWAP Personnel

Court observers, all of whom were volunteers, were instructed to check in with VWAP staff upon arrival at the courthouse for any updated information/instructions. VWAP staff were extremely supportive of the court observers in many ways: they directly provided observers with required data (e.g., date of birth or age of witnesses), especially for cases that were not part of Boost's program referrals; they often checked in with observers throughout the day to see "how things were going"; and when VWAP staff knew that a case was part of the study, they had an "open door policy" to accommodate court observers. In addition, VWAP staff provided important follow-up information (e.g., set dates, trial outcome, and sentencing information).

Volunteer Court Observers

Perhaps the collaboration that proved to be full of pleasant surprises was that of the volunteer court observers. Volunteers for the study were recruited by distributing a flyer to Pro Bono Law, community college and university programs, Boost and Zebra agency and personal contacts, and postings on the Charity Village website. After receiving the completed Volunteer Application and resume, prospective volunteers were invited to attend an initial evening orientation session that covered an overview of the project; the expectations of volunteers, including criminal reference checks; the referral process and the tracking and assignment of cases; the criminal justice process; and the Data Collection Form. At the end of this orientation session, participants were asked to confirm if they remained interested in participating in the study. Every person expressed

interest in attending the follow-up evening in-depth orientation the next week. The purpose of the in-depth session was to review: the criminal justice process, courtroom procedures, and courtroom etiquette; the referral process, and tracking and assignment of cases; in detail, the Data Collection Form and other relevant forms; helpful hints for data collection; when to contact a project manager/coordinator; and the criminal reference check form and Confidentiality Agreement.

Inevitably, throughout the course of the study, volunteers moved on and two cycles of volunteer orientation/training sessions were offered in both Toronto and Edmonton to secure adequate volunteer recruitment. In total, approximately 80 volunteers participated in court observation, and the range of volunteers was impressive. They included:

- law students;
- articling students;
- university and community college students from a variety of disciplines;
- civil litigation lawyers;
- a journalist;
- a retired business executive, and other retired seniors;
- stay-at-home parents;
- a city community-based case worker;
- a part-time victim witness assistance staff member;
- victim services advocates;
- a 911 operator;
- a teacher; and
- health care professionals.

In addition, Boost and the Zebra Centre have an internship program, and the Court Observation Study allowed both agencies to expand and offer placements to 11 students from various programs: Assaulted Women and Child Advocacy; Social Services; Criminology; Bachelor of Social Work; and Police and Investigations. It also meant new collaborations with additional universities and a commitment to supervising more placement students than typically planned. Students have presented the issue of abuse and violence in children's lives in the context of this study to their classmates, raising awareness of the issues. Boost was also able to employ a student for the summer of 2006 for the study, through the government summer employment program.

Volunteers were really invested in this project. Some took vacation days to go to court or spent their vacation time to observe cases. Although there was a formal process of assigning cases, many volunteers called or emailed asking for cases. Court observers were required to be in the courtroom only when children testified; many volunteers, however, were so interested in cases and outcomes that they called wanting to go back to observe the remainder of the case. On many occasions, if a case did not proceed in court, volunteers would go on their own volition to the VWAP office to inquire if there were any other cases involving child witnesses that may have been overlooked. In fact, data was collected for a number of such cases. In a few cases, the court observer learned that there was more than one child witness identified and took the initiative to gather data. In another case, there was an adjournment and the volunteer subsequently learned that another trial with a child witness was proceeding in French; the volunteer speaks French and decided to attend and gather the data. Although court observation for this study was to end in December 2007, several cases are scheduled to continue into the New Year, and many volunteers have asked if they can attend court to complete data collection. Several individuals asked if they could also assist in other volunteer capacities. At Christmas time, one volunteer took the opportunity at a holiday party for friends and legal colleagues to raise awareness with respect to child victims of abuse and violence, thanks to a toy drive and fundraising for Boost.

Everything possible was done so that the volunteer court observers participating in the study had a positive experience. Because of the nature of the cases that volunteers would be exposed to, there was the possibility that some individuals could experience distress associated with details given during testimony, unexpected occurrences during court proceedings, and/or past experiences of the volunteers. Court observers understood that their role was to collect data in a non-intrusive manner; volunteers were instructed to sit quietly in a designated area of the courtroom and not to interact with anyone unless approached by court personnel. It was emphasized that no one should stay in the courtroom if they were experiencing difficulty with a case. Mechanisms were put in place at both Boost and the Zebra Centre to address any issues that may have arisen, including outreach to individuals who

were gathering data on particularly horrific cases. Volunteers coped extremely well, and it appeared that difficult situations were managed effectively. For example, a defense lawyer challenged a child witness questioning him if the person in the courtroom (i.e., the volunteer court observer) was a lawyer hired by the family to take notes of the criminal proceedings for the purposes of family court. The volunteer remained calm and focused on collecting data, and waited until court was adjourned to speak with the Crown attorney to clarify her role in court, which was then brought to the attention of the defense lawyer.

Participation in this study was instrumental in shaping the future of several volunteers. As a direct result of student placements and participation in the study, three students have decided to further their education in the field of criminology. Four volunteers have gone on to assume volunteer positions as child advocates. Several individuals asked for reference letters to assist them in securing employment and as a formal submission for their required professional development. A law student, during an interview for an articling position, spoke about his experience and the knowledge he had gained surrounding Bill C-2 and child witnesses as a result of his participation in the Court Observation Study. Apparently, this impressed the interviewers and he was offered the position. Project staff were aware of and concerned that some volunteers would withdraw from the study due to burnout; however, it appeared that volunteers moved on as a result of reasons that did not reflect burnout at all (e.g., to go back to school, to accept full-time employment, personal family commitments).

Conclusion

Every aspect of the Court Observation Study has relied on the collaborative nature, goodwill, and commitment of agencies and individuals who are dedicated to research in order to further understand the experiences, needs, and requirements of child witnesses; the impact of legislative changes on these vulnerable witnesses; and how the judicial system can continue to facilitate the success of children in court. The design of this study has clearly illustrated how collaboration and volunteer participation can be a winning approach to a resource intensive necessity of data collection. The partnerships for this study will result in the tracking of approximately 600 cases and data collection for approximately 355 child witnesses. Court observers have collected a wealth of anecdotal data that will undoubtedly add to the richness of study results and our understanding of the experiences when children testify. The collaborations have had a “trickle effect” that has resulted in many more individuals and groups gaining an appreciation of the need to continue to advocate for children who are exposed to the judicial system.

A final report on the Court Observation Study is expected to be completed in early summer 2008. It is anticipated that this report will offer further insight into how the justice system can effectively benefit children and their families. It is hoped that the report will also be instrumental in encouraging collaborations of this nature to increase supports and services for child witnesses. ❖

Serving Canada's Crime Victims:Results from the 2005/2006 Victim Services Survey[1]

By Jodi-Anne Brzozowski, Canadian Centre for Justice Statistics, Statistics Canada.

Introduction

Until recently, there were no nationally available data on the number and types of victim service agencies in Canada. In an effort to fill this information gap, the Canadian Centre for Justice Statistics (CCJS), with funding from the Policy Centre for Victim Issues, Department of Justice Canada, conducted its first national survey of victim services in 2003. Recognizing the need to monitor the number and types of victim service agencies and to address emerging issues in the field of victim services, the Victim Services Survey (VSS) was repeated in 2005/2006.

This study presents the findings from the second survey,[2] including the facilities and types of services that are provided to victims of crime and the characteristics of victims who seek assistance from victim service agencies.

Method

The Victim Services Survey was developed in consultation with federal, provincial, and territorial ministries responsible for justice and victim services and with a number of victim service agencies from across Canada. The objectives of the survey are to provide a profile of victim service agencies, information on the types of services offered, and some insight into the clients who use them through a snapshot of victims served on a specific day. In addition, the survey collects standardized information from criminal injuries compensation and other financial benefit programs regarding applications for compensation and awards for victims of crime.

Victim services are defined as agencies that provide direct services to primary or secondary victims of crime and that are funded in whole or in part by a ministry responsible for justice matters. Through a mail-out/mail-back paper questionnaire, the survey is intended to be a census of all victim service agencies that fall within its scope. The survey covers system-based, police-based, court-based, and community-based agencies; sexual assault centres, criminal injuries compensation programs; and other financial benefit programs.

The survey defines a victim as a primary or secondary victim of crime. Primary victims are those who were the direct target of the crime, and secondary victims are those who were not the direct target of the offence but who were affected by it (e.g., family members, friends, classmates).

Results

Canada's Victim Service Agencies

According to the 2005/2006 VSS, in the year ending March 31, 2006, there were 830 victim service agencies and 9 criminal injuries compensation programs that were identified as providing formal services to victims of crime through the survey. Survey responses were received from 697 victim service agencies and 8 criminal injuries compensation/financial benefit programs. A large proportion of victim service agencies were police-based (42%), followed by community-based (19%), sexual assault centres (17%), court-based agencies

1 Adapted from "Victim Services in Canada, 2005/2006" (Brzozowski 2007).

2 The 2005/2006 Victim Services Survey identified 830 victim service agencies and 9 criminal injuries compensation programs as providing formal services to victims of crime. Responses were received from 697 victim service agencies and 8 criminal injuries compensation programs. The findings in this report are based on the agencies who responded to the survey. Some agencies did not respond to certain survey questions as the information was either unavailable or not applicable to their agency. Throughout the report, it is indicated when responses are based on a number of agencies that is smaller than the total.

(8%), Ontario's Victim Crisis Assistance and Referral Services (7%), and system-based agencies (7%). The remaining 1% comprised criminal injuries compensation programs.[3]

General information and emotional support most commonly provided services

In an effort to be responsive to the various needs of victims of crime, Canada's victim service agencies offer a broad range of services, either directly or by referral to other agencies. Research that has focused on determining the most frequently identified needs of those who use victim services most often points to the need for information and support (Prairie Research Associates 2004; Wemmers and Canuto 2002; Sims 1999). The VSS found that the most commonly reported services offered by agencies were directly related to these needs. For example, the most frequent types of assistance provided directly by victim service agencies[4] were general information (96%), emotional support (95%), liaising with other agencies on behalf of the client (90%), immediate safety planning (90%), information on criminal justice system structure and process (89%), and public education/prevention (87%).

Not all victim service agencies can offer the specific services that their clients require; therefore, it is not uncommon to see networks form between agencies. According to the survey, 688 of the 697 reporting agencies had established some type of working relationship with other agencies. The most common partnerships were with the police (98%), other victim assistance agencies (98%), transition homes or shelters (90%), social services (89%), and other government agencies (85%).

Some of the most commonly reported factors that have promoted the use of inter-agency partnerships include: maximizing effective referrals (95%); improving the range and accessibility of services to victims (95%); coordinating services (93%); and sharing resources (90%).

Many agencies offer specialized programs

Canada's population is characterized by its diversity. Being able to take this diversity into account may lead to the development and implementation of specialized programs or services that respond to victims in a way that reflects their diversity, whether they are differentiated by their age, sex, culture, language, sexuality, or physical or mental disabilities.

One way of meeting the needs of victims that has been identified is to target specialized populations (Stohr 2005). Almost half (45%) of agencies that responded to the survey reported targeting specialized populations.[5] Among those agencies, 70% targeted families of sexually abused children, 67% targeted adult victims of sexual assault, and 65% targeted child or youth victims of sexual abuse or sexual exploitation.

The VSS also asked agencies if they provided specific programs that were dedicated to certain segments of the population. Forty-three percent of agencies reported having such programs.

The most common groups to receive services through a dedicated program were children or youth (30% of agencies), followed by Aboriginal people (28%), and adult victims (27%).

Dedicated programs for other specialized groups such as visible minorities, homosexual or bisexual victims, seniors, and victims with disabilities were also available from a number of agencies. According to the VSS, 22% of victim service agencies had programs for ethnocultural or visible minority groups. Agencies most often delivered dedicated services to Black (African, Jamaican, Haitian) and Latin American visible minority groups (20% and 18% respectively).

In addition, results from the VSS show that 25% of agencies reported having programs for lesbian or bisexual women and 18% reported having programs for gay or bisexual men. Twenty-two percent of agencies offered programs dedicated to senior victims (aged 65 years and older), 24% offered programs for those with physical disabilities, and 22% to victims with mental disabilities.

While certain agencies may not offer dedicated programs, they may have resources to help victims who speak languages other than English or French. Twenty-four percent of agencies[6] reported that they had staff or volunteers who were able to speak at

3 Figures do not add to 100% due to rounding. One agency was defined as an 'other' type of agency. The analysis is based on the number of agencies that responded to the survey.

4 Based on responses from 697 agencies.

5 Based on responses from 315 agencies.

6 Based on responses from 654 agencies.

least one Aboriginal language. The other most common languages spoken by staff or volunteers were Spanish (20%), German (19%), and Italian (10%).

Agencies made audio or visual resource materials available most commonly in Aboriginal languages[7] (21%), Chinese (21%), Punjabi (20%), and Hindi (17%).

Majority of agencies are able to help clients with physical or mental health issues

The majority of agencies surveyed (92%) indicated that they were able to accommodate clients with mobility impairments, with 89% reporting having at least one wheelchair-accessible building entrance.

Of the 461 agencies that were able to accommodate clients with hearing impairments, the most common methods used were sign language (66%), teletypewriter or telephone device for the hearing impaired (29%), and other services (11%).

Furthermore, 455 agencies reported being able to accommodate clients with visual impairments, either through large print material (34%), other services (19%), or Braille (8%).[8]

Eighty-one percent of agencies reported being able to provide assistance to clients with mental health issues. Of these 565 agencies, 92% relied on partnerships or assistance from other specialized or professional agencies, 68% used informal assistance such as a family member, friend or caregiver to meet the needs of victims with mental health issues, and 52% used trained staff members.[9]

Over 10,000 people providing direct services to victims of crime

For 2005/2006, 662 victim service agencies (95%) reported the equivalent of nearly 1,800 paid full-time staff having worked that year, representing an average of almost 3 staff members per agency.[10] Victim service agencies rely heavily on volunteers. Almost eight in ten victim service agencies used the services of nearly 9,000 volunteers between April 1, 2005, and March 31, 2006. These volunteers worked an average of 4 hours per week during this period, the equivalent of 912 full-time volunteers.

Being able to provide services to victims of crime often requires high levels of education and/or specialized training. About two-thirds (66%) of agencies reported that their minimum educational requirements for employees was a university or college degree, diploma or certificate. Requirements were less stringent for volunteers, with only 8% of agencies reporting that their minimum educational requirements for volunteers was a university degree or college diploma.

Due to the scope and nature of the work of victim service agencies, the decision to recruit an employee may be based not only on educational qualifications, but also on the completion of certified workshops, seminars, or professional skills training directly related to the delivery of victim services. Seven in ten agencies (71%) reported having requirements such as these for the recruitment/staffing of employees.

Nearly all agencies (93%) reported delivering some type of training to their employees. The most commonly administered types of training were related to professional skills (94%), orientation training for new employees (94%), and awareness training for new or existing policies or practices (93%).

Over two-thirds of agencies offered training to their volunteers (68%). The most frequently delivered training sessions for volunteers were related to orientation (95%), followed by awareness training (92%), and professional skills training (88%).

The cost of serving crime victims

The cost of providing formal services to victims of crime in Canada in 2005/2006, based on responses from 628 victim service agencies (excluding compensation programs), totaled $152.2 million.[11] Approximately $85 million of this was spent on salaries, volunteer incentives, and training. The remaining $67.2 million was allocated to overhead costs (rent, supplies, utilities,insurance), capital expenditures, direct client costs (food, supplies, transportation), travel, fundraising, promotional material, professional services, and other costs.

7 The types of Aboriginal languages listed in the VSS include: Ojibway, Cree, Inuktitut, and “Other Aboriginal languages.”

8 Based on responses from 435 agencies.

9 Less than 4% of agencies reported using methods other than the ones already mentioned.

10 Excludes 21 agencies that were run completely by volunteers.

11 This amount excludes costs incurred to administer criminal injuries compensation and other financial benefits programs and other costs not specifically related to the formal delivery of services provided to victims of crime.

Profile of Victims Served

Over 400,000 victims served in 2005/2006 12

There were over 400,000 victims of crime who sought assistance from the 589 victim service agencies that provided annual counts between April 1, 2005, and March 31, 2006. Among those agencies that were able to provide a breakdown of annual counts there were 161,000 female victims and 48,000 male victims. The sex was not reported for 190,000 victims.

Majority of victims served on snapshot day were victims of violent crime 13

The VSS also captured information on the characteristics of victims seeking formal services on a specific snapshot day. On April 19, 2006, 8,080 victims were served by 636 agencies.[14] Among these victims, 72% were victims of violent crime such as sexual and physical assaults. Research suggests that victims of violent crimes suffer more debilitating and psychological effects (Sims et al. 2006) and are thus more likely to turn to formal sources of support such as victim service agencies (Stohr 2005).

Another 24% of clients had experienced other types of incidents such as property crimes, other *Criminal Code* offences, or non-criminal incidents such as suicides, drownings or motor vehicle collisions. The type of crime or incident experienced was unknown for 4% of victims served on snapshot day.

Over two-thirds (68%) of victims who sought assistance on April 19, 2006, were female. This proportion is similar to what was found in 2002/2003. The high representation of females may be related to the fact that female victims in general are more likely to use formal support services than their male counterparts (AuCoin and Beauchamp 2007).

Over half of female victims of violent offences experienced spousal violence

Agencies reporting that their clients had been victims of sexual assaults and other violent offences were also asked to specify the relationship of the victim to the perpetrator. Among the more than 5,200 victims of these offences, 47% had experienced violence by a spouse, ex-spouse, or intimate partner; 26% had been victimized by a family member other than a spouse; and the remaining 27% of victims were victimized by a non-family member (e.g., friend, neighbour, acquaintance or a stranger).

There were differences between the sexes when considering the relationship of the victim to the perpetrator. Among female victims for which the relationship of the perpetrator was known, 53% were victims of spousal violence, 24% had been victimized by a family member other than a spouse, and the remaining 23% had a non-family relationship to the perpetrator. In contrast, 49% of males were victimized by a non-family member, 28% were victimized by a family member other than a spouse, and 23% had experienced violence at the hands of a spouse, ex-spouse or intimate partner.

Criminal Injuries Compensation Programs and Other Financial Benefit Programs 15

According to the VSS, during fiscal year 2005/2006, nine provinces had compensation programs for victims of crime, and responses were received for eight of the nine.[16] The aim of compensation programs is to alleviate the financial burden victims of crime and their families can incur as a result of the incident (Canadian Resource Centre for Victims of Crime 2007). Each program is established according to its respective provincial legislative authority and is administered either by the ministry responsible for victim services or a compensation board.

While there are variations across the provinces in terms of eligibility criteria, in general the programs are available to the victim of a criminal offence (usually violent crimes), family members or dependants of persons who lost their life, and persons who are injured or killed while trying to assist a police officer or while preventing or attempting to prevent a crime (Canadian Resource Centre for Victims of Crime

12 Of the 697 agencies, 85% were able to provide annual counts for 2005/2006, 9% reported that they had no counts available, and 7% did not indicate whether they could provide annual counts. Figures do not add to 100% due to rounding.

13 In order to capture more details on the profile of clients served by victim service agencies, the survey asked agencies about the age, sex, and type of victimization experienced by the victims they served.

14 Snapshot day data were unavailable for 61 agencies.

15 Aggregated figures for provincial criminal injuries compensation and financial benefit programs may be influenced by the activities of the largest provinces.

16 Of the ten provinces, only Newfoundland and Labrador did not have a compensation program during 2005/2006. A response was not received from British Columbia's compensation program.

2007; US Department of Justice 2005).

The eight criminal injuries compensation programs that responded to the VSS reported a total of 11,437 applications that were adjudicated or concluded during 2005/2006 and another 14,747 that were carried forward to the following fiscal year. Of the total adjudicated, 75% were allowed or granted and 18% were disallowed. The remaining 8% of applications had another status, such as decision pending, withdrawn, or abandoned by the applicant.

Seven reporting agencies indicated paying a total of $93.2 million in compensation for victims of crime in 2005/2006.[17] The largest proportion of this total was paid out for pain and suffering (44%), followed by lost wages (23%), and medical/rehabilitation/dental/eyewear costs (20%). The remaining 13% of compensation monies were allotted for other reasons such as child maintenance, counseling costs and funeral and burial costs.

Based on a subset of just over 6,600 applications that were accepted, 58% were for female victims, and 42% were for male victims.[18] Over three-quarters (76%) of applicants were over the age of 18.

When looking at all accepted applications, the majority of applicants (96%) were victims of crimes against the person. Among those victims, the most common types of crimes were assault (40%), sexual assault (20%), and assaults with a weapon or causing bodily harm (18%). Four percent of applicants were victims of other crimes such as arson, other property crimes and traffic offences.

References

AuCoin, K., and D. Beauchamp. 2007. Impacts and consequences of victimization, GSS 2004. *Juristat* 27(1). Ottawa: Statistics Canada. Catalogue no. 85-002-XIE.

Brzozowski, J. 2007. Victim services in Canada, 2005/2006. *Juristat* 27(7). Ottawa: Statistics Canada. Catalogue no. 85-002-XIE.

Canadian Resource Centre for Victims of Crime. 2007. *Crimes compensation*. Accessed August 20, 2007, from http://www.crcvc.ca/en/resources/crime_comp.php.

Prairie Research Associates Inc. 2004. *Multi-site survey of victims of crime and criminal justice professionals across Canada*. Ottawa: Department of Justice Canada.

Sims, B., B. Yost, and C. Abbott. 2006. The efficacy of victim services programs: Alleviating the psychological suffering of crime victims? *Criminal Justice Policy Review* 17(4): 387-406.

Sims, B. 1999. Victim services: A review of the literature. Report presented to the Pennsylvania Commission on Crime and Delinquency as part of a grant to provide evaluation services.

Stohr, M. K. 2005. Victim services programming: If it is efficacious, they will come. *Criminology and Public Policy* 2(2): 391-398.

Wemmers, J., and M. Canuto. 2002. *Victims' experiences with, expectations and perceptions of restorative justice: A critical review of the literature.* Ottawa: Department of Justice Canada.

For Further Reading

Brzozowski, J., A. Taylor-Butts, and S. Johnson. "Victimization and Offending Among the Aboriginal Population in Canada." *Juristat* 26(3). Ottawa: Statistics Canada, 2006. Catalogue no. 85-002-XIE.

Chartrand, L., and C. McKay. "Services for Aboriginal Victims." *A Review of Research on Criminal Victimization and First Nations, Métis and Inuit Peoples*: 1990 to 2001. Ottawa: Department of Justice Canada, 2006.

Criminal Injuries Compensation Board. *Am I Eligible*? http://www.cicb.gov.on.ca/en/faq1.htm (accessed August 10, 2007).

Eckstrom, S. *Advocacy Partnerships Benefit Crime Victims*. Washington Department of Corrections, 2002.

Friedman, L. "The Crime Victim Movement and Its First Decade." *Public Administration Review* 45 (1985): 790-794.

Gannon, M. "Crime Statistics in Canada, 2005." *Juristat* 26(4). Ottawa: Statistics Canada, 2006. Catalogue no. 85-002-XIE.

Gannon, M., and K. Mihorean. "Criminal Victimization in Canada, 2004." *Juristat* 25(7). Ottawa: Statistics Canada, 2005. Catalogue no. 85-002-XIE.

Hill, J. K. "Information Sheet: The Basics of Victim Reactions and Coping." *Working with Victims of Crime: A Manual Applying Research to Clinical Practice*. Ottawa: Department of Justice Canada, 2004.

Johnson, H. *Measuring Violence Against Women, Statistical Trends 2006*. Ottawa: Statistics Canada, 2006. Catalogue no. 85-570-XIE.

17 Only seven out of eight agencies provided financial information.

18 This section of analysis excludes applications from Manitoba and Alberta where breakdowns by sex, age, and crime was unavailable. For New Brunswick, details on applications by sex, age groupings and type of crime are based on all new applications received.

Lane, P., J. Bopp, and M. Bopp. *Aboriginal Domestic Violence in Canada*. Ottawa: Aboriginal Healing Foundation, 2003.

Levan, M. B. *Creating a Framework for the Wisdom of the Community: Review of Victim Services in Nunavut, Northwest and Yukon Territories*. Ottawa: Department of Justice Canada, 2003.

Lunn, Donna. *Rural and Farm Women.* http://www.womanabuseprevention.com (accessed February 5, 2007).

Miers, D. "The Responsibilities and Rights of Victims of Crime." *The Modern Law Review* 55, no. 4 (1992): 482-505.

Purdon, C. *Woman Abuse and Ontario Works in a Rural Community: Rural Women Speak about their Experiences with Ontario Works*. Centre for Research on Violence Against Women and Children, 2004. http://www.crvawc.ca (accessed February 5, 2007).

Sims, B., B. Yost, and C. Abbott. "Use and Non-Use of Victim Services Programs: Implications from a State-Wide Survey of Crime Victims." *Criminology and Public Policy* 4, no. 2 (2005): 361-384.

Solicitor General of Canada. *National Consultation with Victims of Crime: Highlights and Key Messages*. Ottawa: Solicitor General of Canada, 2001. Catalogue no. JS42-97/2001-1.

Taylor-Butts, A. "Canada's Shelters for Abused Women, 2005-2006." *Juristat* 27(4). Ottawa: Statistics Canada, 2007. Catalogue no. 85-002-XIE.

United States Department of Justice. *Directory of International Crime Victim Compensation Programs:* Canada. 2005. http://www.ojp.usdoj.gov/ovc/publications/infores/intdir2005/canada.html (accessed August 20, 2007).

Van Ness, D. *Crime and Its Victims*. Downers Grove, IL: InterVarsity Press, 1986.

Victims of Violence. *Criminal Injuries Compensation in Canada.* http://victimsofviolence.on.ca/research67.html (accessed August 10, 2007).

Young, A. N. "The Role of the Victim in the Criminal Process: A Literature Review – 1989-1999." *Victims of Crime Research Series*. Ottawa. Department of Justice Canada, 2001. ❖

Victim-Related Conferences In 2008

12th Annual Conference of the Society for Social Work and Research
"Research that Matters"
January 17–20
Washington, DC, USA
http://www.sswr.org/conferences.php

22nd Annual San Diego International Conference on Child and Family Maltreatment
January 28 – February 1
San Diego, California, USA
http://www.chadwickcenter.org/conference.htm

2008 Conference on Crimes Against Women
February 11–13
Dallas, Texas, USA
http://www.ccawonline.org/

Sixth Annual Symposium of the American Society of Victimology
American Society of Victimology
March 5–7
Fresno, California, USA
http://american-society-victimology.us/events/asv_2008/index.html

Standards for Victims of Terrorism Conference: Developing Standards for Assistance to Victims of Terrorism in the EU
International Victimology Institute
March 10–11
Tilburg University, the Netherlands
http://www.tilburguniversity.nl/intervict/conference/2008/

Men of Courage: The First Provincial Conference on Male Sexual Victimization
March 17–18
Toronto, Ontario, Canada
http://manifestations.themensproject.ca/2007/december/conference.html

International Conference on Sexual Assault, Domestic Violence, and Stalking
End Violence Against Women
March 31 – April 2
New Orleans, Louisiana, USA
http://www.evawintl.org

2008 National Conference of the National Center for Victims of Crime
"Responses, Rights, and Resources for Victims of Crime"
June 2–4
Portland, Oregon, USA
http://www.ncvc.org/ncvc/main.aspx?dbID=DB_2005Nationa

lConference571

23rd Annual Training Symposium
Police Victim Services of British Columbia
June 6–7
Richmond, British Columbia, Canada
http://www.policevictimservices.bc.ca/conference/index.php

15th World Congress of the International Society for Criminology
July 20–25
Barcelona, Spain
http://pagesperso-orange.fr/societe.internationale.de.criminologie/

20th Anniversary Crimes Against Children Conference
Dallas Children's Advocacy Centre
August 11–14
Dallas, Texas, USA
http://www.dcac.org/pages/cacc.aspx

4th International Conference on Special Needs Offenders
"Innovative Leadership through Best Practices"
September 14–17
Niagara Falls, Ontario, Canada
http://www.specialneedsoffenders.org/

"The Path to Justice": Access to Justice for Individuals with Fetal Alcohol Spectrum Disorder
September 17–19
Whitehorse, Yukon, Canada
For more information, contact Charlotte Fraser at chfraser@justice.gc.ca

The 34th Annual North American Victim Assistance Conference
"Advocacy: Turning Survivors into Thrivers"
National Organization for Victim Assistance
September 28 – October 2
Louisville, Kentucky, USA
http://www.trynova.org/conference/2008/

24th Annual Meeting for the International Society for Traumatic Stress Studies
"Terror and Its Aftermath"
International Society for Traumatic Stress Studies
November 13–15
Chicago, Illinois, USA
http://www.istss.org/meetings/index.cfm

Restorative Justice Week
November 16–23
Across Canada
http://www.csc-scc.gc.ca/text/rj/index-eng.shtml