VICTIMS OF CRIME

Research Digest

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Welcome!

The theme of this year's National Victims of Crime Awareness Week, April 26 to May 2, 2009, is "Supporting. Connecting. Evolving." The week provides an opportunity across the country to raise awareness of victim issues, including highlighting services and supports available, recognizing past achievements, and introducing new and emerging initiatives and research in the area of victims of crime.

The Policy Centre for Victim Issues and the Research and Statistics Division at the Department of Justice Canada are pleased to present the second annual issue of the *Victims of Crime Research Digest*. Our first issue received extremely positive feedback and underlined the need for ensuring that our research on victims of crime continues to be widely accessible.

We hope that this issue of the Digest will be met with as much enthusiasm as the 2008 edition, and as always, we welcome your feedback. This issue highlights one of the unique features of victims of crime research: the great breadth and multi-disciplinary nature of the field.

We begin Issue 2 with an article by Dr. James Hill who summarizes the recent psychological research on resiliency and coping skills in victims of crime. In the second article, we bring you an overview of how the restitution provisions in the *Criminal Code* are working through a review of the caselaw and research. Rina Egbo examines the memorialisation of victims of terrorism in the third article, followed by preliminary results from two studies, one in Edmonton and one in Toronto, on children's experiences testifying in court. Finally, Nathalie Quann discusses methodological challenges and solutions in a study of bail conditions. A list of conferences for 2009 is also included. 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.

Jocelyn Sigouin
A/Director

Policy Centre for Victim Issues
http://www.justice.gc.ca/eng/pi/pcvi-cpcv/

Susan McDonald
Principal Researcher

Research and Statistics Division
http://canada.justice.gc.ca/eng/index.html

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Feedback

We invite your comments and suggestions for future issues of *Victims of Crime Research Digest*. We may be contacted at: rsd.drs@justice.gc.ca ❖

Issue No. 2 - Spring 2009

Victimization, Resilience and Meaning-Making: Moving Forward in Strength

DR. JAMES K. HILL, REGISTERED PSYCHOLOGIST [1]

Victims of crime often face daunting challenges; their world has been turned upside down and they need to cope as best they can. Some victims are so traumatized they can have personal and mental health problems that further upset their daily existence. Many victims, however, seem to be able to weather the storm without seeking professional help or ever coming to the attention of victim services (Gannon and Mihorean 2005). These people seem to be able to successfully marshal their resources and rebuild their lives. Victim services workers often see victims when they are in great distress; thus there is a tendency to believe all victims are traumatized ("trauma-bias" [Nelson et al. 2002]). In fact, victims of crime are likely to show various levels of resiliency and a wide range of reactions, positive and negative coping, and abilities to move forward.

In the Department of Justice Canada manual entitled, *Working with Victims of Crime: A Manual Applying Research to Clinical Practice, Revised Edition* (Hill 2009), issues related to the psychological impact of victimization and how to work with victims of crime are discussed. This article focuses on the research about resiliency, positive coping,[2] and strengths that victims of crime may use to move forward and reconnect with their loved-ones, their community, and society at large. The first part of the article focuses on resiliency and victimization, while the second half examines strengths as they might apply to different stages of the victimization/recovery process.

What is resiliency?

Although we often hear the term resilience and practitioners talk about resiliency, there can be some confusion about what people are really talking about. We believe it is a positive characteristic but we can be fuzzy on the specifics. Resiliency is a term often used to describe a person's ability to maintain a balanced state in the face of challenges (Bonanno 2004). This does not mean an absence of problems but rather the ability to remain unaffected and stay healthy despite challenges. Sometimes when practitioners talk about resiliency, they are really talking about recovery, the ability to "bounce back" after being traumatized (Bonanno 2005). Resiliency can also be considered from more of a "quick recovery" perspective; the person is able to process and make sense of the blow to their world, but they quickly mobilize their resources and successfully handle that crisis.

The research shows that resilience is relatively common (Bonanno 2004; Bonanno et al. 2006; Westphal and Bonanno 2007). In victims of crime, we can see that most people do not go on to develop mental health problems (Ozer et al. 2003) or even access services (Gannon and Mihorean 2005). Those working with victims of crime are more likely to meet truly resilient victims as they are preparing to testify in court. These victims may still need some support, but support that is focused on the criminal justice process (informational support).

We can look at resiliency as a continuum, where each victim will have certain strengths and abilities that increase their resiliency. Given this, what are some of the key research findings around resiliency and how can workers encourage growth and resiliency in their clients? Bonanno (2005) indicates that many of the

1 Dr. Hill is in private practice in Victoria, British Columbia. For comments or questions, he can be contacted at james@positive-leader.com.

2 Positive coping is defined as coping that increases the chance that the person will successfully resolve any challenges caused by the crime.

activities we would identify as healthy living (personal resources, a good support network, pragmatism, etc.) promote resilience. The research literature also identifies several factors related to successfully facing challenges.

Hardiness/autonomy/self-confidence (Bonanno 2004; Bondy et al. 2007; Haskett et al. 2006; Williams 2007) refers to having the skills and abilities to create a life that you want. There is an element of being self-sufficient and able to self-direct your life and your choice. Bonanno (2004) argued that hardiness is made up of three related elements: (1) finding meaningful purpose in your life; (2) the belief that one can influence the environment and event (self-efficacy [Bandura 1997]); and (3) the belief that positive and negative life experiences are growth opportunities. In other words, those victims who feel their life has meaning, who feel that they are in control and who are able to see life events as learning opportunities may be more able to face challenges.

We can see some victims of crime positively coping by engaging in activities that help them regain (or gain) a sense of control over their lives. These empowerment activities might include victims of assault taking self-defence classes (Hagemann 1992) or laying charges and going to court (Greenberg and Ruback 1992). We might also see this taking back of control in victims who become activists and victim advocates (Hagemann 1992). They apply their experience at a social level, trying to change society so that it will create fewer victims or treat victims more fairly. This may also make the person feel that they are a part of creating that safe world (or at least a safer one). Becoming active in advocacy or peer support could also give a meaningful purpose to their lives (Bonanno 2004) and possibly increase their hope for the future (see section below).

Positive personal identity refers to having a positive view of oneself which can help a person remain centred in the face of challenges. It makes sense that people who have a positive view of themselves ("I'm a good person and people like me") will be resilient in the face of crisis. Even those who have an unrealistic positive view of themselves (a type of overconfidence called *self enhancement*) are also more successful at facing challenges than people who have a neutral or negative view of themselves (Bonanno 2004; Bonanno 2005). Associates may not like them and may view them as narcissistic; however, self-enhancers tend to deal with loss more effectively than the general population. In other words, a positive belief in yourself helps you cope.

People who are *adaptable* (Bonanno 2005) and able to adjust to life's challenges are likely to have improved ability to cope. This may be emotional or behavioural adaptability (Bonanno 2005) or finding the positive elements in negative events ("silver lining" [Tugade and Fredrickson 2007]). Another element with respect to adaptability might be the willingness to adjust course mid-stream and make minor corrections in coping behaviours. This would likely increase the chances of successfully facing problems. For example, a person may feel distress and decide to phone a friend to talk. If there is no answer, the person may need to adapt the plan and go for a walk, call another friend, meditate, call a help-line, or whatever. Those people who are not able to adapt their plan may stop at only one or two options and decrease the odds of successfully coping.

People who have a *positive outlook* in the form of hope for the future tend to be more resilient (Bondy et al. 2007). Similarly, resilient people tend to see the world as a safe place (Williams 2007). Workers can recognize that many victims struggle with both hope and feeling safe after being victimized. In fact, much effort goes into building hope and motivation when supporting victims of crime. Therefore, the victims who are able to have some hope or who feel safe are much more likely to withstand the crisis of crime victimization.

Some researchers talk about *repressive copers* as people who tend to avoid negative thoughts, emotions, and memories. Research shows that repressive copers tend to emotionally disengage from challenging situations in that they report that they do not feel stress even when physical measures indicate that they are stressed (Bonanno 2004). These are often the people who say that "it didn't really bother me." Popular opinion holds that these people are "shut-down" and need to get in touch with their feelings. Although this may be

true for some victims, others may be better left to this natural coping strategy. Even experienced clinicians can push too hard and cause distress that might have been avoided. A sensible practice is to examine other areas of the person's life; if everything is moving forward in much the same way as before the crime, then it may not be helpful to challenge their natural style. It is suggested, however, that it is important to provide information to all clients on what services are available in case they find they do need help in the future.

Those people who are able to *experience and manage complex emotions* (Coifman et al. 2007; Haskett et al. 2006) are better able to face challenging situations and not feel overwhelmed. In contrast to the repressive copers, these people are able to identify and experience emotions very well, without blocking. Workers may recall certain victims who are excellent at handling their emotions when dealing with the challenge of the victimization and with the justice system. It is interesting to note that research indicates that resiliency is linked to both repressive copers and those who process emotions well. This emphasizes the fact that a one-size-fits-all approach will not work for all victims; you must allow the person to lead you to his or her strengths and usual ways of coping. You can then help them fortify their normal strategies.

Experiencing positive emotions (Bonanno 2005; Tugade and Fredrickson 2007) help people through two avenues: (1) replacing negative emotions and (2) countering the effects of negative emotions (Bonanno 2004). In looking at the beneficial effects of positive emotions, Frederickson (1998) developed the "broaden and build" theory of positive emotions, which basically holds that negative emotions (e.g., anxiety, depression, fear) force people to focus their attention, while positive emotions allow people to be more open to new ideas and new ways of thinking. Therefore, positive emotions improve creativity and problem-solving (Fredrickson 1998). It is also possible, as Bonanno (2005) points out, that others may be more supportive to people who express positive emotions. In looking at victims of terrorism, Fredrickson et al. (2003) noted that positive emotions such as gratitude, interest, and love helped people cope after the 9/11 attack.

People who have *social support* (Bonanno 2005; Gewirtz and Edleson 2007; Haskett et al. 2006; Sun and Hui 2007; Williams 2007) and high quality relationships also show greater resiliency than those who have fewer social resources. There is much research and theory noting the benefits of social support to crime victims (Greenberg and Beach 2004; Greenberg and Ruback 1992; Leymann and Lindell 1992; Norris et al. 1997) and victims who receive positive social support show better adjustment (Nolen-Hoeksema and Davis 1999; Steel et al. 2004). Support may help victims release troubling feelings or get a "reality check" about thoughts, actions, and feelings (Greenberg and Ruback 1992; Leymann and Lindell 1992; Nolen-Hoeksema and Davis 1999; Norris et al. 1997). Further, it appears that even the belief that you have support can make the victim feel better (Green and Diaz 2007), especially if anger is an issue (Green and Pomeroy 2007).

Both natural supports (e.g., family, friends) and professional supports (e.g., police, lawyer, clergy, medical services, mental health services) can offer help to the victim. Although the decision regarding where to go for support lies with the victim, those who use natural supports are also more likely to seek professional help, especially if they felt positively supported (Norris et al. 1997). Supportive people may provide information, companionship, reality checks, emotional support, and money or a safe place to live (Everly et al. 2000). Support also seems to reduce the victim's anxiety (Green and Pomeroy 2007). Workers will want to pay attention to the victim's natural supports and may even want to educate natural supports about victimization.

Perhaps it is not surprising that people who are *socially competent* (Bondy et al. 2007; Gewirtz and Edleson 2007; Haskett et al. 2006) also tend to be more resilient. Social competency includes the person's skills in communication, empathy and caring, and the capacity to positively connect to others. This likely improves resiliency by helping the person successfully meet any needs and may increase the size and quality of the person's support network.

Finally, some researchers note that *cognitive skills* (Bondy et al. 2007; Gewirtz and Edleson 2007; Haskett

et al. 2006; Williams 2007) such as intelligence and effective problem solving/planning skills are also related to being successful in facing challenges. This makes sense in that the person will have more internal personal resources from which to draw when dealing with problems. They may also be better able to examine and choose between different options. It is my argument that much negative coping we see clinically is simply the person believing it is the best option they have to deal with the problem. People with greater cognitive skills should be able to generate more options (both positive and negative) and may be more likely to choose those options with fewer negative effects.

Furthermore, victims who have greater cognitive skills may be better able to receive benefits associated with social comparison. Victims may build understanding by comparing themselves to others who have suffered a similar crime. They may he inspired by victims who are doing well (Greenberg and Ruback 1992). They may also compare themselves to victims who are worse off and feel grateful they were not more harmed (Hagemann 1992; Greenberg and Ruback 1992; Thompson 2000). Such social comparison seems to help people gain perspective and may even relate to a focus on the positive aspects of being a survivor (Thompson 2000).

It is reassuring to know many of the elements that relate to resiliency are present in how we understand victims of crime. We now turn to the second half of the paper which focuses on strengths as they might apply to different stages of the victimization process.

Victimization Process and Meaning-Making

To understand positive coping, one must understand the victimization process. Casarez-Levison (1992) developed a simple model of how people move from being a member of the general population to being a victim to becoming a survivor. She indicated that people move from a precrime state (previctimization), to the crime event (victimization), to initial coping and adjustment (transition), and to moving forward (resolution) (Casarez-Levison 1992). The model is simplified even more here by focusing on the psychological strengths the person might apply before and during the crime and those strengths that might be more evident as the person deals with the crime and moves forward.

Strengths That May Apply Before or During the Crime

Previctimization, each person has strengths and skills that come to bear on how he or she will deal with any stressor, including crime victimization. There can be individual differences in some of the characteristics detailed above regarding resiliency. What level of social support does the person have? Are they nearby and accessible? Has the person successfully dealt with and learned from previous victimization? Since research shows that current victims of crime often have a history of previous victimization (Byrne et al. 1999; Messman and Long 1996; Nishith et al. 2000; Norris et al. 1997), it is likely that the person has learned coping strategies to deal with this stress. What are these skills? Are they effective?

During the crime or in the few hours following it, the psychological strengths of victims can manifest in problem-solving, attentiveness, help-seeking, etc. Oftentimes, the victims will seek out informational support to make a decision on what they should do (Greenberg and Ruback 1992). Further, we are likely to see victims activate their support systems during this period, possibly to receive support, or get information, or make decisions, or get money or shelter (Hill 2004). Early coping strategies may also be seen during this period.

Peterson and Seligman (2004) identified character strengths and virtues that are common across various cultures and settings. It can be helpful for people working with victims to review the list and identify the strengths they see in their clients. Their list includes six strengths that are made up of a total of 24 virtues; some may seem more immediately applicable to victims.

1. Wisdom and knowledge: creativity, curiosity, open mindedness, love of learning and perspective;
2. Courage: bravery, persistence, integrity, and vitality;
3. Humanity: love, kindness, and social intelligence;

4. Justice: citizenship, fairness, and leadership;
5. Temperance: forgiveness/mercy, humility/modesty, prudence, and self-control; and
6. Transcendence: appreciation of beauty, gratitude, hope, humour, and spirituality.

Certainly being faced with a crisis of crime victimization and successfully coping with the criminal justice system or facing the accused in court requires many of the strengths above. In fact, one might say that some victim services workers spend much of their time building and bolstering many of these strengths in the person. From a clinical perspective, it is easier to develop the strengths the person already has, rather than trying to add new ones during a stressful period.

After the Crime and Moving Forward

Once the initial reactions have passed, we may start to see meaning-making activities, which can be very important to moving forward from loss or trauma (Cadell et al. 2003; Davis et al. 1998; Layne et al. 2001). Meaning-making is important to general crime victims (Gorman 2001), rape victims (Thompson 2000), and in dealing with any type of trauma (Nolen-Hoeksema and Davis 1999). In fact, it is often included as a major element in treatment interventions (Foy et al. 2001).

Meaning-making may begin with making sense of their victimization. Some people will do this by seeking out information (Hagemann 1992). This might help them understand common reactions, treatment options, the justice system, their rights, and so forth (Greenberg and Ruback 1992; Prochaska et al. 1992). Others might prefer to cope emotionally, facing their emotions head on to help move beyond negative feelings. Recent research suggests that emotion=focused coping may help to reduce stress and improve the victim's self assessment, especially among some women (Green and Diaz 2007; Green and Pomeroy 2007). It is important for the victim to lead the worker on what type of coping is most effective.

Resolution is similar to previctimization in that the person is not focused on being a victim of crime; he or she is simply living life. Resolution does not mean returning to "the past," as though the crime did not occur. Rather, the person integrates the crime and their reactions, coping into their new identity. Posttraumatic growth (PTG) refers to when a person is affected by the trauma and learns new coping strategies or gains a new perspective by facing the problem. Victims may focus on how they have grown from the experience (Hagemann 1992; Thompson 2000). In fact, people will often see themselves as much weaker before the event, even if that is not true (McFarland and Alvaro 2000); this may be in an effort to see benefit in an obviously difficult situation (Davis et al. 1998).

PTG does not mean that dealing with trauma is a positive experience in these people's lives. Even those people who report high levels of PTG also indicate many problems and difficulties related to the trauma (Calhoun and Tedeschi 2006). In other words, most people would rather have avoided the trauma altogether but are able to recognize how they have grown. Calhoun and Tedeschi (2006) looked at PTG statistically and found that people tended to describe their growth in ways that fell under three overall categories:

1. Change in how the person sees herself
   - Personal strength: I can survive anything
   - New possibilities: I want to explore new interests/activities
2. Change in how she relates to others: connection and compassion
3. Change in life philosophy
   - Appreciation of life (enjoy the little things)
   - Spiritual change

Workers may better understand crime victims and provide guidance for how they might move forward by watching for, and supporting, growth themes. These avenues of growth and resolution should be fostered to help the person leave victimhood behind. Being a victim

of crime will always be part of what has happened to them, but hopefully it will not define who they are.

Conclusion: Moving Forward

People face the challenge of criminal victimization by applying any and all of their coping strategies, both positive and negative. These strategies can help them move forward or hold them back. It can be helpful for those who work with victims to be reminded that positive coping and resiliency are a major factor in a victim's ability to make meaning out of what happened and move forward. This core of strength can be identified and developed in even the most distressed victim of crime. By fostering that strength and facilitating the growth of positive coping, victims can more quickly make sense of what has happened to them. We know that resiliency is common. We know that many victims do not seek out victim services for help. It is hoped that this article has served as a reminder that the trauma and pain of crime victimization is something people can, and do, face with strength and dignity. People who have been victimized should be reminded of this as well. ❖

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Understanding Restitution

DR. SUSAN MCDONALD,
PRINCIPAL RESEARCHER,
RESEARCH AND STATISTICS DIVISION

If you were to ask a member of the public about restitution, chances are that you would be met with a blank stare or the question "what is restitution?" Those who work with, or are affected by, the criminal justice system are aware of this discretionary sentence that is made in addition to another sentence and is paid to the victim, by the offender, to cover quantifiable losses. Yet, there are many gaps in our overall understanding of how restitution is working, and in particular, how it is working for victims of crime.

This short article provides a description of the restitution provisions in the *Criminal Code* and what we know about restitution from social science research, caselaw, and statistics. There is very little empirical research on the issue in Canada, and as such, there are many questions that remain to be answered in order to fully understand how the provisions are implemented and what that means for both victims and offenders. This article will conclude by highlighting some of those questions.

What is Restitution?

As noted above, restitution is a sentence made after a finding of guilt. It is different from compensation, which is a payment made by the *state* to a victim to compensate for pecuniary and non-pecuniary losses such as pain and suffering.

Restitution orders may be "stand-alone" orders imposed as an additional sentence (s. 738 of the *Criminal Code*) or ordered as a condition of probation (s. 732.1(3.1)(a)) or as a condition of a conditional sentence (s. 742.3(2)(f)). The sentencing judge will only make a restitution order in appropriate cases, taking into account the sentencing principles and the facts of the individual case.

History of the *Criminal Code* Restitution provisions

As modern criminal law evolved in common law jurisdictions from the Middle Ages onward, crimes were redefined as acts against the state; addressing the losses of individual victims was no longer a primary goal, and "the victim was transformed from prosecutor to mere witness" (see Young 2001, 5-7; Young 2008, 2). Prior to 1857, in Ontario, the Attorney General was the Crown's chief prosecutor and frequently appeared in court in serious criminal cases. The vast majority of cases, however, were prosecuted by what was called a "private informant" – the victim or another interested party. The onus fell on the victim to investigate, take into custody, and prosecute (or pay a barrister to prosecute) the accused. The victim was also the sole recipient of any payment (Karmen 1995). Hillenbrand (1990) notes that "private prosecution" was intended to be a means by which restitution could be provided to the victims of property crimes.

In 1857, the Attorney General for Canada West, John A. MacDonald, introduced the *Upper Canada County Attorneys Act*, establishing a network of criminal prosecutors to appear on his behalf, which was on behalf of the Crown or Queen Victoria. The new law was proclaimed in force on January 1, 1858. Nineteen prosecutors were appointed by the Governor General to represent the Crown, as Canada was still a British Colony (Ministry of the Attorney General 2007).

In the United Kingdom, the right of a victim's family to compensation in any case of wrongful death was re-instated in legislation in 1846,[1] and in the United States, restitution re-emerged in the early 1900s when new sentencing laws allowed the courts to impose alternatives to incarceration (Frank 1992). In Canada, since its inception in 1892, the *Criminal Code* has permitted a sentencing court to order "compensation" for property lost as a result of the commission of an offence.

[1] [Lord Campbell's Act 1846 (U.K.) c. 93]

The Canadian provisions governing compensation were mostly unchanged until amendments in 1996 repealed the compensation order provisions, replacing them with restitution order provisions. The terminology was changed to reflect that "restitution" refers to payments the offender should make while "compensation" generally refers to payments from the state. While the original compensation provisions were only available for loss, destruction, or damage to property, restitution is also available for pecuniary damages including loss of income or support incurred as a result of bodily harm arising from the commission of an offence, or to cover expenses associated with moving out of the household shared with an offender in cases of bodily harm or its threat. The sentencing court may now order restitution on its own, whereas previously it could only be initiated by an aggrieved person.

In 1988, Bill C-89, which would have created a criminal enforcement scheme for restitution orders, was passed by Parliament but was never enacted due to concerns raised by the provinces after the Bill's passage regarding the prohibitive costs of creating and operating such a scheme. After much study on the costs and operational implications, it was determined that there would be support for the existing civil enforcement scheme but not for a criminal enforcement scheme due to the costs to the provinces associated with implementation. It was determined that the annual operating costs would far exceed the financial benefits realized by victims.

In 2004, s. 741 of the *Criminal Code* was amended to expand a victim's ability to receive a civil order for an unpaid restitution order to restitution orders made as a condition of probation or as part of a conditional sentence. Previously this option was only available for stand-alone orders. In 2005, s. 738(1)(b) was expanded so that readily ascertainable pecuniary damages, such as loss of income caused by the commission of an offence, became possible in the case of "psychological harm" resulting from the commission of an offence. Previously, this restitution order was only available in cases of "bodily harm" resulting from an offence.

Caselaw

The published caselaw provides a valuable, albeit limited, source of understanding about what the judiciary consider in their sentencing decisions. A QuickLaw search was conducted using the relevant *Criminal Code* provisions going back three decades. The search was limited to criminal cases.

There have been two Supreme Court of Canada cases on restitution in the past thirty years, several appellate court cases, and many cases where the provisions were considered in the lower courts. A review of these cases shows that many issues are covered. The Supreme Court decisions in *R.* v. *Zelensky* [2] and *R.* v. *Fitzgibbon* [3] established parameters that have been followed without challenge over the past three decades.

In *R.* v. *Zelensky*, the Supreme Court of Canada made it clear that restitution orders fall under the federal government's criminal law power *only* because they are part of the sentencing process and that restitution orders are only appropriate when the amount of the loss is easy to calculate and is not in great dispute. The Supreme Court reiterated in *R.* v. *Fitzgibbon* that while the offender's ability to pay the restitution order should be considered, it is not the determining factor in every case.[4] Criminal courts are not an appropriate forum for awarding damages for pain and suffering or for determining complicated issues regarding the assessment of damages. These matters must be settled in civil courts. Additionally, the offender's ability to pay, although not determinative, is a factor which is considered by the judge when determining whether a restitution order is appropriate.[5] When the court orders restitution as a term of probation, it must first ensure that the offender may reasonably make the payment during the term of probation as non-payment will result in a breach of the probation order. If the offender fails to pay the full amount of the restitution order, the victim must use civil enforcement methods to collect the money.

Another factor considered by judges when determining whether a restitution order is appropriate is the need for

2 [1978] 2 S.C.R. 940

3 [1990] 1 S.C.R. 1005

4 On readily ascertainable amount, see also *R.* v. *Siemens* (1999), 26 C.R. (5th) 502, 136 C.C.C. (3d) 353 (Man.C.A.).

5 See also *R.* v. *Yates*, [2002] B.C.J. No. 2415, 169 C.C.C. (3d) 506 (B.C.C.A.) at para. 26; *R.* v. *Siemens* (1999), 26 C.R. (5th) 502, 136 C.C.C. (3d) 353 (Man.C.A.).

the court to consider the impact on the chances for rehabilitation. In *R*. v. *Siemens,*[6] the court noted that the impact of a restitution order upon the chances of rehabilitation of the accused, either pro or con, is a factor to be considered. Ruining an accused financially would impair his chances of rehabilitation, for example. In *R*. v. *Bullen*,[7] the court determined that the timing and amount of restitution must not significantly undermine an offender's will or ability to pursue restitution, and those considerations act as an important constraint at sentencing.

In the case of *Bullen*, Chief Judge Stuart of the Yukon Territorial Court provided extensive comments on restitution, highlighting the challenges inherent in the application and implementation of the provisions.

> *To engage a victim as a witness to secure a conviction in the interest of the state and then leave the victim to their own means to pursue their injuries in another process, in another court, raises questions of fairness and practicality. In many respects, victims' interests have been unduly subrogated to state interests in the evolution of criminal courts from their beginnings in civil courts.* [8]

Chief Judge Stuart examines restitution from a victim's perspective and finds the criminal justice system lacking. Much of the research that is cited in the decision, however, is from other jurisdictions. To understand restitution in Canada and to make improvements to the process for victims, a Canadian body of empirical research would clearly be beneficial.

Social Science Research

Not only is there very little empirical research on restitution in Canada, there is likewise very little published work on the subject in academic journals. The academic articles that were found span decades and were predominantly from the United States. The writing in the last fifteen years has focused on evaluation research of restitution programs, in particular examining what factors lead to successful payment to the victims. This section will provide an overview of the articles that dealt with the application of restitution legislation.

Sims (2000) provides an overview of victim restitution programs, noting that they are part of the "restorative justice" paradigm wherein the critical component is the victim. The article examines both adult and youth restitution, looking at the history of victim restitution in the U.S., problems with restitution programs, and components of successful restitution programs. The author articulates four components of successful programs: (1) a consideration of offenders' ability and willingness to pay; (2) a formal program for the administering of restitution orders; (3) communication among all agencies involved in the ordering and collecting of restitution; and (4) an effective means of ensuring compliance with restitution orders, usually accomplished by strict attention to enforcement procedures and process.

Three examples of evaluation research were identified. First, Lurigio and Davis (1990) examine the use of a notification procedure (follow-up letter technique) to ensure compliance of restitution orders in Cook County, Illinois, in the U.S. According to the authors, victims' satisfaction with the restitution process can be undermined by the lack of follow-up done regarding offender compliance with restitution orders. The authors hypothesized that the procedure would have a greater effect on offenders with paying jobs and with fewer prior charges. The results of the study show that those with less criminal system experience and with jobs were more likely to respond to and complete restitution orders. Based on their findings, the authors concluded that judges should take into account the socio-economic factors related to offenders when making decisions regarding victim restitution.

Second, in a study undertaken in Pennsylvania, Ruback and Shaffer (2005) examined the extent to which victim-related factors influenced judges' decisions regarding restitution. To attain this information, the authors conducted a state-wide survey of judges regarding the victim-related, offender-related, and system-related factors that judges believed influenced restitution decisions. The survey was followed by a statistical analysis of restitution decisions from 55,119 cases. Based on the survey, the authors found that judges believed that the compensation of victims was the primary rationale for restitution. The authors attribute

6 *Supra, Siemens*, note 4.

7 (2001) 48 C.r. (5th) 110 (Yukon Terr. Ct.)

8 *Ibid*., at para. 8.

this finding to the changes in the Pennsylvania statutes which made restitution orders mandatory in certain cases. Of significance in the research is the finding that victims' services delivery mechanisms also influence judges' decisions regarding restitution. Specifically, the authors found that the location and accessibility of victim services offices, as well as their link to court systems was highly influential in restitution decisions. Issues related to victims' ability to get to offices outside of the courts and their accessibility to other resources necessary for the restitution process were shown to have the greatest implication for victim restitution orders. Among the authors' suggestions is that victims services may be most useful when directly linked to the court system.

And third, an evaluation was undertaken of a project in New Jersey whereby probationers were assigned to a program designed to increase payment of fine and restitution sanctions through a combination of intensive probation, community service, and threats of probation revocation and incarceration. The authors (Weisburd et al. 2008) found that these probationers were more likely to fulfill their obligations than those assigned to regular probation. The outcomes of one treatment group indicate the main cause of fine payment was the deterrent effect of possible incarceration.

As noted, the above three examples are evaluation research and were guided by the goal of determining whether a particular program or policy has been effective. In Canada, restitution has not been studied to any great extent, either within the context of a restorative justice program or as part of probation. The Multi-Site Study (Prairie Research Associates 2004) was a large, five-site Canadian study wherein all criminal justice stakeholders (judges, Crown, defence, parole, probations, police, victims, victim services, and victim advocacy groups) were interviewed on their awareness and perceptions of the *Criminal Code* provisions relating to victims. For example, to determine views on when restitution should be requested, judges [9] were asked when, in their view, restitution is appropriate. Surveyed judges responded that damages must be quantifiable (87%) and the offender must be able to pay (61%). They placed less emphasis on the victim's desire for restitution (32%).Table 1 illustrates the responses from victim services and advocacy groups when asked "What are the obstacles to the use of restitution?"

Table 1: Obstacles to the use of restitution, as reported by victim services and advocacy groups, 2004

Obstacles	Victim Services Groups[10] (n=94, 30% of total respondents)	Advocacy Groups (n=19, 40% of total respondents)
Accused usually poor or unable to pay	34%	32%
Victims lack information about restitution or unaware of option	31%	--
Victim must pay the cost of enforcement	16%	--
No enforcement	14%	21%
Cumbersome application process	10%	--
Judicial or Crown Attorney reluctance to order or request	9%	--
Eligibility criteria too restrictive	7%	11%
Does not compensate victim adequately	--	21%
Other	11%	26%

Source: Multi-Site Study (PRA 2004)

9 A total of 31 judges completed interviews, and 79 judges completed self-administered questionnaires.

10 The *n* for victim services and advocacy groups is comprised of those that said there were obstacles to the use of restitution.

A study in Nova Scotia (Martell Consulting Services 2002), which included interviews with all criminal justice professionals, found that, despite the 1996 amendments to the *Criminal Code* and despite the apparent support for restitution as a condition of sentencing, restitution could only be found on the periphery of the criminal justice system and that there was, overall, low awareness amongst victims about restitution. The Canadian study concluded that three main barriers exist with respect to accessibility of restitution orders for victims: (1) the lack of enforcement by the criminal justice system; (2) the costs for victims; and (3) the requirement for victims to gather information about the offender, which is needed to register a restitution order as a civil judgment.

At the time of writing this article, the Department of Justice Canada had begun a study on the use of restitution orders in Saskatchewan. Saskatchewan is unique in that there is a restitution coordinator whose role is to work with both offenders and victims to ensure compliance with a restitution order.

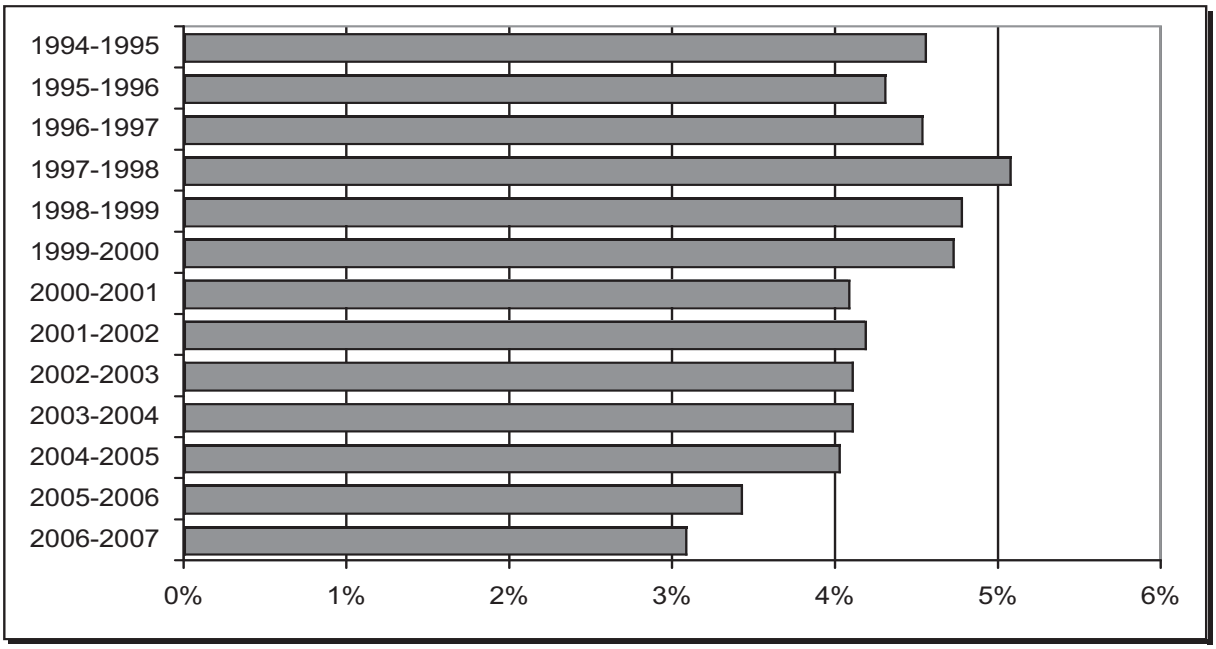
There are some Canadian data available on restitution orders, and it is to these data that we now turn.

Statistics

Statistics on restitution are available from the Adult Criminal Court Survey, which is administered by the Canadian Centre for Justice Statistics of Statistics Canada. These data are limited, however, to the number of orders each year by offence type and by jurisdiction. No data are collected on a national scale on the value of the orders or on the amount collected. Individual jurisdictions maintain some information on number of orders and payment details; however, the detail and quality of these data vary considerably across the country.

We know that in 1994-1995, a total of 11,017 restitution orders were made, which represented 4.6% of the total 242,011 guilty cases. In 2006-2007, a total of 7,490 orders were made, which represented 3.1% of the total 242,988 guilty cases. Chart 1 below shows that the number of the orders made as a percentage of total cases has fluctuated but has overall moved downwards over the past decade.

Chart 1: Percentage of Guilty Cases Receiving Restitution Orders, 1994 -1995 to 2006-2007



Source: Canadian Centre for Justice Statistics, 1994-2007

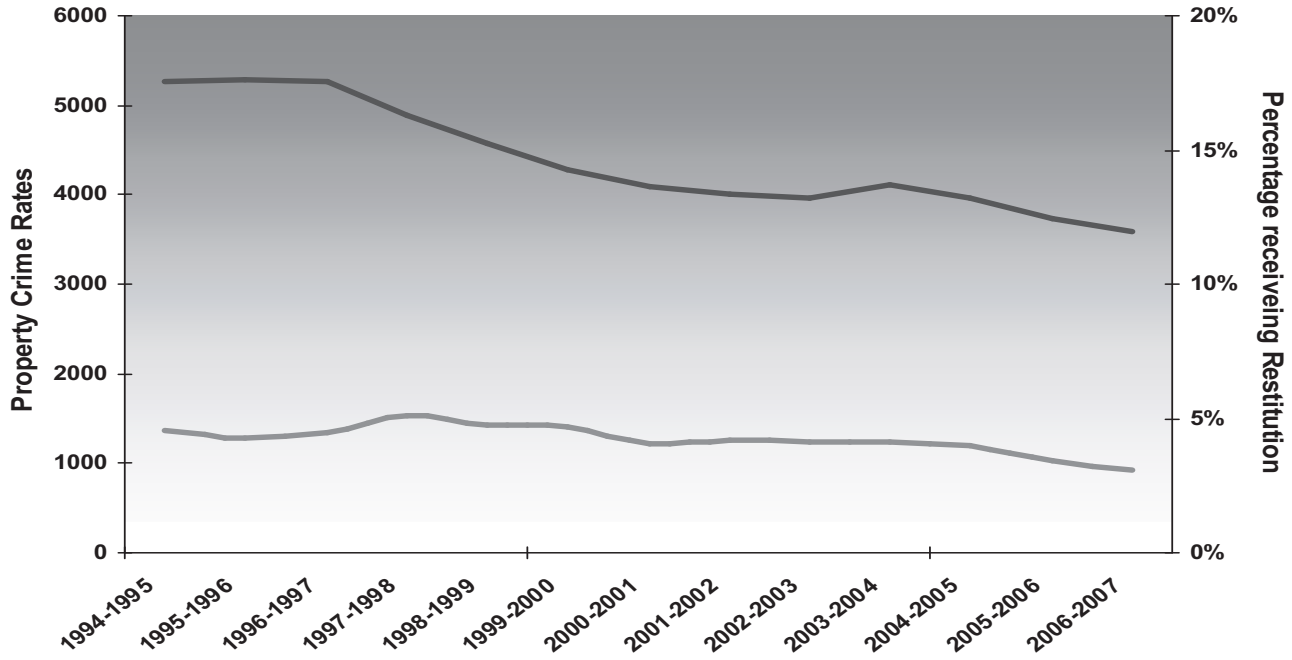
The majority of restitution orders are made for property crimes. In 2006-2007, 80% of all orders were made in cases of property crimes. The downward trend for restitution orders appears to be mirroring the overall downward trend in property crimes as shown in Chart 2 below. The rate of break-ins has been steadily declining since peaking in 1991, reaching its lowest level in over 40 years. For example, in 2007, police reported just over 230,000 break-ins, of which about 6 in 10 were residential. The rate of residential break-ins fell 9% in 2007, and break-ins at businesses dropped 8% from the previous year. The rate of motor vehicle theft has also been declining since its peak in 1996, including a 9% drop in 2007 from the previous year (Statistics Canada 2008).

Research Gaps and Questions

As each province is responsible for the administration of justice, the processing of restitution orders varies depending on the jurisdiction. As well, each jurisdiction tracks information using its own system. While basic information is provided to the Canadian Centre for Justice Statistics, there is a great deal of detail lacking on a nation-wide basis.

Restitution orders constitute another monetary penalty and, along with fines and the federal and provincial victim surcharge, create challenges in imposition and enforcement. Weisbard et al. (2008) looked at all monetary penalties when it examined the factors that were likely to impact full compliance. Unlike fines and

Chart 2: Restitution Orders and Property Crime Rates, 1994 -1995 to 2006-2007



Source: Canadian Centre for Justice Statistics, 1994-2007

surcharge, however, stand-alone restitution orders are made to the victim rather than the state, and as such, there are additional challenges for enforcement; and as noted by Chief Judge Stuart of the Yukon Territorial Court, "…leave the victim to their own means to pursue their injuries in another process, in another court, rais[ing] questions of fairness and practicality."[11]

The research that does exist in Canada (Prairie Research Associates 2004; Martell Consulting Services 2002) suggests that there are policies and programs that may assist victims with restitution. Raising awareness through targeted information and education, providing more assistance with making an application for restitution, and more assistance with collection are three key areas which could assist victims. If such programming efforts are implemented, they should be accompanied by rigorous evaluation. New practical insights about minimizing further harm for victims of crime from thoughtful evaluations of theoretically and empirically informed programs are most needed.

Key questions that remain to be answered include: What are the demographics of the victims and the offenders? What are the factors that are related to the payment of restitution orders? Where there is victim assistance in place, how does this work to help victims? It is hoped that further research and understanding of promising practices will ultimately assist victims in the area of restitution. ❖

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11 (2001) 48 C.r. (5th) (Yukon Terr. Ct.) at para. 8.

Facilitating Testimony for Child Victims and Witnesses

MELISSA NORTHCOTT, RESEARCH ASSISTANT, RESEARCH AND STATISTICS DIVISION

Background

We know that child and youth witnesses face a number of obstacles when asked to testify in court, including complex questions that are likely beyond the child's cognitive developmental stage (Sas 2002). These barriers increase the anxiety that children face and may cause further trauma. As a result, legislative amendments in Canada over the years have sought to minimize this anxiety and to alleviate some of the difficulty that children face when providing testimony.

On January 1, 2006, a number of amendments to the *Criminal Code* came into effect as a result of Bill C-2, *An Act to amend the Criminal Code (protection of children and other vulnerable persons) and the Canada Evidence Act*. This bill expanded upon already existing legislation that was passed in 1988 (Bill C-15, *An Act to amend the Criminal Code of Canada and the Canada Evidence Act)*, regarding the testimony given by children and vulnerable adults. Prior to these most recent amendments, testimonials aids, which make it easier for vulnerable witnesses to provide their testimony, were ordered on a discretionary basis. The 2006 amendments made the use of the aids mandatory upon application in any criminal proceeding for persons under 18 years of age unless they would interfere with the proper administration of justice. Testimonial aids include closed-circuit television (CCTV), witness screens, a support person who may be present during the delivering of testimony, and the appointment of a lawyer to conduct the cross-examination of a witnesses when the accused is self-represented. Other *Criminal Code* provisions which assist vulnerable witnesses allow the judge to exclude the public from the courtroom, impose a ban on publication of identifying information, and allow the use of video recorded evidence.

In addition, changes were made to Section 16.1 of the *Canada Evidence Act* to create a presumption that children under the age of 14 have the capacity to testify and to allow children's evidence to be given on a promise to tell the truth. Previously, child witnesses under the age of fourteen were subjected to a mandatory two-part inquiry into their competency and their understanding of an oath before being permitted to testify. The court may now only conduct an inquiry into a child witness's ability to testify when it has been established that there is an issue regarding the child's ability to understand and respond to questions.

In Canada, and indeed internationally, there is a body of literature that examines children as witnesses in the criminal justice system (see Bala et al. 2008; Burton et al. 2006 and 2007; Sas 2002; Verdun-Jones 2008). As well, the impact of Bill C-15 on the facilitation of children's testimony has been assessed (Bala et al. 2001). In 2001, Boost Child Abuse Prevention and Intervention (formerly the Toronto Child Abuse Centre) conducted a court observation study to determine the influences of Bill C-15 on the testimony of children in cases heard in Toronto's Old City Hall's "J-Court," a child friendly courtroom.[1] The study found that although testifying in court remained a difficult task for the children in the study, the children fared well with the aids provided by Bill C-15 (see Boost 2001).

In order to better understand how the 2006 amendments are working, research that replicates the 2001 Boost study was initiated in 2006 by the Department of Justice Canada. In the first issue of the

1 Child friendly courtrooms are modified courtrooms designed to support children who testify and alleviate the anxiety felt by children in court. Depending upon the resources available in the jurisdictions, these courtrooms often include witness screens, victim support staff, child friendly waiting rooms, stuffed toys and a back entrance to ensure the child does not have to see the accused.

Victims of Crime Research Digest, Pearl Rimer and Barb McIntyre describe the unanticipated benefits of the collaborative methodology used to collect data on children's experiences testifying in court (2008, 28-32). Data collection for the project in Toronto and a similar project in Edmonton has now been completed. This article will provide the preliminary results for both sites.

Methodology

Building on the methodology used for the 2001 Boost study, the original coding manual was adapted to reflect the changes brought about in 2006. For example, in 2006, witness screens and CCTV became available to any witness under the age of 18, regardless of the type of offence involved. Previously these testimonial aids were available to young witnesses in proceedings involving certain violent and sexual offences. The 2006 amendments also made support persons available to any witness under the age of 18, in any proceeding. Previously, support persons were available to witnesses under the age of 14 in proceedings involving certain violent and sexual offences. Toronto and Edmonton were chosen as the sites because both have extensive support programs for children who are testifying, Boost and the Zebra Centre respectively. For Toronto, it will also mean that data will be available from before the 2006 amendments and after.

Volunteers were recruited through several routes, including community and college programs, a flyer distributed to Pro Bono Law, postings on the Charity Village website, and Boost and Zebra agency and personal contacts. The volunteers were trained by program leaders at Boost and Zebra to observe and record information on children's experiences testifying in court (see Rimer and McIntyre 2008).

For the purposes of this study, preliminary hearings and trials were counted as separate units. This was because a child could have two different experiences testifying – at the preliminary hearing and at the trial. For example, preliminary hearings and trials could occur months apart; there may be different court personnel present at the two proceedings; and the child's capability to cope with the events may differ from day to day. Further, in order to account for instances where a case included a preliminary hearing and a trial, as well as cases with multiple witnesses, a distinct, case-based dataset was created to examine factors specific to each individual case. A distinct, testimony-based dataset was also created to examine factors specific to each child's experience testifying. The sample size will vary depending upon the variables being examined.

In Edmonton, a total of 66 observations of a child or youth under 18 testifying, which included both preliminary hearings and trials, were completed for a total of 57 unique cases before the court. The cases were observed between June 2006 and April 2008 in the child-friendly courtrooms. In Toronto, there were 96 observations, which included preliminary hearings and trials, during which a child or youth under 18 testified, for a total of 67 unique cases before the court.[2] Cases were heard in the seven Toronto court houses, three of which include child friendly courtrooms, between June 2006 and April 2008.

Edmonton Results

Accused and Child Characteristics

The age range of children who testified was between 5 to 18 years, with a median age of 12. The majority of the children were female (85%). All of the accused were male and 9% of the accused were youth (between 12 and 17 years).

As shown in Table 1, in cases of alleged crimes against the person,[3] 83% of the charges were against a biological family member of the child, while the remaining 17% were against a non-biological family member. In cases involving alleged sexual offences,[4] 31% of the charges were against a family member, while 27% of the charges were against a non-biological family member.

2 Please note that there were a total of 197 cases coded in Toronto; however, children testified in only 67 of these cases. For the purposes of this article, only the Toronto cases in which children testified are included.

3 For data collection purposes, "charges against the person" included 22 non-sexual offences, such as assault (Section 266) and failure to provide necessaries (Section 215).

4 For data collection purposes, "sexual offences" included 16 sexual offences such as sexual assault (Section 271) and sexual exploitation (Section 153).

Table 1: Accused's Relationship to Child in Cases of Crimes against the Person and Sexual Offences, Edmonton, 2006-2008

Accused's relationship to child	Crimes against the person		Sexual offences		Total	
	N	%	N	%	N	%
Family (biological)	5	83	18	31	23	35
Family (non-biological)	1	17	16	27	17	27
Professionals	0	0	0	0	0	0
Stranger	0	0	2	3	2	3
Other*	0	0	23	39	23	35
Total	**6**	**100**	**59**	**100**	**65**	**100**

N Missing = 1

Source: *Original data collected by Zebra Centre, 2006-2008*

* "Other" includes a babysitter, a friend of the family, a peer, and all cases selected as "other" by the coder.

Court Characteristics

Three quarters of all preliminary hearings and trials were heard in Provincial Court (75%), while the remaining cases were heard in the Court of the Queen's Bench. More than 90% of the trials were heard in a child-friendly court at the Provincial or Queen's Bench Court level. The remaining trials were heard in Youth, Family or another court.

Testimonial Aids

The most common testimonial aid involved the use of a support person escorting the child to the witness stand (91%) and remaining with the child at the stand (85% of cases). A support person was requested for 88% of the children and ordered by the judge 86% of the time. Other common testimonial aids included the use of a witness screen (85%), the ordering of a publication ban (78%), and the use of a voice amplifier (77%). The use of CCTV was implemented in 25% of the cases.

Characteristics of Child Witness Experience

The average amount of time children in Edmonton spent testifying was 127 minutes,[5] with the majority of children spending between 61 to 90 minutes testifying. With regard to specific examinations, children spent the most amount of time testifying during the examination-in-chief (73 minutes), followed by 49 minutes in the cross-examination.

There was no difference between the age groups with regard to likelihood of being re-examined, nor was there a difference in duration of the re-examination between the age groups. Of note is that inquiries of the child's ability to testify for children under the age of 14 were conducted in 48% of the cases, and the defence counsel raised issue with the child's ability to testify in only 7 of these cases (22%). As noted earlier, the 2006 changes to the *Canada Evidence Act* limit inquiries into a child witness's capacity to testify to those cases where an issue regarding the child's ability to understand and respond to questions is established. As such, the high number of inquiries which continue to occur warrants further investigation.

Child Conduct on the Stand

During the examination-in-chief, 88% of the children were observed to be calm and composed, 39% asked for an explanation of the questions asked by the judge, defence, and prosecution, and 21% were asked to speak louder. Children were observed crying in 15% of the cases, and 3% were subjected to language beyond their development.[6]

5 Note that the amount of time spent testifying ranged from 5 to 465 minutes, thereby increasing the average amount of time spent testifying for children in Edmonton.

6 In Edmonton and Toronto, volunteers were trained to understand the cognitive development of children in order to recognize instances in which the child may not fully understand the questions posed to them.

During the presentation of video evidence, 79% of the children were observed to be paying attention to the video, 76% appeared to be calm and composed, and 12% were observed crying.

Finally, during the cross-examination, 80% of the children were observed to be calm and composed and almost half asked for an explanation of a question. More than one quarter of the children were subjected to language beyond their development, 20% of the children were asked to speak louder, and 17% were observed crying.

Characteristics of Charges

In the cases involving children testifying, the most serious charges were sexual offences (n=50), followed by crimes against the person (n=6) and other offences[7] (n=1). The child was female in 84% of the cases where sexual offence charges were laid and in 50% of the cases where crimes against the person charges were laid. In instances of sexual offences, the count of charges laid against the accused ranged from 1 to 12, with the median number of charges laid at 2. In instances of charges against the person, the count of charges laid against the accused ranged from 1 to 9, with the median number of charges laid being 1.

As Table 2 indicates, 30% of the cases where the outcome was known resulted in a conviction and an additional 12% resulted in guilty pleas, while 24% of the cases resulted in an acquittal.[8] It is also of interest to note that 17% of the trials resulted in an absolute discharge.

Table 2: Case Outcomes, Edmonton, 2006-2008

Outcomes	Preliminary Hearing	%	Trial	%	Total	%
Conviction*	0	0	12	42	12	30
Guilty plea	4	33	1	3	5	12
Charges withdrawn	1	8	1	3	2	5
Acquittal	2	17	8	28	10	24
Stay of charges	5	42	0	0	5	12
Absolute discharge	0	0	7	24	7	17
Total	**12**	**100**	**29**	**100**	**41**	**100**

N Missing = 16

Source: *Original data collected by Zebra Centre, 2006-2008*

* A peace bond was entered at trial for one conviction.

Toronto Results

Accused and Child Characteristics

In Toronto, the age range of children who testified was 6-18 years, with a median age of 13. The majority of the children who testified were female (61%). Among the accused, 96% were male and 1% were youth (between 12 and 17 years).

As shown in Table 3, in cases of crimes against the person, 30% of the charges were against a biological family member and 7% were against a non-biological family member. In cases involving alleged sexual offences, 21% of the charges were against a biological family member, while 16% of the charges were against a non-biological family member.

7 For data collection purposes, "other offences" included 7 weapons and administration of justice offences such as carrying a concealed weapon (Section 90) and obstructing justice (Section 139).

8 There were 16 cases committed to trial in which the trial date was set after the data collection for this study was completed (e.g., November 2008). Therefore, outcomes were not available for these cases.

Table 3: Accused's Relationship to Child In Cases of Crimes Against the Person and Sexual Offences, Toronto, 2006-2008

Accused's relationship to child	Crimes against the person		Sexual offences		Total	
	N	%	N	%	N	%
Family (biological)	8	30	13	21	21	23
Family (non-biological)	2	7	10	16	12	13
Professionals	14	52	4	6	18	20
Stranger	3	11	6	10	9	10
Other*	0	0	31	48	31	34
Total	**27**	**100**	**64**	**100**	**91**	**100**

N Missing = 5
Source: *Original data collected by Boost Centre, 2006-2008*
* "Other" includes a babysitter, a friend of the family, a peer, and all cases selected as "other" by the coder.

Court Characteristics

Of the preliminary hearings and trials observed in the 67 cases involving children testifying, 87% were heard in Ontario Courts of Justice, 11% in Superior Courts, and 2% in Youth Courts. In Toronto, there are three child-friendly courtrooms: at the Etobicoke, Scarborough, and Old City Hall (J-Court) court houses; 30% of the trials were heard in these child-friendly courtrooms.

Testimonial Aids

The most common testimonial aid used involved the exclusion of witnesses (91%). Other common testimonial aids implemented included the ordering of a publication ban (70%), the use of a voice amplifier (65%), and the use of a witness screen (40%). The use of CCTV was implemented for 24% of the children. A support person was requested for 64% of the children and ordered by the judge 54% of the time.

Characteristics of Child Witness Experience

The average amount of time children in Toronto spent testifying was 146 minutes,[9] with the majority of children spending between 90 to 120 minutes testifying. With regard to specific examinations, children spent the most amount of time testifying during the cross-examination (83 minutes), followed by the examination-in-chief (40 minutes).

There was no difference between the age groups with regard to likelihood of being re-examined, nor was there a difference in duration of the re-examination between the age groups. Inquiries of the child's ability to testify for children under the age of 14 were conducted in 17% of the cases. The defence counsel raised issue with the child's ability to testify in only 1 of these cases (2%).

Child Conduct on the Stand

During the examination-in-chief, 75% of the children were observed to be calm and composed, 41% were asked to speak louder, and more than 29% asked for an explanation of the questions. Children were subjected to language beyond their development in 13% of the cases, and 9% were observed crying.

During the presentation of video evidence, 60% of the children were observed to be paying attention to the video and the same number appeared to be calm and composed. Children appeared to be restless in 38% of the cases, and 7% were observed crying.

Finally, during the cross-examination, 82% of the children were observed to be calm and composed, 55% asked for an explanation of the questions, and 44% were asked to speak louder. Children were subjected to language beyond their development in 28% of the cases, and 18% were observed crying.

9 Note that the amount of time spent testifying ranged from 10 to 599 minutes, thereby increasing the average amount of time spent testifying for children in Toronto.

Characteristics of Charges

In the cases involving children testifying, the most serious charges were sexual offences (n=48), followed by crimes against the person (n=18) and administration of justice offences[10] (n=1). The child was female in 83% of the cases where sexual offence charges were laid, while the child was male in 67% of the cases where crimes against the person charges were laid. In instances of sexual offences, the count of charges laid against the accused ranged from 1 to 30, with the median number of charges laid at 3. In instances of crimes against the person offences, the number of charges laid against the accused ranged from 1 to 18, with the median number of charges laid at 2.

As Table 4 indicates, 41% of the cases where the outcome is known resulted in a conviction and 9% resulted in guilty pleas, while 18% of cases resulted in an acquittal.[11] It is interesting to note that 18% of the trials resulted in an absolute discharge.

Table 4: Case outcomes when children testified

Outcomes	Preliminary Hearing	%	Trial	%	Total	%
Conviction	0	0	21	54	21	41
Guilty plea	4	33	1	3	5	9
Charges withdrawn	5	42	2	5	7	14
Acquittal	2	17	7	18	9	18
Dismissed/Absolute discharge	1	8	8	20	9	18
Total	**12**	**100**	**39**	**100**	**51**	**100**

N Missing = 16

Source: *Original data collected by Boost Centre, 2006-2008*

Conclusion

Given the number of missing values in some cases, the preceding analyses must be interpreted with some caution and the results cannot be generalized to all children and youth under 18 who testify in a Canadian criminal proceeding. Despite these limitations, these data offer some valuable insight into the experiences of child witnesses providing testimony.

Interestingly, the use of the 2006 provisions appears to be more widely used in Edmonton than in Toronto for certain aids, such as the use of screens and support persons. There were a number of factors that were beyond the control of the study, such as different programs, number of courts, personnel, access to testimonial aids, higher case loads and delays, different processing times. The differences may therefore be attributed to the larger number of courthouses in Toronto, not all of which are child-friendly, and to the greater number of different criminal justice professionals involved in the cases.

Children in both cities appeared to have similar experiences when on the witness stand, with the majority having been observed to be calm and composed during their testimonies. Nevertheless, there were many children who were observed to be restless and who were asked questions that were beyond their language acquisition, particularly by the defence. This is likely a consequence of the adversarial nature of the defence's role and of the fewer opportunities defence counsel may have had for training and awareness on working with child and youth victim/witnesses.

These findings suggest that although many children and youth are coping well with the experience of testifying, there were some children and youth who displayed behaviour indicating some unease (e.g., crying). This is understandable given the difficult nature of the testimony the child or youth is asked to provide. Further analyses will be conducted in order to determine how the amendments to the testimonial aids provisions are impacting the experiences of child and youth witnesses. ❖

10 For data collection purposes, "administration of justice offences" included offences such as obstructing justice (Section 139) and breach of prohibition order (Section 161).

11 There were 16 cases committed to trial in which the trial date was set after the data collection for this study was completed (e.g., November 2008). Therefore, outcomes were not available for these cases.

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Memorializing the Victims of Terrorism: An Overview of the Literature [1]

RINE EGBO, RESEARCH ASSISTANT, RESEARCH AND STATISTICS DIVISION

Introduction

Given the current global landscape, the needs of victims of terrorism are now, more than ever, receiving wider attention. Specific focus has been given to the justice-related needs of victims, as well as their psychological, emotional, economic, and health needs post victimization. Among these is the need to remember and pay tribute to the victims of terrorism. The goal of this research project was to better understand the various issues associated with memorializing the victims of terrorism. This article is based on a scan of Canadian and international academic literature on memorializing the victims of terrorism and presents the different ways in which victims may be memorialized as well as some key policy implications and considerations related to memorializing the victims of terrorism.

Several key questions guided the literature review, including the following:

- What kinds of physical memorials for acts of terrorism exist in Canada?
- What are the major types of memorials for recent acts of terrorism in other Western nations?
- What policy issues have governments considered when seeking to establish memorials for victims of terrorism?

This article focuses on the definitions and context of terrorism, understanding memorials, the different types of memorials, and the issues raised.

1 This article is derived from an earlier report on the memorial-related needs of victims of terrorism and terrorist-type events.

A Note on Method

This article is the result of a literature review that was compiled during the summer of 2008. The research was undertaken through the standard practices associated with composing a literature review. Research articles were drawn primarily from academic journals acquired through online academic databases and internet searches going back twenty years. Given the limited Canadian scholarship documenting the ways victims of terrorism have been memorialized, media sources were also utilized to obtain information. Overall, more than fifty academic sources were consulted for this project. A significant proportion of this literature was drawn from social science journals, the majority of which were based on cultural studies and anthropological research. Other journal areas included social science research on victim issues, as well as some legal scholarship regarding terrorism.

Definitions and the Canadian Context

A vital step toward establishing the ways in which Canadian victims of terrorism can be memorialized is to first identify the definition and context of terrorism in Canada. In general, the academic literature shows that there is no particular definition that stands as the "correct" definition of terrorism. Rather, research points to the fact that scholars generally agree that the term is somewhat indefinable, and when it is definable, it is also highly malleable (Staiger et al. 2008; Fletcher 2006; Weinberg et al. 2004). Although there are challenges establishing a sociological definition of terrorism, the legal field has witnessed some consistency in the way terrorism has been defined in law, both within and between Western democratic states. Canada, the United Kingdom, the United States, and the European Union all incorporate elements of fear, violence, and intimidation in their legislative definitions. In addition, each nation identifies politics, religion, and the need to influence governments as among the primary attributes of terrorist acts.

Like the definition of terrorism, significant attention has also been devoted to explaining the different kinds and types of terrorism. In general, research shows that there are basic forms of terrorism, including both international and domestic terrorism (Staiger et al. 2008; Gough 2007).

However, each basic form is also comprised of other sub-types that largely inform their basis. According to Grob-Fitzgibbon (2005), terrorism can be broken down into the following four broad forms:

1. national terrorism – terrorist activities involving national borders;
2. revolutionary terrorism – activities aimed at the philosophical and political nature of government;
3. reactionary terrorism – activities concerned with preventing societal and governmental changes; and
4. religious terrorism – where violence is used to further religious objectives.

Staiger et al. (2008) also include vigilante terrorism and single-issue terrorism among the important forms of terrorism.

Given the social, political, and cultural environment in which terrorism is often based, efforts have also been made to contextualize the experiences of terrorism in different countries. In Canada, this research has been scarce; however, two notable studies in this area are those conducted by Ross and Gurr (1989) and by Leman-Langlois and Brodeur (2005). In their 1989 comparative analysis of political terrorism in Canada and the United States, Ross and Gurr established that there were roughly 500 politically motivated terrorist events that occurred in Canada between 1960 and 1985 (85 percent of which were of domestic origin). Concerned with identifying the reasons behind the decrease in terrorism in Canada, the authors cite pre-emption, deterrence, backlash, and burnout as the primary reasons behind the drop in domestic political terrorism in Canada. The second study presents a contemporary analysis of terrorism in Canada. Utilizing more than 400 terrorist situations that occurred in Canada between 1973 and 2003, the authors developed different classifications of terrorism (Leman-Langlois and Brodeur 2005). The different classifications include acts of vandalism by particular rights-based groups, acts of arson such as those committed by the members of the Doukhobor "Sons of Freedom," and acts of intimidation such as the 1986 Canadian incident in which a bomb was placed in a Canadian Immigration Centre.

Based on the authors' classifications, terrorism in Canada has been governed by the following four underlying rationales:

1. demand=based terror – activities geared towards a perceived problem;
2. private justice terror – activities with the intent of attaining retribution;
3. revolutionary terror – terror aimed at changes at the state level; and
4. restoration terror – activities aimed at re-establishing a historical condition.

Regarding the current face of terrorism in Canada, the authors stipulate that the Canadian context of terrorism is now, more than ever, marked by transnational terrorism, ambiguous ownership of terrorist activities, and the link between religiously and politically motivated terrorist activities. It should be noted however, that although this classification attempts to explain the Canadian experience of terrorism, it cannot be construed as exhaustive. As Staiger et al. (2008) note, the presence of multiple forms of terrorism makes it inherently difficult to lay claims regarding the identification of *all* types of terrorism within a given context. Nonetheless, there are certain violent events that have been recognized and cited as Canadian terrorist events because they occurred in Canada or because Canadian citizens were victimized as a result of the events.

One event that has received attention from the media, the federal government, and the general Canadian public is the 1985 bombing of Air India Flight 182. Described as one of the worst cases of Canadian terrorism, the bombing took the lives of 389 people, 280 of which were Canadian citizens. Other examples of terrorism involving Canadian victims include the Bali nightclub bombings, the World Trade Center attacks of September 11th, and the criminal acts of the Front de libération du Québec (FLQ). These events and others are part of the general impetus behind the need to memorialize the victims of terrorism.

According to Hill (2004, 83), victimization through terrorism may be experienced at direct, secondary, and community levels; all of which may vary in terms of the extent and kind of victimization. Although there are many issues associated with victimization following terrorist events, trauma has been identified as among the most critical issues victims may face (Miller 2003; Updegraff et al. 2008). Issues particular to victims of terrorism under the broad spectrum of trauma include post-traumatic stress disorder, grief, and survivors' guilt (Hill 2004). In addition to issues related to trauma, Shichor (2007) distinguishes the public response to victims of terrorism as an important area in victimological studies of victimization through terrorism. According to the author, victims of terrorism are more likely than other victims of crime to receive sympathy from the public. In addition, Shichor (2007, 277) stipulates that victims of terrorism are also less likely to be stigmatized and labelled "weak" as a result of their victimization and are thereby free of the negative psychological effects associated with such a label. Overall, there are many issues to consider when addressing the victims of terrorism. Memorializing these victims may be one way to address the issues related to their victimization; however, this tactic may benefit from some consideration of the ways memorialization can be used to assist in the healing process, but also of the ways in which it may contribute to further traumatization and revictimization of victims.

Understanding Memorials

Today, memorials occupy a permanent position in the landscape of many nations. By definition, memorials have been described as spaces "invested with meaning" that are set aside to remember (Doka 2003, 186). In devising a definition of the term "memorial," researchers have been noting that care must be taken to avoid the incorrect use of the term "memorial" in place of the term "monument" (Gough 2002). According to Gough (2002), what differentiates the two terms is the intent of preserving and remembering that is accompanied with memorializing, while monuments usually project celebratory sentiments. As a process, memorializing is marked by activities and actions done to mourn and remember people, places, and things of importance in society. As Foot et al. (2006, 72) note, these practices provide the opportunity for people to "celebrate the lives

of those who died, to mourn their passing, and to inscribe memories of the deceased in the public consciousness."

As a relatively recent endeavour, there is little doubt that memorializing the victims of terrorism is a complex process. The scarce research that does exist in the area depicts the process of memorialization as highly contentious. First, research highlights that a contributing factor to the complexity of the memorialization process is the presence of numerous stakeholders (Britton 2007; Couch et al. 2008). Some of the stakeholders involved in one way or another in the memorialization process are victims, victims' families, victims' associations, the public, religious organizations, and community groups/associations. In addition, city officials, politicians, and various governmental units at the national, regional, and local levels also serve as critical stakeholders involved in the memorialization process. Amid the extensive presence of numerous stakeholders in the memorialization process, the literature overwhelmingly stresses the critical role victims and victims' families *can* and *should* play regarding the development of memorials honouring the lives lost to acts of terrorism (Britton 2007; Berman and Brown 2002; Hoffman and Kasupski 2007).

Research shows, however, that victims and victims' families are often faced with competing influences from other groups involved in the memorialization process (Britton 2007). In her analysis of commemorative activities in the United States, Britton highlights the various roles stakeholders may play in the commemorative process. According to Britton (2007), stakeholders have various levels of influence and control over the memorialization process. Of note are the "gatekeepers" whom the author asserts are the public agents and government officials focused on regulating the "production and reception" of memorials (Britton 2007). Deconstructing the ways narratives feature in the memorial process may provide an opportunity to identify how and for what purposes control is exercised and may also signify the role, or lack thereof, victims and victims' families play in the memorialization process.

Citing Schwartz (1998) and Langer (1998), Damphouse et al. (2003) identify narratives as stories that are used to (in)directly influence the collective support needed to successfully establish memorials for tragic events. More precisely, the authors express support for the argument that such narratives normally convey major or minor messages regarding the event in question. Major narratives include progressive and redemptive themes, while minor narratives are those represented primarily through dogmatic, toxic (narratives focused on the pain associated with remembering) and patriotic themes (Damphouse et al. 2003). Other research has focused on the ways in which politics feature in the production and presentation of narratives. In addition, some scholars contend that memorials related to terrorism and other hostile activities are often reflective of nation- and state-based narratives regarding war and security (Shay 2005; Doss 2008).

Another issue associated with memorial narratives is the multiple meanings regarding terrorism that emerge in their production. For example, research shows that meanings about "victim" and "victimhood" sometimes become critical areas where memorialization is concerned. In their research on the commemoration of the Northern Ireland Troubles,[2] Graham and Whelan (2007) argue that contested meanings of victimhood can often emerge as people struggle to differentiate amongst the various kinds of victims (i.e., victims of state violence versus victims of terrorist actions). The authors stipulate that as a result of this, a "hierarchy of victimhood" becomes prevalent in the memorialization process, thereby perpetuating the fragmentation of consensus regarding the establishment of memorials, especially where diverse groups are involved (2007, 483). Hite (2007) presents a similar case regarding the memorialization of victims of terrorism in Peru. At issue was the fact that some individuals were calling for a national memorial that would also acknowledge the supposed and suspected perpetrators of terrorist events in Peru. For the opponents of this position, such forms of recognition at the memorial site undermined the experiences of the victims and their loved ones and, hence, should not have been suggested in the first

2 "The Troubles" refers to a period of violent conflict between various political organizations and groups in Northern Ireland from 1960 to 1996.

place. Overall, the studies discussed above illustrate the significance in deconstructing the ways narratives are featured within memorial processes, and they stress the need to address such issues in the planning process of prospective memorials.

Types of Memorials and Issues Raised

Research indicates that physical memorials are among the most common ways victims of terrorism and terrorist-type events have been memorialized (Shipley 1987; Gough 2007). Research also indicates that there are many issues to address when physical memorials are being considered as a viable option for memorializing victims. One issue is the role geography and location play in the memorialization process. For example, Rankin (2003) notes that sites are highly influenced by social processes. Under such processes, locations and places become susceptible to imposed meanings and in turn generate social meaning, and as such, prospective locations of physical memorials require significant consideration. Given their public nature, they are prime sites through which particular narratives and messages may be expressed (Gough 2007; Nevins 2005). Technical and logistical issues can also pose challenges to the memorialization process. Design, location, costs, and maintenance of physical memorials are also vital to the successful establishment of memorials for victims of terrorism (Rigney 2008; Gough 2004).

Another way that victims may be memorialized is through government responses and statements regarding particular events. “Memorializing” is constituted by the intent to remember and preserve the memory of victims of traumatic and tragic events (Foot et al. 2006); as such, government statements and responses that speak directly to these sentiments may be seen as a forum through which remembrance can be encouraged. More importantly, they provide opportunities for the open and national recognition of experiences of victims of terrorism—a need expressed by the family members of the victims of Air India Flight 182 (Minister of Public Works and Government Services 2008). Commissions and inquiries regarding terrorist events can also be included under this form of memorialization. In addition to fostering the public recognition of particular terrorist events, commissions and inquiries also demonstrate to victims, their families, and the general public a government’s commitment towards addressing the various needs of victims of terrorism.

Akin to government statements, the establishment of remembrance days honouring the memory of victims of terrorism affirms the public and state-based recognition of the experiences of victims. In addition, days of remembrance encourage the repeated rituals of recognition, lending salience to particular interpretations of events which then influence and shape societal thinking about similar events or issues. A notable example of such a day is the Canadian national Remembrance Day, November 11th, on which the lives and service of Canadian troops are called to memory. There are many current examples of days that have been established by governments as days to reflect on terrorist events and honour the lives lost or affected through those events. On the twentieth anniversary of the Air India bombing, Prime Minister Stephen Harper announced that June 23rd would be the official day to remember the victims of terrorism (Public Safety Canada 2005). In the European Union, March 11th is the day to remember the victims of terrorism. As for official days of remembrance in the United States, there are no “official,” national days memorializing their major terrorist events (i.e., the World Trade Center attack of September 11th, 2001, and the Oklahoma City bombing of April 19th, 1995); however, the anniversaries of these events are marked throughout the country to greater and lesser degrees. Although days of remembrance can contribute significantly towards promoting healing for victims of terrorism, research shows that their overall success lies, at least in part, with the extent to which victims are remembered in a capacity that reflects the severity of the event in question (Stone 2000). In other words, the quality of the activities and events used to mark particular days of remembrance is just as significant as the existence of the day.

Along with the quality of activities, research also indicates that groups and organizations play a significant role in the memorialization process (Couch et al. 2008). In particular, they have a real impact in the selection of memorial sites, funding for the development and maintenance of memorials, and most importantly,

advocating for and expressing the various memorial-related needs of victims and others affected by terrorist events (Shipley 1987; Couch et al. 2008). In Canada, there are several examples of victims' groups, organizations, and/or associations that have incorporated memorializing victims of terrorism as part of their mandates. One prominent example is the Air India Victims Families Association. The association has been credited as one of the main forces behind the Air India inquiry through which families were provided with opportunities to share and present stories and memories of their deceased loved ones. Another example is the Canadian Coalition Against Terror. Although the group's primary objective is to enhance Canadian counterterrorism policies, several key members of the group have been very vocal in the push for the establishment of a national memorial honouring the Canadian victims of the September 11th terrorist attacks (Edwards 2008).

Based on the examples above, it is evident that groups and organizations can be useful resources to individuals seeking to memorialize the victims of terrorism. Research also highlights that groups and organizations can pose a challenge to the memorialization process, especially in the instances where multiple groups and organizations are working towards the same end, but are guided by opposing or differing objectives (Couch et al. 2008). As an unfortunate side effect, the voices of victims may become displaced and obscured in the memorialization process (Graham and Whelan 2007).

Finally, victims of terrorism can also be memorialized through spontaneous memorials. Examples of spontaneous memorials include impromptu shrines, roadside memorials, and memorial walls (Thomas 2006). Research shows that in addition to providing the public with opportunities to memorialize the victims of terrorism, the unregulated nature of spontaneous memorial sites also provides a space through which citizens can critique their governments, especially in regards to the events being memorialized (Santino 2006; Yocom 2006; Margry and Sanchez-Carretero 2007). Interestingly, it has also been argued that governments' reactions towards social commentary presented at spontaneous memorial sites may also serve as affirmations of governmental power and control over the public domain (Thomas 2006). There are also other issues that may emerge during and after the spontaneous memorialization process. Some of these issues involve logistical challenges such as the moment at which to remove spontaneous memorials sites, public safety, and the public response(s) towards unauthorized memorial schemes on public sites.

These issues should be considered in context of the benefits associated with utilizing spontaneous memorials. According to Senie (2006), as a form of democratic action, spontaneous memorials carry important personal responses and public commentary that should be considered in the memorialization process. Given the fact that national memorials are designed to honour victims while promoting healing within society, spontaneous memorials can offer the opportunity to identify some of the sentiments citizens may like to see being reflected in national memorials.

Conclusion and Considerations

Overall, there are many issues to consider when examining the ways in which to memorialize victims of terrorism. To begin, in order to effectively gauge the policy considerations associated with memorializing Canadian victims of terrorism, further Canadian research is needed on the current ways victims of terrorism have been memorialized. Beyond this task, several implications can be drawn from the Canadian and international research that already exists. First, it is important to consider the implicit and explicit messages linked to particular memorial schemes. Since the presence of narratives will be a constant feature of memorial schemes, it is critical that the messages within these narratives are identified so as to prevent the revictimization of victims, their loved ones, and the general public. Second, logistical issues such as the location, costs, maintenance, and management of memorials are critical components of the memorialization process. As such, any effective memorial scheme must also consider both the short-term and long-term logistical needs. Finally, the research overwhelmingly stresses the need to address the presence of multiple voices in the memorialization process. Although victims may take precedence here, it is also important that the roles of various stakeholders

be considered not only in terms of the ways they may impede the memorial process, but also the ways in which they can effectively contribute towards the goal of *truly* memorializing the victims of terrorism. ❖

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Bail and Breach of Conditions in Spousal Abuse Cases: Overview of Methods Used and Methodological Issues

NATHALIE QUANN, SENIOR RESEARCH OFFICER

In June 2007, the Research and Statistics Division (RSD) initiated a research project on bail in Canada with the objective of examining concretely how the bail system deals with individuals charged with spousal abuse and whether there are differences between the treatment of spousal abuse offences and "non spousal" violent offences.

The results of this study will contribute to the discussion of a proposal to reform the bail system, in particular, to strengthen the reverse onus provision in subsection 515(6) of the *Criminal Code*, which was put forward by Manitoba's Minister of Justice in the fall of 2003. As a result of this proposal, a special sub committee on bail reform was struck within the Co-ordinating Committee of Senior Officials (CSSO) (Criminal Justice) FPT Working Group on Criminal Procedure. The sub-committee launched a comprehensive review of the system, which had not been done since the *Bail Reform Act*[1] came into force in 1972. This sub committee examined a number of aspects of bail (release by the police, judicial decision to release, breach of a condition of bail, sureties, amendment and revision mechanisms, bail pending appeal and extraterritorial issues) and submitted a list of 25 recommendations to the CCSO in April 2006.[2] One recommendation proposed examining the procedural implications of implementing the reverse onus. This research project took shape as a result of this recommendation.

This article highlights the methodological approach used as well as the various issues and challenges encountered to date. Given that data are still being collected, it is not possible to present the results of this research, even preliminary results, at this stage.

Methodology

Given the gaps in national data on how police services and the courts deal with spousal abuse cases, the methodological approach chosen was a multi-site study in order to have access to the maximum amount of information on the files of individuals charged with spousal abuse and on release and conditions of release. It is understood that this will not be a national study, but the wealth of data will lead to a better understanding of the problem.

With respect to definitions, spousal abuse was defined as

"acts of physical violence between married, separated, divorced or common-law spouses or individuals in an intimate relationship ("girlfriend"/"boyfriend")";

and non-spousal violence as

"acts of physical violence between members of the same family, acquaintances or strangers".

Physical violence was chosen since it is the type of violence most likely to be reported to police. A list of 27 offences in the *Criminal Code* comprising all the offences against the person set out in the *Criminal Code* as well as some offences linked to spousal abuse, i.e., sections 72 (forcible entry),

1 S.C. 1970-71-72, c.37

2 Report entitled "Bail Reform - Recommendations from the Coordinating Committee of Senior Officials" submitted in October 2006 to the Federal-Provincial-Territorial Ministers Responsible for Justice.

177 (trespassing at night), 348(1) (breaking and entering with intent, committing offence or breaking out) and 811 (breach of recognizance under section 810) were included in the definition of physical violence.

In an attempt to be representative of the Canadian population, a total of six sites were selected by the team in charge of the project to reflect the Canadian regional reality as much as possible. The Atlantic region (Fredericton), the provinces of Quebec, Ontario, Manitoba (Winnipeg), British Columbia (New Westminister), and the Yukon Territory were part of this study. Since some research agreements are not finalized, it is not possible to specify the city that was studied in certain provinces and territories.

A sample of 350 adults charged with spousal abuse between January 1 and December 31, 2004, was selected, and the data for each site will be compared to a sample of 350 adults charged with non-spousal violence in the same year. Case selection was based mainly on police data, which generally have an indicator showing the nature of the relationship between the accused and the victim or an indicator of "spousal abuse." With a specific list of the *Criminal Code* sections and the "spousal abuse" indicator, the criminal records sections of police services were able to quickly identify the adults charged with spousal abuse in 2004 and facilitate access to that data. This list was subsequently used to code the police reports as well as the court files, once a research partnership agreement with the appropriate authorities was signed. This agreement, signed by the Director of the Research and Statistics Division, thoroughly and precisely sets out all the terms and conditions of the project as well as the commitments made by division employees regarding ethics and privacy.

Finally, the year 2004 was chosen for this project to allow for enough time to have elapsed and the files to be closed, and to examine the issue of recidivism subsequent to the initial offence. However, the fact that the files were likely to be archived presented some challenges in terms of accessing the data.

A study of this size presents certain challenges and methodological issues, which will be addressed below.

Methodological Issues

Privacy

With the advent of the electronic age, ethical considerations related to privacy have become critically important in recent years. Federal and provincial legislative provisions as well as internal policies and procedures in this area required the researchers to specify the parameters of the use and destruction of the confidential data collected. It was, therefore, appropriate to develop an approach for the project that complied with local laws.

Accordingly, the RSD developed a research partnership agreement that identified the purpose of the project, the specific use of the data, the reasons why the confidential data was necessary, and all the measures that would be adopted to protect the privacy of the individuals included in the research. This agreement was prepared by the project analyst and signed by the Director of the RSD and the person in charge of the service where the data would be collected. This crucial step in the research project is sometimes long and demanding because both parties have to consult internally to ensure that clauses that are mandatory for their organization are included.

It was clear to both parties that the research project could not reasonably be accomplished unless the Department of Justice Canada had access to personal information that could be matched to the data from police, court, and Crown files. Thus, the research agreement specified that the confidential information must

1. only be used in aggregate form once record linkage is completed;
2. not harm the individuals who are the subject of this information; and
3. result in benefits that are in the public interest, since the results of this research will be used to address the issue of bail reform.

Agreements between the RSD and the individuals who would have access to the data were also required so

that the organizations providing access to the data would have an additional guarantee that both the RSD and its representatives would strictly respect privacy. Since RSD staff members as well as contractors were likely to encode or manipulate data at some point during the project, the research partnership agreement specified who would have access to the data, and a confidentiality agreement was signed between the RSD and the contractors hired to encode and enter data. These "third party" agreements ensure that all the individuals and organizations involved in the project recognize the importance of privacy.

Finally, it is important to note that how the confidential data was to be used was specified in the research partnership agreement, where it was agreed that the data would be collected for linking between the various sources or databases and that anonymity was required in the analysis. In addition, a plan for storing the data was provided (secure server for the electronic files and locked filing cabinet for the paper files), and the schedule for storing and destroying the confidential data was set out, i.e., all electronic files and record linking files must be destroyed within a year of the publication of the study. Lastly, the research project was presented to the RSD's Research Review Committee (RRC) for comments and discussion, and it was then submitted to the Director of the RSD for approval. Ethical issues were addressed at the presentation to the RRC, and the project analyst had to respond to the 37 items in the ethics review model, an RSD document that is part of all the division's research processes. The sections in this document consist of questions about relationships with the participants, voluntary and informed consent, confidentiality and anonymity, personal information, harm, methodology issues related to ethics, preservation and destruction of data, links with the Department, with our areas of research and with the public. The RSD believes that these steps are essential to any research project that its staff conducts, and that they are an integral part of the RSD's research process.

Provincial, Territorial, Municipal Priorities

It is rare that a province, territory, or municipality does not want to collaborate in RSD's research projects. On the contrary, given the limited research capacity in some jurisdictions, the possibility of collaborating on a project that could potentially respond to certain issues or needs is greeted with enthusiasm. There is a great deal of interest in the research, and we see a genuine desire to collaborate to facilitate access to data and to meet the RSD's deadlines. However, the continuing reality is that the priority given to the research project is not necessarily the same for the host organization and the RSD. Since the provincial, territorial, and municipal governments are responsible for the administration of the criminal justice system, the research project is certainly not the first priority when they have to manage youth programs, police forces, and court registries, to name only a few. The RSD and its partners need to understand this reality and set flexible schedules that allow better management of delays. It is evident to the researchers that it is difficult, if not impossible, to produce research results for a project involving so many stakeholders in multiple jurisdictions in less than a year. There are too many uncontrollable variables in the equation. Patience is key, and it will certainly result in a strong collaboration between jurisdictions because the realities of some are better understood and accepted by the others.

Data Collection Problems

Every good researcher must clearly define the subject of the study and all related additional elements. That way, the parameters are clear, and the issues related to the subject of the study should normally be resolved quickly. However, where data collection depends on people outside the organization conducting the research, issues related to the definitions will surface: for example, what was defined as "spousal abuse" in this study was not necessarily defined as such in the databases of some provincial jurisdictions.

Therefore, we had to look closely at the definitions of the host organizations in order to better understand them and to better adapt their definitions to those established for the research project. Each jurisdiction collects data based on its needs and priorities; therefore, tremendous flexibility is required in order to adjust the data needs of the project to the existing databases in the sites included in the study. This can cause further delays in collecting data.

On the other hand, since the host organization extracts the sample and the data, it is crucial to ensure that the host organization completely understands the needs of the study and the related definitions. This helps to avoid problems during data collection, which is the most expensive part of a research project.

Conclusion

In every research project, it is important to show patience and flexibility both in the planning phase and the data collection phase. The priority that the organization responsible for the project gives to it may be very different from the priority that the host organization gives to it, and it is important to recognize and respect this if collaboration throughout the project is to be maintained. In addition, the relationships created or maintained with the various host organizations are crucial not only for the ongoing project but for future projects. Important lessons can be learned from the current collaborations in order to better work on such large-scale research projects in the future. We just need to demonstrate flexibility and transparency to conclude the research project and to obtain reliable and significant results on the subject under study. ❖

Victim-Related Conferences in 2009

2009 Intimate Partner Violence Conference: Stalking, Sexual Assault, and Domestic Violence
January 14–15
Phoenix, Arizona, USA
http://www.azcadv.org/docs/Stalking%20Conference%20Brochure%202009.pdf

Society for Social Work and Research 13th Annual Conference: Research that Promotes Sustainability and (Re) Builds Strengths
January 16–18
New Orleans, Louisiana, USA
www.sswr.org

2009 Conference on Crimes Against Women
March 2–4
Dallas, Texas, USA
http://www.ccawonline.org/

Sexual Assault Law, Practice and Activism in a post-*Jane Doe* Era
March 6–7
Ottawa, Ontario, Canada
http://www.commonlaw.uottawa.ca/en/conference/janedoe2009/home.html

PAVE: Promoting Awareness, Victim Empowerment presents Angela Shelton's Army of Angels Conference 2009
March 13–14
Las Vegas, Nevada, USA
http://www.eventbrite.com/event/223331992

Sixth Annual Hawaii Conference on Preventing, Assessing and Treating Child, Adolescent and Adult Trauma
March 30 to April 2
Honolulu, Hawaii, USA
http://www.ivatcenters.org/Conferences.htm

2009 Annual Crime Victims' Rights Conference
April 15–16
Wichita, Kansas, USA
http://www.governor.ks.gov/grants/policies/docs/2009confWorkshopApp.pdf

Police Victim Services of British Columbia 24th Annual Training Symposium
April 25–29
Victoria, British Columbia, Canada
www.policevictimservices.bc.ca

Jewish Women International's Fourth Annual Conference on Domestic Abuse
April 26–29
Crystal City, Virginia, USA
https://www.kintera.org/site/apps/ka/rg/register.asp?c=okLWJ3MPKtH&b=4464729&en=9rJQKZOvGfLOJQNDJhKGKSPyH8KSLcMIKhJRJ1MEIgKRKXNFJnI5F

National Victims of Crime Awareness Week Symposium
April 27
Ottawa, Ontario, Canada
www.victimsweek.gc.ca

Crime Victim's Assistance Network Annual Conference
"Celebrating 25 Years of Victim Services"
May 6–8
Bend, Oregon, USA
http://oregonvictims.org/index.php?option=com_content&task=category&sectionid=2&id=3&Itemid=68
http://www.oregonvictims.org/files/2008_CVAN_brochure.doc

Hope, Resilience and Psychological Trauma (Community Voices Against Sexual Violence)
May 11–12
Edmonton, Alberta, Canada
Contact Terra Irvine : terrai@sace.ab.ca
Cinquième congrès international francophone sur l'agression sexuelle
May 11–13
Montreal, Quebec, Canada
www.pinel.qc.ca

The 13th Annual Melanie Ilene Riger Memorial Conference
"Surviving Victimization: Transforming Victimization into Advocacy"
"Hate Crimes: Schools and Communities at Risk"
May 13–14
Cheshire, Connecticut, USA
http://www.melanieriegerconference.com/

Second National Conference on Restorative Justice
May 13–15
San Antonio, Texas, USA
http://www.restorativejusticenow.org/

2009 Anaheim International Conference on Sexual Assault, Domestic Violence and Stalking
May 18–20
Anaheim, California, USA
http://www.evawintl.org/conferencedetail.aspx?confid=7

Fourth National Conference Men and Women Coming Together to STAND UP and SPEAK OUT! To End Violence Against Women
May 21–22
New York, New York, USA
http://www.acalltomen.org/downloads/STAND%20UP-SPEAK%20OUT.pdf

The Fifth National Sexual Assault Response Team (SART) Training Conference
May 27–29
Seattle, Washington, USA
http://www.sane-sart.com/

22nd Annual Conference on Crime Victims
May 27–29
Brainerd, Minnesota, USA
http://www.ojp.state.mn.us/MCCVS/Conference/index.htm

The National Centre for Victims of Crime 2009 National Conference
June 22–24
Washington, DC, USA
www.ncvc.org

2008 Crime Victim Law and Litigation Conference
“The Path to Progress”
June 30 to July 1
Portland, Oregon, USA
http://www.ncvli.org/conference.html

The 13th International Symposium on Victimology
Aug. 23–28
Mito, Ibaraki, Japan
www.isv2009.com

The 35th Annual North American Victim Assistance Conference
August 23–29
Scottsdale, Arizona, USA
http://www.trynova.org/

National Sexual Assault Conference

September 9–11
Alexandria, Virginia, USA
http://nsvrc.org/projects/template1.aspx?PageNum=1&ProjectID=61

Texas Victim Services Association Conference
September 15–18
El Paso, Texas, USA
www.txvsa.org

14th International Conference on Violence, Abuse and Trauma
September 21–26
San Diego, California, USA
http://www.ivatcenters.org/Conferences.htm

Northern Approaches and Responses to Victims of Crime
September 29 to October 1
Yellowknife, Northwest Territories, Canada
http://www.justice.gc.ca/eng/pi/pcvi-cpcv/index.html

Responding to Crime Victims with Disabilities National Conference
September 30 to October 2
Denver, Colorado, USA
http://www.nsvrc.org/projects/template2.aspx?PageNum=1&ProjectID=63

National Conference on Health and Domestic Violence
October 8–10
New Orleans, Louisiana, USA
http://www.fvpfhealthconference.org/

Restorative Justice Week
Late November
Across Canada
http://www.csc-scc.gc.ca/text/rj/rj2008/lett-eng.shtml ❖