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**A Snapshot of Cyberbullying**

**Assisting Victims Through Technology**

**Let's "Paws" to Consider the Possibility:**  
Using Support Dogs with Victims of Crime

**Third Party Records:**  
The Case Law from 2003-2010

**The Human Cost of Impaired Driving in Canada**

**Victim-Related Conferences in 2014**

# Victims of Crime

Issue 7 / 2014

RESEARCH DIGEST



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## TAKING ACTION

The theme for National Victims of Crime Awareness Week 2014 is “Taking Action.” This focus on action applies as much for all criminal justice stakeholders, whether law enforcement or victims, as it does for those in policy, programming, and research. Research can play a very important role by providing the empirical evidence needed to make changes to how things get done or perhaps to introduce completely new programs or processes. In this seventh issue of the *Victims of Crime Research Digest*, we bring our readers more research touching upon a variety of victim-related issues.

This issue of the Digest begins with an article by Lisa Ha on cyberbullying in Canada, on what we know and what we do not know. In the second article, Melissa Lindsay provides a look at how technology is being used in all the jurisdictions to improve access to victim services. Next, Susan McDonald and Lara Rooney present the social science research on support animals, dogs in particular, and the role they could play in supporting victims of crime. This is followed by an article by Susan McDonald who examines third party records case law from 2003 to 2010, an update from previous case law reviews. And finally, in the last article, André Solecki and Katie Scrim take a

look at the human cost of impaired driving by mapping and analyzing incidents of impaired driving causing death across Canada in 2012.

We hope you enjoy this issue and the articles spur you to consider “taking action.” As always, if you have comments, please do not hesitate to be in touch.

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## CONTENTS

- 2 A Snapshot of Cyberbullying**
- 10 Assisting Victims Through Technology**
- 17 Let’s “Paws” to Consider the Possibility: Using Support Dogs with Victims of Crime**
- 26 Third Party Records: The Case Law from 2003-2010**
- 37 The Human Cost of Impaired Driving in Canada**
- 46 Victim-Related Conferences in 2014**

# A Snapshot of Cyberbullying



LISA HA

The issue of cyberbullying has received significant media attention in Canada and around the world. In Canada alone, over the past few years there have been several high profile cases of cyberbullying, many of which have been linked to suicides.<sup>1</sup> In the fall of 2013, the federal Justice Minister introduced legislation to fight cyberbullying, Bill C-13.<sup>2</sup> Among federal, provincial/territorial, and municipal governments, significant work has been undertaken to better understand the problem, and this work fed into the development of Bill C-13, the *Protecting Canadians from Online Crime Act*.

At the federal level,<sup>3</sup> a report was released in June 2013 by the Coordinating Committee of Senior Officials Cybercrime Working Group, *Cyberbullying and the Non-consensual Distribution of Intimate Images*, which was submitted to the Federal/Provincial/Territorial (FPT) Ministers Responsible for Justice and Public Safety (CCSO 2013). The purpose of this report was to identify any potential gaps in the *Criminal Code* with regards to cyberbullying and the non-consensual distribution of intimate images. In addition, the Standing Senate Committee on Human Rights conducted extensive work on this issue and released its report, *Cyberbullying Hurts: Respect*

<sup>1</sup> For example, the cases of Rehtaeh Parsons in Nova Scotia and Amanda Todd in British Columbia.

<sup>2</sup> [http://www.justice.gc.ca/eng/news-nouv/nr-cp/2013/doc\\_32994.html](http://www.justice.gc.ca/eng/news-nouv/nr-cp/2013/doc_32994.html)

<sup>3</sup> The federal Department of Justice also recently released the updated *Handbook for Police and Crown Prosecutors on Criminal Harassment*, which contains a new section on cyberstalking and provides police and prosecutors in Canada some guidelines in dealing with the use of technology to criminally harass, bully, and cyberbully. See <http://www.justice.gc.ca/eng/rp-pr/cj-jp/fv-vf/har/toc-tdm.html>.

for *Rights in the Digital Age*, in December 2012. This report was created as part of Canada's obligations under the United Nations Convention on the Rights of the Child to take appropriate steps to protect children from all forms of physical and mental violence, including cyberbullying.

Provincial and municipal level governments have made recent strides to combat these problems as well. For example, in Alberta the cities of Hanna, Grande Prairie, and Edmonton have municipal bylaws in place to address harassment and bullying of minors and others, which include fines and in the case of Hanna, imprisonment of up to six months or community service for the most serious cases.<sup>4</sup> At the provincial level, Nova Scotia and New Brunswick have introduced legislation to address the problem of cyberbullying. In New Brunswick, the *Education Act* was amended in 2012 under Bill 45, which specifically includes cyberbullying under the umbrella of anti-bullying initiatives, with the emphasis on prevention, reporting, investigating, and taking action.<sup>5</sup> In Nova Scotia, the *Cyber-safety Act*, which focuses specifically on cyberbullying, came into force in May 2013 and received significant media attention at the national level.<sup>6</sup>

The FPT and Senate Committee reports are just two of the high-profile undertakings in Canada to better understand cyberbullying and how best to address it, but there is work being done across all sectors of society: in the universities, media, schools, and other levels of government. Drawing from prominent experts and resources on cyberbullying, this article will provide a brief overview of some of the key issues and future directions around cyberbullying, primarily from a research perspective.



## **BULLYING HAS BEEN AROUND FOREVER; WHY DOES IT SEEM THAT CYBERBULLYING IS SO MUCH MORE SERIOUS?**

There are important distinctions between traditional bullying and cyberbullying. Dr. Sameer Hinduja and Dr. Justin W. Patchin, co-directors of the University of Wisconsin-Eau Claire's Cyberbullying Research Center,<sup>7</sup> distinguish several main features between cyberbullying and traditional bullying (Hinduja and Patchin 2010b). The first is the anonymity associated with cyberbullying. Victims are often unaware who is targeting them or why. Second, cyberbullying has a much larger audience than traditional bullying. A cyberbully attack can go viral, meaning that countless people from potentially all around the world can be involved, which leaves the victim feeling as though literally everyone knows what is being done to them. The final distinction is the degree of cruelty of cyberbullying attacks, in that children may use more hurtful and extreme language online than offline. Hinduja and Patchin suggest that electronic perpetrators are free from social cues and reactions that might allow them to recognize the harm they are inflicting on their victims.

<sup>4</sup> See <http://www.hanna.ca/TownOffice/Bylaws.aspx>; <http://www.cityofgp.com/index.aspx?page=441>; [http://www.edmonton.ca/bylaws\\_licences/C14614.pdf](http://www.edmonton.ca/bylaws_licences/C14614.pdf).

<sup>5</sup> See [http://www2.gnb.ca/content/gnb/en/news/news\\_release.2012.05.0425.html](http://www2.gnb.ca/content/gnb/en/news/news_release.2012.05.0425.html).

<sup>6</sup> [http://nslegislature.ca/legc/bills/61st\\_5th/1st\\_read/b061.htm](http://nslegislature.ca/legc/bills/61st_5th/1st_read/b061.htm)

<sup>7</sup> Drs. Patchin and Hinduja have been studying cyberbullying since 2002 and have become well-recognized experts in the field. In fact, Dr. Patchin testified in front of the Standing Senate Committee on Human Rights for their study of cyberbullying.

Another important factor of cyberbullying relates to parental and teacher supervision and identification of the problem. Adults may not be aware of the types of social media or online avenues where cyberbullying can happen, or they may not have access to the sites where the comments are posted, thereby increasing the likelihood that a cyberattack goes unaddressed. In addition, Hinduja and Patchin suggest that adults may not be adequately prepared to respond even in cases where cyberbullying is identified. For example, parents often say that they don't have the technical skills to keep up with their children's online behaviour, and teachers are afraid to intervene because cyberbullying typically occurs away from school (Hinduja and Patchin 2010b).



## WHAT ABOUT THE LINK TO SUICIDES?

In the past several years, there have been numerous media reports of teen victims of cyberbullying who have committed suicide. There has been some criticism of the media<sup>7</sup> for drawing a direct causal relationship between cyberbullying and suicide, but one cannot help but wonder. The British Columbia Coroners Service recently released a report on 91 suicides occurring in the province between 2008 and 2012. Their findings suggest that, while still extremely rare (and not

increasing in prevalence), suicide is a “highly complex phenomenon,” and there are a variety of risk factors that can contribute to an increased risk of suicide (BC Coroners Service 2013). An unpublished 2012 Canadian study, by Dr. John Leblanc from Dalhousie University, came to similar conclusions. The research looked at media reports of 41 suicides related to cyberbullying. Speaking to Global News about the study, Leblanc noted that while some of the suicides were linked to cyberbullying, there were almost always other factors at play, including mental illness, and other forms of bullying (Chai 2012).

In a recent blog post, “Does Bullying ‘Cause’ Suicide,” Justin Patchin looked at the question from a social science perspective. He sought to identify from the literature if there is in fact a definitive link between the two, either correlative (e.g., there is a relationship between the two) or causative (e.g., one causes the other). He found that, while there are studies that show that there is in fact a (modest) relationship between bullying and suicide,<sup>8</sup> the vast majority of bullying victims do not end their life. In the end, Patchin argues,

Yes, people should “stop saying bullying causes suicide.” But we also shouldn't say that it doesn't. The honest answer is that we really don't know a whole lot about why some teens who are bullied consider suicide whereas the vast majority do not. As in many cases we write about on this blog, more research is necessary (2013a).

<sup>7</sup> See [http://www.huffingtonpost.com/deborah-temkin/stop-saying-bullying-caus\\_b\\_4002897.html](http://www.huffingtonpost.com/deborah-temkin/stop-saying-bullying-caus_b_4002897.html).

<sup>8</sup> See, for example, Sameer Hinduja and Justin W. Patchin (2010a), or the references in Temkin's article at [http://www.huffingtonpost.com/deborah-temkin/stop-saying-bullying-caus\\_b\\_4002897.html](http://www.huffingtonpost.com/deborah-temkin/stop-saying-bullying-caus_b_4002897.html).



## IS THERE A COMMON DEFINITION OF CYBERBULLYING?

An important point to consider when looking at the prevalence of cyberbullying is the lack of consensus on a definition of the phenomenon. In fact, this issue was identified in the Senate Standing Committee report. In her testimony at the Committee hearings, University of Toronto professor and psychologist Faye Mishna noted:

A universal definition of cyberbullying does not yet exist, which is very important. One definition of cyberbullying is that it is the use of communication and information technology to harm another person. It can occur on any technological device and it can include countless behaviours to do such things as spread rumours, hurt or threaten others, or to sexually harass. (Standing Senate Committee 2012)

Another more detailed definition of cyberbullying comes from Nova Scotia's *Cyber-safety Act*, enacted in May 2013 and now in force. The Act makes cyberbullying a tort and allows for victims to bring an action for cyberbullying where a court may order damages, issue an injunction, or make any other order considered just and

reasonable in the circumstances. If the cyberbully is a minor, parents may be held liable for any damages awarded to a victim (see section 22 of the Act). The *Cyber-safety Act* defines cyberbullying as:

... any electronic communication through the use of technology including, without limiting the generality of the foregoing, computers, other electronic devices, social networks, text messaging, instant messaging, websites and electronic mail, typically repeated or with continuing effect, that is intended or ought reasonably be expected to cause fear, intimidation, humiliation, distress or other damage or harm to another person's health, emotional well-being, self-esteem or reputation, and includes assisting or encouraging such communication in any way.<sup>10</sup>

The lack of consensus on a definition is important when prevalence rates are examined, as it is difficult to arrive at a clear understanding of prevalence when studies define cyberbullying in different ways.

<sup>10</sup> [http://nslegislature.ca/legc/bills/61st\\_5th/3rd\\_read/b061.htm](http://nslegislature.ca/legc/bills/61st_5th/3rd_read/b061.htm)





## ARE THERE ACCURATE STATISTICS ON THE PREVALENCE OF CYBERBULLYING?

In Canada, we currently have national statistics on cyberbullying from Statistics Canada's 2009 General Social Survey on Victimization (2009 GSS), and from the 2009/10 Health Behaviour in School-aged Children (HBSC) study.

For the 2009 GSS, Canadians aged 15 and older living in the provinces were surveyed.<sup>11</sup> With regards to cyberbullying,<sup>12</sup> the survey found 7% of Internet users aged 18 and older had been the victim of cyberbullying in their lifetime. Threatening or aggressive emails or instant messages (73%) and hateful comments spread through e-mails, instant messages, or postings on Internet sites (55%) were the most common forms of cyberbullying reported for the over 18 demographic. Social media and chat site users were almost three times more likely than non-users to experience cyberbullying (Perreault 2011).

Unfortunately, the 2009 GSS survey does not specifically target teens the critical demographic when it comes to cyberbullying. The 2009 GSS data comes from adult respondents who were asked whether any of the children or youth (aged 8 to 17) living in their household had been a victim of cyberbullying or child luring.

The results showed that 9% of adults living in a household that includes a child knew of a case of cyberbullying against at least one of the children in their household. Seventy-four percent of these adults said that the cyberbullying was in the form of threatening or aggressive e-mails or instant messages, and 72% said it was hateful comments sent by e-mail or instant messaging or posted on a website. Sixteen percent said someone used the child's identity to send threatening messages. According to the adults, most of the children were bullied by someone they knew, such as a classmate (40%), a friend (20%), or acquaintance (11%), rather than by a stranger (21%).

An important, albeit not surprising, finding of the 2009 GSS was that relatively few incidents of cyberbullying were reported to the police (7% of adults and 14% of children). Data indicated that victims were more likely to block messages from the sender (60%), leave the Internet site (51%), or report the situation to their Internet or e-mail service provider (21%) (Perreault 2011).

The HBSC survey is a continuing research project with participants from 43 countries headed by the World Health Organization Regional Office for Europe. The Public Health Agency of Canada is responsible for the Canadian survey. The HBSC involves health-related surveys conducted in a classroom setting with students aged 11 to 15. The focus of the 2010 survey was mental health, and 26,078 young Canadians from 436 schools took part. With regards to cyberbullying, the survey asked students about electronic or cyber-bullying, including computer postings (e.g., on social networking sites), emails, digital photos,

<sup>11</sup> Note that GSS data is self-reported; percentages may therefore be low due to underreporting. This is especially true for the adults reporting on their children's experiences, as children may be reluctant to disclose bullying to their parents.

<sup>12</sup> Cyberbullying was defined as having "... previously received threatening or aggressive messages; been the target of hate comments spread through e-mails, instant messages or posting on Internet sites; or threatening e-mails sent using the victim's identity." Some forms of bullying are not criminal offences, while other forms, such as criminal harassment or assault, currently meet the requirements of specific offences under the *Criminal Code*.

or cell phone harassment. The highest rates of cyberbullying were reported by girls which remained steady at around 19% (in grades 7, 9 and 10), with a low of 17% in grade 6. Rates for boys ranged from a low of 11% in grade 6, with a gradual increase to 15% and 19% in grades 9 and 10 respectively (Freeman et al. 2011).

In the academic literature, there is some variation in the prevalence rates of cyberbullying, due at least in part to the aforementioned issues around definition (Standing Senate Committee 2012). One recent article that provides us with a good picture of prevalence from a cross section of studies is from the Cyberbullying Research Center. In July 2013, Drs. Justin Patchin and Sameer Hinduja, released a summary of their research on prevalence rates from 2004-2013 (a total of six studies with sample sizes ranging from 356 to 4,441) both for cyberbullying victims and perpetrators (Patchin 2013b). They have been studying cyberbullying since 2002, and their work provides an excellent gauge of the prevalence of the problem. Their research shows that while there was some variation, on average 24% of students who took part in one of the six studies had reported being the victim of cyberbullying at some point in their lifetime. Their research also showed that on average, “about 17% of the students who have been a part of our last 6 studies have admitted that they have cyberbullied others at some point in their lifetime” (Patchin 2013b).



## WHAT CAN BE DONE ABOUT IT?

Shelley Hymel, a professor in the Faculty of Education at the University of British Columbia (UBC), recently spoke about progress made in combating cyberbullying,<sup>13</sup> but emphasized there is still much work to do. Hymel advocates against a “one size fits all” approach. She suggests, “...the one thing we figured out in 40 years of research in this area is that there’s no simple solution and there’s no single reason why kids bully. There’s lots of reasons why kids bully and we have to treat each one differently” (Gollom 2013).

UBC Professor Jennifer Shapka advocates for including an element in anti-cyberbullying programs aimed at teaching children appropriate ways to interact online, a concept termed, “digital citizenship” in the Senate Committee report. Part of the uniqueness of cyberbullying is that bullies may fail to recognize they are being aggressive because non-verbal cues present in in-person interaction are absent in the online environment. She suggests, “We need to help [kids] understand that they are being aggressive and hurting people. That’s different than a traditional anti-bullying program that

<sup>13</sup> Some schools that have instituted anti-bullying programs have shown a 20% reduction in bullying. See <http://www.cbc.ca/news/canada/is-the-anti-bullying-message-getting-through-1.1869810>.

is focused on getting witnesses more active and helping the victims” (Welsh 2012).<sup>14</sup> At the Senate Committee hearings, Wendy Craig, Professor of Psychology at Queen’s University, highlighted the need for more research into developing evidence-based programs to find out what approaches work best in different contexts (e.g., rural versus urban). She points to her research which shows that about one in seven anti-bullying programs actually make the problem worse (Standing Senate Committee 2012, 79).

While evidence-based, in-school programs are an important component of an effective approach to combating cyberbullying, the Standing Senate Committee report advocates for a “whole community approach.” They suggest that fundamentally what is needed is a culture shift, which requires a concerted effort across all of society. Key stakeholders to be included in this approach beyond schools and families include other adults, volunteers, social service providers, corporations and businesses in particular telecommunications and media companies and all levels of government. Testimony at the Committee indicated that programs that take a whole-community approach have seen success rates as high as a 40% reduction in bullying compared to half of that for primarily school-based approaches (Standing Senate Committee 2012, 56).



## CONCLUSION

There is significant work underway on a variety of fronts to better understand cyberbullying and ways to alleviate the problem. In the near term, the legislative approach of the federal Department of Justice provides one way to combat the problem. Provincial and municipal governments across the country have also put in place legislation and other initiatives, and those that have not are moving forward to develop programs and approaches of their own. From a research perspective, there is much work to be done to better understand the nature of cyberbullying: from the basics of coming to a consensus on a definition, to understanding the linkages between cyberbullying and suicide, and to evaluating the types of programs that work best in different situations. In addition, and perhaps most importantly, school communities and families need to work together to educate each other on Internet safety and appropriate ways to interact online.

<sup>14</sup> Prevnet and MediaSmarts, two of Canada’s leading resources for anti-bullying education and awareness, launched a program in October 2013 aimed at teaching children to act ethically online, “Stay on the Path: Teaching Kids to be Safe and Ethical Online.” See <http://www.prevnet.ca/news/in-the-news/prevnet-partner-mediasmarts-launches-a-new-program-to-teach-canadian-youth-to-act-ethically-online>.

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# Assisting Victims Through Technology

MELISSA LINDSAY

In the fifth issue of the *Victims of Crime Research Digest*, McDonald (2012) discusses the darker side of technology, that is, when technology is used as a means of harming others, such as facilitating identity-related crimes or online sexual exploitation. Although technology can be used as a means of victimizing others, it can also be used to help victims of crime in innovative ways.

Victims of crime have a number of needs, including “access,” which is defined as “the ability to participate in the justice system process and obtain information and services”; safety; support; “information about justice system processes and victim services that is clear, concise, and user-friendly”; a voice; and a continuity of services (International Association of Chiefs of Police 2000, iii).

To explore the use of technology in responding to these needs, the Department of Justice Canada conducted a study to determine how technology is being used to help victims of crime in Canada and whether the use of technology is beneficial to victims and to service providers. The study also sought to ascertain what service providers believe to be good practices (i.e., practices they have found to work well) in this area.<sup>1</sup>

Organizations providing victims services and federal departments and agencies whose work focuses on victims of crime were contacted for examples of how technology is being used, either by their own organization or by another organization, to help victims. Based on recommendations from respondents, other non-governmental organizations were also

<sup>1</sup> For the purposes of this study, technologies other than standard websites which present information to victims were of interest. Although websites are invaluable sources of information to victims, this study focussed on other innovative uses of technology.

contacted. Information on other technological tools was also gathered from the websites of organizations working with victims of crime as well as from projects funded through the Department of Justice Canada's Victims Fund. To determine whether the use of technology is beneficial in helping victims, the respondents were also questioned on the feedback they had received on the technological tools used and on what they deemed to be good practices in using technology to help victims of crime.



## AVAILABLE TECHNOLOGIES

There are a number of technological tools used to help victims of crime in Canada. They can be categorized as follows: interactive websites and online games; online videos and presentations; the use of cellular phones for text messaging and cellular phone programs; telephone services; victim notification systems; technology in the courtroom; victim services directories and maps; cellular phone applications; computer-facilitated discussions; Web 2.0 technologies; and "other" technologies.

### Interactive websites and online games

A number of different interactive websites and games are available to help victims of crime. Some of these websites (e.g., [www.courtprep.ca](http://www.courtprep.ca) and Cory's Court-

house<sup>2</sup>) provide online court preparation for children and youth. The Canadian Child Abuse Association also provides the Child Witness Court Preparation Program that has online interactive tools for children and youth. One of the components of the Program is the interactive tool for children entitled "Superhero Island,"<sup>3</sup> which teaches children about court and allows them to practice testifying. Other interactive websites include the Parole Board of Canada's interactive parole board hearing,<sup>4</sup> which allows individuals to see and hear what happens in a hearing process, and the Collectivité ingé-nieuse de la Péninsule acadienne's (CIPA) interactive website ([www.parcelles.ca](http://www.parcelles.ca)), which is set up as a road map to help women in abusive relationships. The Metropolitan Action Committee on Violence against Women and Children (METRAC) has an online game entitled "What It Is,"<sup>5</sup> which teaches youth about sexual violence and provides information regarding available resources and services.

### Online videos and presentations

There are a number of different online videos and presentations which are used for various purposes, including court preparation/orientation for different groups, such as children and youth, and adult witnesses (e.g., Justice Education Society of BC's "Your Voice in Criminal Court"<sup>6</sup>). Additional websites and service providers offer videos that provide information on other specific elements of the criminal justice system, including services offered by victim services workers and victim witness assistance programs, as well as information on restorative justice programs. There are also a number of other videos that cover several aspects of the criminal justice system, such as New Brunswick's Department of Public Safety

<sup>2</sup> <http://www.coryscourthouse.ca/>

<sup>3</sup> [http://www.childcourtprep.com/children/super\\_hero\\_island/](http://www.childcourtprep.com/children/super_hero_island/)

<sup>4</sup> <http://www.pbc-clcc.gc.ca/hearing/flash/index-eng.shtml>

<sup>5</sup> [www.challengesexualviolence.ca](http://www.challengesexualviolence.ca)

<sup>6</sup> <http://www.justiceeducation.ca/resources/Your-Voice-in-Criminal-Court>

Victim Services' online video "You Are Not Alone: Be Supported Through Difficult Times,"<sup>7</sup> while others are designed to provide information and education on different types of crime (e.g., elder abuse, violence against women, impaired driving).

### **Cellular phones and cellular phone programs**

Different service providers use cellular phones for the purposes of text messaging clients. In some cases, text messaging is the only way to get in touch with clients, as some may not have a landline or are otherwise difficult to contact. Many service providers also have cellular phone programs in which high-risk victims, especially those at risk of domestic violence, are provided with cellular phones. In some programs (e.g., Manitoba Justice's Cellphone Emergency Limited Link-up Program [CELL]), the phones are pre-programmed to dial 911.

### **Telephone services**

Different types of telephone services, which provide multilingual service, are available to victims. The services provided can include information, referral services, and crisis support. One telephone service, the Ontario Victim Services Secretariat's Victim Support Line, also provides information about provincially sentenced offenders. The Northwest Territories' Victim Services uses real-time interpretation provided by the Canadian company CanTalk to connect with clients. Finally, various victim service providers use teletypewriter technologies to communicate with clients who are hard of hearing.

### **Victim notification systems**

There are a number of different victim notification systems which allow victims to register and receive alerts when an offender's status changes (e.g., when

the offender is released from custody). The alerts can be provided via different means, such as through an automated voice message prompting the victim to call for additional information, regular telephone calls, and letters. These notification systems exist both provincially (e.g., Ontario and British Columbia) as well as federally through the Correctional Service of Canada's Victim Services Program.

### **Technology in the courtroom**

While not new, the use of technology to assist with giving court testimony is increasingly available to help young and vulnerable victims and witnesses. These testimonial aids include closed-circuit television and videoconferencing. Videoconferencing is also used to allow individuals to participate in sentencing hearings. In addition, in Prince Edward Island, technology is available to assist the hearing impaired, and "courts have been equipped with technology equipment to more discretely display electronic documents or exhibits that are categorized as sensitive information" (Child Advocacy Centres Knowledge Exchange 2011).

### **Victim services directories and maps**

Several organizations provide victim services directories on their websites, presented as either search engines or as maps. Generally, the directories presented as search engines allow individuals to input their location, as well as the type of service or program they are seeking (e.g., Policy Centre for Victim Issues' Victim Services Directory<sup>8</sup>) and generate a list of organizations and associated contact information in their area. The directories that are presented as maps have either maps of Canada, which allow individuals to scroll over to the province or territory where they would like to find services, or maps of a particular province,

<sup>7</sup> [http://www2.gnb.ca/content/gnb/en/departments/public\\_safety/safety\\_protection/content/victim\\_services.html](http://www2.gnb.ca/content/gnb/en/departments/public_safety/safety_protection/content/victim_services.html)

<sup>8</sup> <http://www.justice.gc.ca/eng/cj-jp/victims-victim/vsd-rsv/schp1-rchp1.asp>

which highlights services in specific jurisdictions (e.g., Legal Information Society of Nova Scotia's Youth Resources Map<sup>9</sup>).

### **Alarms**

A number of different Victim Crisis Assistance and Referral Services (VCARS) in Ontario provide Domestic Violence Emergency Response System (DVERS) alarms, which are “personal alarm systems installed in the homes of victims who are deemed at serious risk of violence or death by an estranged partner. The VCARS sites who offer this program will recommend DVERS alarms to individuals who are considered to be at very high risk of domestic violence, sexual assault, and criminal harassment.”<sup>10</sup> DVERS alarms are offered in 38 communities in Canada.<sup>11</sup>

### **Cellular phone applications (apps)**

Various victim-centered cellular phone applications (apps) are available for smart phones and are used for a number of different purposes. Apps have been developed for safety purposes by functioning as a personal alarm system (e.g., EVA BC's SOS Safety app and YWCA's Safety Siren). When the buttons on the apps are pressed, emergency information is sent to a pre-determined contact (in the case of the SOS Safety App, the information is sent to the monitoring centre). Other apps have been developed that provide information on different types of victim-related information, such as METRAC'S “Not Your Baby” app, which provides information on how individuals can deal with sexual harassment in different situations. In addition, The Kids Help Phone's “The Always There” app provides information on coping with stress and allows

youth to connect with Kids Help Phone counsellors via live chat or phone.

### **Computer-facilitated discussions**

Various organizations are also able to connect with clients and provide services via the computer. For example, Access Pro Bono uses Skype<sup>12</sup> to connect with clients in several of their clinics in rural and remote areas, while the Canadian Child Abuse Association provides court preparation to children via the computer, and the Kids Help Phone website allows visitors to pose questions to counselors online or via live chat.

### **Web 2.0 (Facebook, Twitter, YouTube)**

Many organizations that provide services to victims of crime use Web 2.0 technologies, such as Facebook and Twitter, to share information. For example, the Ontario Network of Victim Services' Facebook site posts links to articles, videos, and other information related to domestic violence and victim services in Canada, while MADD Canada has a Facebook site and a Twitter page which include links and news stories as well as a YouTube channel with their public service announcement videos.

### **Other types of technology**

There are also a number of other types of technology that do not fall within the categories described above. These technologies range from facilitating Protection Order applications via telephone or fax, which is provided by the Manitoba Justice Victim Services Branch, to the use of laptops and computers to allow victims to watch their police statement during a pre-court preparation meeting with Victim Services Coordinators, Crown and/or Police, as is done in Newfoundland and Labrador.

<sup>9</sup> <http://youthjustice.ns.ca/map/>

<sup>10</sup> <http://archive.ca.com/page/1250181/2013-01-28/http://www.victimservicesontario.ca/programmes/supportlink/index.html> (Please note that this website and associated information is no longer available).

<sup>11</sup> See <http://www.adt.ca/en/about-adt/community-involvement/domestic-violence-response>. Note that the company that provides these alarms, ADT, is no longer offering the alarms to new clients but are still providing the services to existing clients.

<sup>12</sup> Skype is software which allows individuals to make calls for free via the Internet or at a discounted rate via telephone ([www.skype.com](http://www.skype.com)).





## FEEDBACK

Overall, the feedback the respondents received from clients (including parents of child victims) and victim services staff on the technologies was generally positive. The respondents noted that the tools are helpful for a number of reasons, in particular because they increase access to services for victims. For example, victim services providers indicated that cellular phone programs provide better access to services for victims. In Manitoba, using telephone or fax to facilitate the completion of Protection Orders also increases access to those in rural and remote areas. In addition, the respondent from EVA BC indicated that the SOS Safety app is accessible because it is on one's cellular phone, which individuals often carry, and the app can be used by anybody with a smart phone.

The respondents provided a number of other reasons why they believe the tools are beneficial to victims. For example, in addition to increasing accessibility, the respondents noted that testimonial aids such as videoconferencing and CCTV prevent children and vulnerable adults from having to see the accused when testifying, which helps to reduce stress, anxiety, and re-traumatization.

Also, respondents reported that clients appreciate the ability to connect with service providers through text messaging and that, for some, text messaging is the best, or only, way to communicate with them. Service providers also indicated

that the use of cellular phones for text messaging is a useful form of outreach to victims. It was noted by one jurisdiction, however, that there is an increased need for cellular phones for Victim Services volunteers, which has led to an increased demand on budgets.



## GOOD PRACTICES

Respondents provided a number of general suggestions regarding good practices in using technology to help victims:

- Collaboration and coordination between all of the partners involved in the criminal justice system is essential in order to ensure that the technology is being used to its full benefit.
- It is beneficial to use the tools that have been produced in other jurisdictions and by other organizations and to share information about the technological tools with clients and coordinators.
- Services should be streamlined and designed for the convenience of the victim (e.g., ensuring that federal programs are provided around the clock to account for different time zones).
- The information provided to victims should be personalized to ensure that they do not have to sort through general information.

Respondents also gave specific suggestions:

- When technology is used in the courtroom (such as CCTV), it is helpful when it is supported by an individual knowledgeable in the use of the equipment so the technology runs smoothly.
- It is important to ensure that the information exchanged via text messaging with clients is not confidential.
- It is important to ensure that individuals using tools such as the SOS Safety app are comfortable using the technology and that no assumptions are made about people's familiarity with the technology.
- As no single strategy is sufficient in violence protection, the SOS Safety app should be used in conjunction with a larger safety plan.
- It is also essential to develop and provide information on how an individual can be tracked through smart phones and on what precautions users can take.



## CONCLUSION

It is clear that there are a number of technological tools being used to help victims of crime across the country, ranging from victim notification systems to the use of technology in the courtroom. Many jurisdictions are using the same

types of tools to deliver the same services, such as cellular phones to connect with clients via text messaging and online videos and interactive websites for court preparation.

The tools have a number of benefits, including addressing multiple needs. For example, computer-facilitated discussions provide a means of accessing support as well as user-friendly verbal information (i.e., information provided in a language that can be understood by different types of users, such as children receiving court preparation via the Internet). The use of technological tools also comes with some challenges, however. For example, affordability may be an issue for some clients, especially for tools that require cellular phones or the Internet, while others may have difficulty accessing reliable Internet or cellular phone reception. These challenges highlight the importance of not relying on only one tool when helping victims, as every tool has inherent strengths and weaknesses. To successfully help victims of crime, especially high-risk victims, a multitude of tools and strategies may have to be utilized.

Many of the tools would benefit from a formal evaluation to determine if, and how, they are helpful to victims and how they might be strengthened and adjusted as needed. The information would also be useful to other service providers interested in learning about the technologies and how best to use them to assist their clients. Technology is constantly evolving, and the use of technology to assist victims of crime needs to evolve as well.

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# Let's “Paws” to Consider the Possibility:

## USING SUPPORT DOGS WITH VICTIMS OF CRIME



SUSAN MCDONALD  
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Today, a service dog helping an individual with sight limitations is accepted and relatively common. There are other trained dogs including those who serve individuals who are deaf or hard of hearing and those who serve individuals with mobility limitations. Provincial, territorial, and federal human rights legislation ensures that these service dogs are able to accompany those they serve just about anywhere including public transportation, the workplace, stores, and restaurants. Dogs and other animals have also been part of treatment for a wide range of people, including children who have been abused and adults with mental illness.

There is evidence that animals, and in particular dogs, are breaking down more barriers to provide support for victims, witnesses, and offenders by entering the criminal justice domain. As awareness about the role dogs can play in supporting victims of crime grows in Canada, this article provides a timely review of the social science research on the efficacy of therapy/victim services/assistance/support dogs and how they are being used in the United States and Canada to make a difference for victims of crime.



## A NOTE ABOUT NAMES

Considering the number of different names given to therapy/victim services/intervention/assistance/ support dogs, it is no wonder that there is some confusion about their status and their role. There are also psychiatric service dogs (PSDs, a term from the United States) that a psychiatrist may recommend to lend support to persons with mental health issues. For the purpose of this article, the term “support dog” shall be used in keeping with the purpose of the *Criminal Code* testimonial support provisions. The key distinction is between service dogs and other support dogs that provide comfort and a calming presence to vulnerable persons or groups.

The Canadian Service Dog Foundation defines a service dog as “a dog individually trained to do work or perform tasks for a person with a disability.”<sup>1</sup> Each province and territory has legislation that establishes the legal status of service dogs. In some jurisdictions, there is a general provision in human rights legislation; in others, the legislation is very specific. In Alberta, for example, the Service Dogs Act (S.A.2007, c.S-7.5) defines a service dog as “a dog trained as a guide for a disabled person and having the qualifications prescribed by the regulations.” The regulations name a training and accreditation organization for service dogs.<sup>2</sup> Service dogs are considered work dogs, not pets.

Support dogs do not have the legal status that service dogs do. Most organizations, as well as legislation and research, make a clear distinction between support dogs and service dogs. While service dogs belong to an individual, support dogs tend to belong to an organization and will work with many different persons or groups.



## SOCIAL SCIENCE RESEARCH

Is there empirical evidence demonstrating the benefits of support dogs for victims of crime? Because this is a relatively new role for support dogs, there have been no specific studies on support dogs working with victim services in or out of the courtroom. Related evidence suggests that this type of support may prove beneficial for victims of crime. For example, there have been studies on the role of dogs in therapy for victims of child sexual and physical abuse (see Dietz et al. 2012) and on patients with post-traumatic stress disorder (Lefkowitz et al. 2005). It is therefore necessary to draw conclusions from the more general research on the benefits of support animals and from research where animals have been used with specific groups.

<sup>1</sup> Canadian Service Dog Foundation, *Frequently Asked Questions*, from <http://www.servicedog.ca/about-us/faq> (accessed September 30, 2013).

<sup>2</sup> “A dog that has qualifications resulting from the successful completion of a training program delivered by a school or institution accredited by Assistance Dogs International, Inc. has the qualifications of a service dog for the purposes of the Act.”(AR 197/2008 s1;1/2010).

## Benefits of animals in general

Studies have shown the psychological benefits of support dogs in areas such as depression (Francis et al. 1985; Siegal 1990), aggression (Kanamori et al. 2001), and stress and anxiety (Barker and Dawson 1998; Beck et al. 1986; Davis 1988; Siegal 1990). Social science research provides evidence that animal companions have positive impacts on physiological symptoms of stress and anxiety such as high heart rate, high blood pressure, rapid, shallow breathing, and dissociation (see Johnson 2010). Put simply, animals may be able to calm people down and can have a positive impact on their emotions. The presence of such an animal can divert attention away from what is causing the stress and/or anxiety (Leaser 2005, 955).

## Animals in therapy

Dr. Boris Levinson, a psychologist, began to incorporate animals into his therapy sessions in the 1960s. He found that his patients were often able to trust the animals, and this helped them open up and trust him (Levinson 1969).

Animals that are involved in Animal Assisted Therapy (AAT) serve different roles, such as a companion, a social facilitator, or as a substitute to develop a relationship of trust. Sockalingham et al. (2008) note that animals can also provide emotional support, reinforce feelings of independence, and stimulate awareness. Beck (1985) noted that one advantage of using AAT is that therapeutic results are often immediate, even in difficult-to-treat patients who were previously withdrawn, uncooperative, and uncommunicative. This is especially important in the context of supporting victims of crime during the forensic interview or at other key stages in the criminal justice system, such as testifying.

Why AAT is beneficial is not clear.

Sockalingham et al. (2008, 75) note that:

Although attachment to another human also may aid in well-being (Sable, 1995), the attachment with an animal can be regarded as less complicated (Rynearson, 1978). In one preliminary study, measurements of neurochemicals linked to affiliation behavior indicated a mutualistic fulfillment of attention needs during AAT (Odendaal, 2000). This would suggest a physiological basis for the effectiveness of AAT.

In a more recent article, Chur-Hansen et al. (2010) note that while there have been numerous studies on the health impacts of animals on human beings, some of the results are inconclusive and, as noted above, the why and how of the benefits are not clear. These authors focus on two research gaps:

“(i) a preponderance of anecdotal reports and cross-sectional research designs; and (ii) failure to control for a host of other known influences on human health including health habits, level of attachment to the companion animal and human social supports” (2010, 140).

Another area where there exists very little evidence-based research is in the field of communication disorders. This is important in the context of support dogs and victims of crime given the value of the victim being able to communicate his or her experience fully and clearly to criminal justice professionals (e.g., police, the judge, or jury). One study explores the effects of a therapy dog on the communication skills of a patient with aphasia receiving intensive speech and language therapy within a rehabilitation setting. The researchers conclude that the presence of the dog has the potential to stimulate both overt social-verbal and social-nonverbal communication (LaFrance et al. 2007).

Furthermore, a recent study by Dietz et al. (2012) compared three different therapy groups for children who had experienced sexual abuse. The study was facilitated through a Children's Advocacy Centre in the southern United States and involved 153 children between the ages of 7 and 17. Children in the groups that included therapy dogs showed statistically significant decreases in trauma symptoms such as anxiety, depression, anger, post-traumatic stress disorder, and sexual concerns.

While this article focuses on support dogs, there is also a body of research on the benefits of introducing horses to support work with vulnerable individuals.<sup>3</sup> Data also indicate that both patients and staff from varied hospital units report greater happiness, decreased sadness, and a greater sense of being loved when AAT is administered (Cole and Gawlinski 2000).



## IN CANADA

Over the past several decades, there has been a growing recognition in Canada of the need to support victims of crime as they engage with the criminal justice system. This includes crisis response at the time of an incident or shortly thereafter, during the forensic interview for example, as well as prior to and during a criminal trial, and during the period in which an offender is incarcerated. These

programs, generally referred to as victim services, are largely funded by the provinces and territories and are organized in a variety of ways including police-based, system-based, and community-based services. The programs vary widely between and within jurisdictions. It has only been in the past decade that Statistics Canada has attempted to document these programs and the services provided to Canadians (see Kong 2004). And it has only been in the past couple of years that victim services programs have started to incorporate support dogs into their work with victims of crime.

In the *Criminal Code*, there are specific provisions to support those who testify in a criminal trial. Parliament enacted the first support person provision in 1993 to allow a support person to be close to a child witness while he or she tenders evidence in court. The original legislation applied only to charges related to sexual or violent offences. In 2005, Bill C-2 introduced a presumptive provision (s.486.1(1)) on application by a prosecutor or witness under age 18 or of a witness who has a mental or physical disability in any criminal proceeding, unless the judge concludes that the order would interfere with the proper administration of justice. Section 486.1(2) introduced a discretionary provision where the judge may order a support person of the witness's choice if the judge is of the opinion that the order is necessary to obtain a full and candid account from the witness. In making such an order, the judge may consider factors such as age, a mental or physical disability, the nature of the offence, and the nature of the relationship as well as any other factors the judge deems relevant.

<sup>3</sup> See [www.petpartners.org](http://www.petpartners.org) for up-to-date annotated bibliographies on research related to service and support animals. In the late 1960s, the Delta Foundation was established; it was later renamed the Delta Society, then in the last couple years, Pet Partners. The organization was founded to ensure robust research on the impact of animals in treating individuals. The website states that "Pet Partners, formerly Delta Society, is a 501(c)(3) non-profit organization that helps people live healthier and happier lives by incorporating therapy, service and companion animals into their lives. The organization is funded through individuals, foundations and corporations."

As Bala et al. (2011, ix) note in their report on testimonial aids,

The courts have accepted that in enacting ss. 486.1, 486.2, and 486.3, Parliament intended to increase the use of accommodations for child witnesses, by increasing the use of support persons, closed-circuit television and screens, and counsel appointed to cross-examine child witnesses where accused persons are self-represented. There are very few reported cases in which use of an accommodation was requested and the accused satisfied the court that use of the accommodation would “interfere with the administration of justice.”

A support person might be a social worker or a victim witness worker. In some cases, a parent may also be an appropriate support person, although a judge may decide that this interferes with the proper administration of justice if the allegation involves abuse by the other parent or a relative or if the parent is also testifying. There has yet to be a case in Canada where a support dog has accompanied a vulnerable person during testimony, nor has an application for a support dog ever been made. There are, however, numerous such cases in the United States.



## SUPPORT DOGS IN THE UNITED STATES

Dogs in victim services and dogs in courtrooms are more common in the United States than in Canada. In at least 21 states, dogs are able to, upon application by the prosecutor, accompany sexually abused children into the courtroom when they take the stand, offering support and comfort while the children testify (Courthouse Dog Foundation).

Dellinger (2008-09) provides a history and arguments for a legal foundation to allow assistance animals (specifically support dogs) into courtrooms. As part of her research, Dellinger undertook interviews with judges involved in a pilot program in King County, Washington, which involved the use of dogs in the courtroom. She suggests that the support from “canine attendants” should be codified like the support from human attendants to provide more direction on instances in which the use of a dog in the courtroom should be allowed (Dellinger 2008-09, 186-187). Dellinger notes further that, “...awareness of victims’ rights appears to be increasing in legal circles; with this comes an interest in modern solutions that help victims yet still respect the bounds of the traditional legal system. Canine emotional support programs are such a solution” (ibid.).

While there are no specific provisions in state or federal legislation that articulate the acceptance of assistance animals in the courtroom, most states have similar provisions to those in the *Criminal Code* as described above, at least for child



victims. Most applications for assistance animals during testimony are granted on more general provisions for support during testimony, and often just for children, as in the *Arkansas Annotated Code* (16-43-1202) below:

*Safeguards for child victims testifying in judicial and administrative proceedings.*

(6) If it is in the child's best interests, the prosecuting attorney, attorney ad item, or Office of Chief Counsel attorney may file a motion for the child to have a support person present when the child testifies in a judicial proceeding or an administrative proceeding;

The Federal Rules of Evidence 611 (FRE 611) also provide:

The court shall exercise reasonable control over the model and order of interrogating witnesses and presenting evidence so as to (1) make the interrogation and presentation effective for the ascertainment of the truth, (2) avoid needless consumption of time, and (3) protect witnesses from harassment or undue embarrassment.

There are also similar rules at the state level.<sup>4</sup> The flexibility in FRE 611 is very important and gives the presiding judge a fair amount of discretion to adapt circumstances to the unique characteristics of a given case. In interpreting the legislation on "safeguards" or "testimonial supports" for child witnesses, there are a number of court decisions at the trial and appellate levels which examine the issue of dogs in the courtroom (Dellinger 2008-2009,

181-188). In the US, one of the concerns is the "confrontation issue" (Dellinger 2008-2009, 182). This refers to the Sixth Amendment of the US Constitution<sup>5</sup> which guarantees an accused, among other things, the right to confront witnesses. In Canadian criminal law, there is no such guarantee.

The website [www.courthousedogs.com](http://www.courthousedogs.com) provides numerous legal tools to assist organizations and the State to make persuasive arguments regarding the use of dogs in the courtroom. For example, one section describes techniques for "minimizing prejudice"<sup>6</sup>; in several cases, the support dog entered the courtroom before the jury and stayed behind the witness box so that the jurors were not aware of its presence. In another section on appellate cases, it is possible to access the facts used by defence counsel and the State in the cases.<sup>7</sup>



## CANADA'S FIRST VICTIM SERVICES DOGS

Canada's very first victim services dog is a Yellow Labrador Retriever named Caber.<sup>8</sup> Caber joined the Delta Police Victim Services, serving Delta, British Columbia, in July 2010 for the K9 Trauma Project, funded in part by the Victims Fund of the Department of Justice Canada. Caber was bred and

<sup>4</sup> For example, Washington Rules of Evidence 611(a) is identical to the FRE 611.

<sup>5</sup> "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense." [Emphasis added.] For more context, see the Legal Information Institute at Cornell University Law School at [http://www.law.cornell.edu/anncon/html/amdt6frag6\\_user.html#amdt6\\_hd30](http://www.law.cornell.edu/anncon/html/amdt6frag6_user.html#amdt6_hd30).

<sup>6</sup> [http://www.courthousedogs.com/legal\\_minimizing\\_prejudice.html](http://www.courthousedogs.com/legal_minimizing_prejudice.html)

<sup>7</sup> [http://www.courthousedogs.com/legal\\_appellate\\_cases.html](http://www.courthousedogs.com/legal_appellate_cases.html)

<sup>8</sup> See <http://deltapolice.ca/services/victimservices/trauma-k9/>.

trained by the Pacific Assistance Dogs Society (PADS).<sup>9</sup>

Caber is a Canine Assisted Intervention trained intervention dog and will support the work of the victim services personnel as required. For example, Caber may attend at the scene of the crime, in the hospital, or at the police station to help calm a victim so he or she can provide a statement or just talk about what has happened. PADS retains ownership of all the dogs they place in therapy and service capacities until the dog retires. Retaining ownership of the dog is important as the dog can be taken back if he or she is ever misused or abused, and this also keeps the dog handlers, who are employees of the organization, and PADS staff well connected with each other for support and assistance. When a dog officially retires as a working dog, the handler gets the first option to adopt him or her.

The K9 Trauma Project Summary Report noted the following in terms of intangible benefits of Caber:

Intangibly speaking, our K9 services have reached and connected with clients in an incredibly meaningful and positive way. It is difficult to summarize the impact that the K9 and this service has had on clients he has had contact with. Clients report the following: being incredibly comforted by the K9, finding immense cathartic benefit to petting the K9, being more receptive to services as a result of the K9, and a different and more positive opinion/outlook on police and police services because of the K9. Victim Services K9 handlers report: the K9 calms clients down who are excessively

agitated, clients begin to talk more easily when the K9 is present, the cathartic benefit to petting an animal is obvious and overt in many situations, and clients approach Victim Services in a more positive and receptive manner.

In early 2013, Caber moved into the courthouse and, as a pilot project, attends Crown Counsel pre-trial interviews to provide comfort to victims when they are discussing their testimony. It is hoped that eventually Caber will be able to act as a support dog when vulnerable witnesses are testifying in court.

Lucy, a black Labrador, joined the Camrose Police at the end of April 2013 and is Canada's second victim services dog and the first in Alberta. Lucy was trained by Dogs with Wings, which is the only accredited assistance dog training centre in Alberta. In addition, in the fall of 2013, a support dog joined the Calgary Police Services Victim Assistance Support Team.

In July, Fossey and Wren, mother and daughter golden Labradors arrived at the Zebra Child Protection Centre in Edmonton.<sup>10</sup> The dogs play different roles depending on the needs of the child or youth and his or her family. This may include greeting the family, staying in the forensic interview room during the interview, or just being present in the waiting area for the child to pat.

It is important to add that the handlers of the support dogs always ask permission of the vulnerable individual before introducing the support dog. If someone has allergies or is afraid, or expresses any kind of discomfort, the support dog would not be introduced.

<sup>9</sup> See [www.pads.ca](http://www.pads.ca) for more information.

<sup>10</sup> For media coverage of the arrival of Fossey and Wren, see <http://globalnews.ca/news/824426/dogs-help-child-victims-open-up-about-their-experiences/>. For more information about the Zebra Child Protection Centre, see <http://www.zebracentre.ca/awareness/>.



## SO WHAT HAPPENS NEXT?

Research clearly shows the benefits of animals to vulnerable individuals in general and in supportive or therapeutic-like contexts, although some results are inconclusive. These inconclusive results may be attributed to weaknesses or

limitations in the research design. Research specific to victim services or support dogs would provide evidence as to whether greater involvement of support dogs with victims of crime would be beneficial or not. Such research needs to be designed carefully to ensure it is as rigorous as possible given the particular context.

Support animals can make a difference physiologically, emotionally, and mentally. Given the impact victimization can have on children and adults, such interventions appear to be worth considering. So let's "paws" and consider this possibility.

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# Third Party Records:

## THE CASE LAW FROM 2003-2010

SUSAN MCDONALD  
WITH SIAVOSH PASHANG AND ANNA NDEGWA

In the Supreme Court of Canada decision in *R. v. Seaboyer*, one of many high profile cases in the area of sexual assault law in the 1990s, Judge L'Heureux-Dubé noted, “Sexual assault is not like any other crime...”<sup>1</sup> Indeed, sexual assault as a crime is unique from other violent crimes and was treated quite differently in the criminal justice system prior to the reforms that began some 30 years ago.

It is telling that the legislative amendments that created a process for production of third party records in sexual offence cases are still referred to by advocates as Bill C-46,<sup>2</sup> although there have been many C-46s since 1997 when the legislation was passed. The amendments to the *Criminal Code*

introduced a regime to discourage “fishing expeditions” by the defence for third party records in sexual offences cases. A third party record could be a personal diary or a professional record, such as counselling notes or the medical file, which is most often in the possession of the complainant or the third party (e.g., the hospital); importantly, the complainant has a reasonable expectation that the record is private. Defence counsel are required to apply to the court for the production of third party records. Judges are required to consider specific factors in their deliberations as to whether to order full, partial, or no production. The legislation was found to be constitutional in the Supreme Court of Canada decision of *R. v. Mills*<sup>3</sup>

<sup>1</sup> *R. v. Seaboyer* (1991) 2 S.C.R. 577, per L'Heureux-Dubé, J., at 648-49.

<sup>2</sup> *Bill C-46, An Act to amend the Criminal Code (production of records in sexual offence proceedings)*, 2d Sess., 35th Parl. 1997 (assented to 25 April 1997), S.C. 1997, c.30 (Bill C-46).

<sup>3</sup> (1999) 3 S.C.R. 668.

in November 1999. The introduction of the regime was but one of the many legal and social reforms in the area of sexual assault that took place in the 1980s and 1990s in Canada (see McDonald et al. 2006 for an overview of these reforms).

Some small, qualitative social science studies in the past decade have found that those who report a sexual assault have been more positive about their experiences with criminal justice personnel, such as law enforcement (see for example, Regehr and Alaggia 2006), than before the legal and social reforms began. This may be due to additional training and the establishment of specific units to deal with sexual assault. Confidence in the system overall, however, remains low. Reporting rates, as national statistics show, also remain extremely low for sexual assault and other sexual offences (see Northcott 2013).

National statistics on the rates of sexual offences come from two main sources: police-reported victimization is collected through the Uniform Crime Reporting Survey 2 (UCR2), and self-reported victimization is collected through the General Social Survey on Victimization (GSS), which is conducted every five years, most recently in 2009. In 2012, there were 21,900 sexual assaults reported to police, about 60 fewer than in the previous year (Perreault 2012). This number only represents a small proportion of sexual assaults that occur each year in Canada. Sexual assault, in particular, has one of the lowest reporting rates of all crimes. Data from the 2009 GSS show that 88% of sexual assaults were not reported to police (Perreault and Brennan 2010, 4).

Unfortunately, third party records applications and the outcomes are not captured in Statistics Canada's court surveys (Adult Criminal Court Survey and Youth Criminal Court Survey) and as a result, it

is not possible to know the number of applications and the outcomes of these applications. To understand the outcomes and how decisions are being made, it is therefore necessary to review available case law. McDonald et al. (2006) presented a review of third party records decisions dating from the decision in *R. v. Mills* in 1999 through June 2003. The purpose of this article is to present a similar review, based on decisions from July 2003 through 2010.



## METHODOLOGY

For s.278.1 third party record applications in sexual offences cases, judges are required to provide reasons for their decisions, although those decisions may or may not be published through one of the case law databases. For this study, decisions reported on CanLII, Westlaw, and the QuickLaw database were retrieved from July 1, 2003, to December 31, 2010. Cases were reviewed for information on the complainant(s), the defendant(s), kinds of records, whether records were ordered to be produced to the judge and to the defendant, and the reasons given in the decision for production.

The search terms used were “s.278,” in conjunction with other possible terms such as “records” or “sexual offences.” A total of 82 cases with 92 decisions were reviewed for this study (see the list of cases following the list of references at the end of this article).



## CASES BY JURISDICTION AND LEVEL OF COURT

The common unit in this review is the case. Where there are two decisions for a case, both were reviewed, but the case

was only counted as one. As can be seen in Table 1 below, the cases are spread fairly evenly across the provinces with the exception of Ontario which has slightly more than half of the total cases. As the decisions reported are not necessarily representative of all cases, this breakdown should not be seen as a reflection of the total number of third party records applications in a given jurisdiction.

<b>Province/territory</b>	<b>Total cases*</b>	<b>Appellate level</b>	<b>Trial level</b>
British Columbia	6	1	5
Alberta	7	1	6
Saskatchewan	5	0	5
Manitoba	4	0	4
Ontario	46	1 (SCC), 2 (OCA)	43
Quebec	4	1	3
Nova Scotia	4	0	4 (1 in youth court)
Prince Edward Island	2	0	
Newfoundland and Labrador	3	0	2
New Brunswick	1	0	1
<b>Total</b>	<b>82</b>	<b>6</b>	<b>76</b>

\* Note that there were instances where a case had two (or more) decisions, e.g. at trial and on appeal, but the total presented here is for cases, not decisions.



## OFFENCES COMMITTED

Many of the decisions, because they were decisions specifically about the s.278 application, did not include the specific *Criminal Code* sections involved. In the majority of cases, the accused had been charged with more than one offence. All were offences that fell under those listed in s.278.2.



## RECORDS

A third party record is defined in the *Criminal Code* as:

For the purposes of sections 278.2 to 278.9, “record” means any form of record that contains personal information for which there is a reasonable expectation of privacy and includes, without limiting the generality of the foregoing, medical, psychiatric, therapeutic, counselling, education, employment, child welfare, adoption and social services records, personal journals and diaries, and records containing personal information the production or disclosure of which is protected by any other Act of

Parliament or a provincial legislature, but does not include records made by persons responsible for the investigation or prosecution of the offence.

Counselling records (including the records of counsellors, therapists, psychologists, and psychiatrists) were the type of records most often sought, in more than half the cases, and medical records were sought in over a quarter of the cases. With these two types of records, there is a high expectation of privacy. There were only a few cases where personal diaries were sought.

**Table 2:  
Type of records  
sought by defence**

Type of records	Number of cases about
Counselling records/Therapeutic records (including psychologists/psychiatrists' records)	37
Other (VIS, testimony, work/personnel, custodial reports, insurance, police investigation records)	19
Medical records	18
Child protection records	16
Social services records	14
School records	14
Personal records (e.g., diary, notes)	4
<b>Total*</b>	<b>122</b>

\* There were at least 6 cases where this information was missing. The total adds up to more than 82, as many cases had multiple records.





## LOCATION OF RECORDS

At the time of the actual records application, records were in various locations and, in some cases, more than one location: with the Crown (6); with third parties (43), broken down to doctor (11), counsellor/social services (12) or unspecified (27); and with others (8) such as the defence, court, complainant, and police. In 11 cases, the records were in more than one location and in the remaining cases, information about the location was missing.



## PARTY CHARACTERISTICS

The characteristics of the defendants and the complainants are consistent with trends noted in earlier case law reviews (McDonald et al. 2006; Gotell 2006, 2008; Busby 1998). Overall, the majority of complainants were female, the defendants were male, and in a majority of cases, there was a prior relationship between them. A significant proportion of the complainants were younger than 18.

### Information about the defendants

The defendant was male in almost all the cases where the information was available (64 out of 66 cases). In one case, there were two defendants – one male,

one female – and in one other case, the defendant was a female. In terms of age, out of the 62 cases which had the information, 5 of them involved adult defendants, and only 3 involved defendants under the age of 18. The ethnic background of the defendant was not provided in any of the cases. The vast majority of cases did not note the defendant's profession or job, but 7 cases did include this information, listing a doctor, a professional, caseworkers (2), and labour-related jobs (3).

### Information about the complainants

In 70 cases, there was only one complainant, while in 12 cases there was more than one complainant. The majority of complainants were female (56 cases), while there were male complainants in 3 cases and one case with a male and female complainant. The majority of cases examined involved young complainants. In cases where the age of the complainant(s) was identified, 50 were younger than 18 years of age, and 10 cases involved adult complainants. There were 3 cases where the complainants had a developmental disability and 8 cases where the complainant had a psychological disability.

### Relationship between the defendant and the complainant

As in previous reviews, the majority of cases showed some form of prior relationship between the accused and the complainant(s). There were 50 cases where it was possible to determine the relationship between the accused and the complainant(s) with certainty. In 30 cases, the defendant was a family member. In 8 cases, the defendant was a neighbour or friend/acquaintance/dating partner. Six other defendants had some form of professional relationship with the client (e.g., colleague, doctor, caseworker, or teacher). There were 6 cases where the defendant was a stranger.



## REPRESENTATION FOR THE COMPLAINANT

In third party records applications, the complainant has legal standing and is entitled to make submissions to the judge on production of the third party records. As the Crown does not represent the complainant in any part of the criminal proceedings, legal representation at third party records hearings can be very important for complainants. The complainant was represented by legal counsel in 56 cases and not represented in the remaining 25 cases (information not available in one case).



## OUTCOME OF APPLICATIONS

Following an application for production and disclosure, a judge may order that all or none of the records requested be disclosed to the defence or that some of the records be disclosed. Out of the 82 cases reviewed, records were fully disclosed in 4 cases, partially disclosed in 21, and not disclosed at all in 41 cases. In 12 cases, further arrangements needed to be made, and the information was missing in 4 cases.



## REASONS

In *R. v. Mills*, the court stated that a court in deciding whether to order production must consider “the rights and interests of all those affected by disclosure” and that the three principles at stake in s.278 cases are full answer and defence, privacy, and equality.

Subsection 278.5(2) of the *Criminal Code* is as follows:

(2) In determining whether to order the production of the record or part of the record for review pursuant to subsection (1), the judge shall consider the salutary and deleterious effects of the determination on the accused’s right to make a full answer and defence and on the right to privacy and equality of the complainant or witness, as the case may be, and any other person to whom the record relates. In particular, the judge shall take the following factors into account: ...

The section goes on to list eight factors from (a) to (h) that the judge must consider. The cases were reviewed and the factors referenced in the decisions noted in Table 3 on the following page.

**Table 3: Factors referenced in the cases**

<b>Factors in s.278.5 (2)</b>	<b>N</b> (Number of cases in which the factor is referenced)
a) The extent to which record is necessary for the accused to make a full answer and defence	14
b) The probative value of the record	23
c) The nature and extent of the reasonable expectation of privacy with respect to the record	21
d) Whether the production of the record is based on a discriminatory belief or bias	9
e) The potential prejudice to the personal dignity and right to privacy of any person to whom the record relates	7
f) Society's interest in encouraging the reporting of sexual offences	9
g) Society's interest in encouraging the obtaining of treatment by complainants of sexual offences	5
h) The effect of the determination on the integrity of the trial process	4
General reference	24
Other reference	12
No reference	11

Judges made a general reference to the factors in subsection 278.5(2) that must be considered in 24 cases, and in another 12, included a reference to the factors. This reference most often came in the form of mentioning that she or he must consider the provision, or that she or he had considered the provision in making a decision. There was no reference to the section or the factors in 11 cases.

The probative value of the record was the most common theme, arising in the most number of cases (23), followed closely by the reasonable expectation of privacy of the complainant, which was discussed by the judge in 22 cases.

The defendant's right to a full answer and defence (mentioned in 14 cases) and the potential prejudice to personal dignity and the right of privacy upon disclosure (7 cases) were the most commonly explored of the seven factors in the cases.

Both the influence of discriminatory beliefs or biases (9 cases) and society's interest in reporting offences (9 cases) were mentioned in just over 10% of cases. The least common factors utilized in the decision were society's interest in encouraging victims to seek treatment, mentioned in 5 cases, and the integrity of the trial process, mentioned in 4 cases.



## CONCLUSION

This case law review examined a total of 82 cases (92 decisions) on third party records applications from July 1, 2003, to December 31, 2010. The findings in this review are consistent with previous studies. For example, in a majority of cases, there was a relationship between complainant and defendant (familial, acquaintance, professional); the majority of defendants were male while the complainants were female; a large number of complainants were younger than 18; multiple records were often sought; and partial or full records were ordered produced to the defence in approximately a third of cases (25 out of 82, with 4 of these cases missing that information).

As a methodology to determine how the third party records regime is functioning, a case law review is limited. The decisions that are reported may not be representative of total decisions across the country, and without a review of court and/or Crown files, there are no court data on a national level to determine the number of applications brought and the outcome of those applications.

Nonetheless, as these decisions are available to counsel and judges, they serve as precedents and can provide some trends on the characteristics of the cases involved and the outcomes. In December 2012, the Standing Senate Committee on Legal and Constitutional Affairs released its report on the review of the third party records regime (2012). One of the Committee's recommendations is that there must be support for research to continue to monitor the functioning of this regime.<sup>4</sup> While this review did not find any trends out of keeping with previous work, as long as the reporting rates of sexual offences remain well below those of other violent offences, on-going monitoring of this regime will be important.

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<sup>4</sup> Recommendation 15: "That the Government of Canada support qualitative and quantitative research into the effectiveness of the records production scheme under the *Criminal Code*, the crime of sexual assault more generally and the adequacy of existing support services and justice sector responses."

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List of decisions by jurisdiction (number of cases counted)

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*R. v. A. J.B.*, 2011, ABPC

*R. v. C.A.*, 2005 ABQB 154, [2005] A.J. No. 475; *R. v. C.A.*, 2006 ABQB 63, [2006] A.J. No. 70

*R. v. C.J.M.*, 2003 ABCA 263, [2003] A.J. No. 1136

*R. v. D.R.W.*, 2007 ABQB 690, [2007] A.J. No. 1296

*R. v. G.J.S.*, 2007 ABQB 757, [2007] A.J. No. 1508

*R. v. Hundle*, 2003 ABQB 618, [2003] A.J. No. 898

*R. v. Leykin*, 2010 ABQB 631, [2010] A.J. No. 1145

*R. v. R.D.M.*, 2008 ABQB 630, [2008] A.J. No. 1205

### **British Columbia**

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### **Manitoba**

*R. v. Fones*, 2009 MBQB 65, [2009] M.J. No. 92; *R. v. Fones*, 2009 MBQB 239, [2009] M.J. No. 326

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### **New Brunswick**

*R. v. Breau*, 2011, NBQB, 245

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*R. v. Pittman*, [2009] N.J. No. 215 (N.L. Prov. Ct.)

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*R. v. P.C.*, 2011, NLSC

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*R. v. N.R.H.*, 2008 NSPC 38, [2008] N.S.J. No. 321  
*R. v. R.E.W.*, 2009 NSSC 286, [2009] N.S.J. No. 443  
*R. v. T.Y.*, 2010 NSPC 41, [2010] N.S.J. No. 310

**Ontario**

*Ontario v. Tolliver*, 2010 ONSC 506, [2010] O.J. No. 201  
*R. v. A.A.M.*, [2004] O.J. No. 5306 (Ont. Sup. Ct.)  
*R. v. Au*, [2005] O.J. No. 2916 (Ont. Sup. Ct.)  
*R. v. Barnes*, [2004] O.J. No. 5572 (Ont. Ct. J.)  
*R. v. Browne*, [2008] O.J. No. 4932 (Ont. Sup. Ct.)  
*R. v. C.L.*, 2008 ONCJ 549, [2008] O.J. No. 4388  
*R. v. D.L.*, [2005] O.J. No. 3585 (Ont. Sup. Ct.)  
*R. v. D.M.*, 2010 ONSC 342, [2010] O.J. No. 2875  
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*R. v. Dolomont*, 2008 ONCJ 318, [2008] O.J. No. 2781  
*R. v. Ducharme*, [2003] O.J. No. 6084 (Ont. Sup. Ct.)  
*R. v. Frater*, [2008] O.J. No. 5329 (Ont. Sup. Ct.)  
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# The Human Cost of Impaired Driving in Canada



ANDRÉ SOLECKI  
WITH KATIE SCRIM

The decline of impaired driving crime in Canada is an example of the progress that can be made when government and civil society work together to change harmful social behaviour and, in this instance, save lives. Half a century ago, impaired driving was, to some extent, a tolerated behaviour in Western society (The Breathalyzer Team 2010). Today, public awareness campaigns and education in schools seek to prevent impaired driving; criminal and civil penalties seek to punish and prevent the act from occurring; and driver spot checks, such as the Reduced Impaired Driving Everywhere program (RIDE), seek to

deter drinking and driving and to catch and remove impaired drivers from roads. Nevertheless, fatalities continue to occur as a result of impaired driving on Canadian roads and highways every year.

While there have been many positive changes in both the attitudes and behaviours of Canadians, impaired driving continues to be a widespread problem with a tragic human cost. This article attempts to determine the extent of this human cost by looking at the data available in Canada on the number of fatalities caused by impaired driving.





## BACKGROUND

The Canadian *Criminal Code* defines impaired driving in a variety of ways. Drivers are said to be criminally impaired if they have more than 80 milligrams of alcohol per 100 millilitres of blood in their system. This ratio is commonly referred to as .08% Blood Alcohol Concentration (BAC). A driver can also be impaired if he or she is under the influence of narcotics or prescription medication. A driver's impairment poses an immediate risk of death or injury to the driver, to passengers, to other drivers on the road, to cyclists, and to pedestrians.

Over the summer of 2013, the federal Minister of Justice addressed the issue of impaired driving, expressing a desire to amend the existing relevant legislation. The Minister is supported by various victims' advocacy groups, including Families for Justice, which supports this legal redefinition (Chamberlain 2013), and Mothers Against Drunk Driving (MADD), which supports various legislative changes that would institute mandatory minimum penalties, as well as the implementation of random breath testing (MADD 2012).<sup>1</sup>

In Canada, the two primary sources of data on impaired driving causing death are Statistics Canada's Uniform Crime Reporting (UCR) survey and the Traffic Injury Research Foundation (TIRF) survey. The UCR is used to present police-reported data concerning impaired driving causing death, by alcohol or drug use. The UCR survey is virtually 100% representative of police-reported crime as it is completed every time a police officer can substantiate the occurrence of a crime. The UCR collects data that can be used to present crime visually on a map and provides information on the demographics of victims and accused. A limitation of the UCR is that it relies on police reporting: not all crimes are reported to, or are substantiated by, the police. This means that the UCR may not present the true extent of impaired driving causing death in Canada.<sup>2</sup> The second data source comes from TIRF, an organization that has conducted numerous studies of alcohol-related road accident fatalities. TIRF's data show the proportion of drivers killed in motor vehicle accidents where alcohol was involved. The two data sources differ in so far as one collects police-reported data on impaired driving causing death, and the other collects information on drivers killed in alcohol-related road accidents. Combined they present an estimate of the number of people killed in Canada by impaired driving.

<sup>1</sup> Random breath testing legislation would give police officers the power to pull over any driver, at any time, to demand a sobriety test and/or a breath test.

<sup>2</sup> The *Criminal Code* violation of impaired driving causing death does not tend to be subject to a high degree of underreporting to the UCR.



## STATISTICS ON IMPAIRED DRIVING

Police are amongst the first responders to fatal vehicle accidents and are usually responsible for recommending a criminal charge when the circumstances warrant it. Police officers reported 793 incidents of impaired driving causing death over the five-year period of 2008 to 2012. It is important to emphasize that these incidents do not include incidents where only the impaired driver was killed.<sup>3</sup> The majority of incidents resulted in a driver being charged: police identified a driver to be charged in 665 incidents (84%). For 78 incidents (10%), charges were cleared for other reasons.<sup>4</sup> The remaining 6% of incidents were not cleared for charges, either due to the escape of the accused or the inability of the police to locate an accused.

The UCR collects information about the age and gender of victims of impaired driving causing death and of those accused of the crime. Data available from 2009 to 2012, the only years for which data are available, reveal that 598 people were killed by an impaired driver over the four-year period. The majority of victims

were adult males. While 88% of victims were over the age of 18, 53% of adult victims were between the ages of 18 and 35, showing that victims of impaired driving causing death are typically younger than middle age. A total of 67 youth were fatally injured by this crime between 2009 and 2012, with 4 victims under the age of 12. The demographic characteristics were similar for those accused of impaired driving causing death. Accused persons were mainly young adult males. The vast majority (95%) of accused were adults; more than two-thirds (68%) were between the ages of 18 and 35. In total, 26 youth aged 12 to 17 were charged with impaired driving causing death between 2009 and 2012.

Table 1 presents incident counts of impaired driving causing death and the rate of incidents per 100,000 population,<sup>5</sup> for the years 2008 to 2012. Note that an incident can have one or more victims. The five-year trend of police-reported incidents of impaired driving causing death indicates a 30% reduction in incidents of impaired driving causing death over the period of 2008 to 2012. In addition, the rate has declined from .59 to .40 incidents per 100,000 population. Nevertheless, police-reported impaired driving causing death remains a problem in all Canadian jurisdictions.

Incident counts of impaired driving causing death are high in the more populous provinces. However, there are a few examples of high counts of incidents and

<sup>3</sup> The UCR's reported figures on impaired driving causing death do not capture incidents where only the impaired driver was killed; they include only incidents that involve the death of passengers, drivers of other vehicles and pedestrians. For more information, see <http://www.statcan.gc.ca/pub/85-002-x/2013001/article/11739-eng.htm#n1>.

<sup>4</sup> Other reasons include the death of the accused following or after the incident, the committal of the accused to a mental hospital, the diplomatic immunity of the accused, or because the accused was no longer in Canada and could not be returned.

<sup>5</sup> The rate measures the number of incidents of a crime relative to the population of a region or country. The rate is often considered a better measurement of criminal activity than incident counts as one can gauge the relative prevalence of a crime in society and make comparisons across social and geographic boundaries.

**Table 1: Incident counts and rates of impaired driving causing death, 2008 - 2012**

Region	2008		2009		2010		2011		2012	
	Incidents	Rate	Incidents	Rate	Incidents	Rate	Incidents	Rate	Incidents	Rate
N.L.	3	0.59	0	0	1	0.2	1	0.19	0	0
P.E.I.	0	0	1	0.71	0	0	1	0.69	3	2.05
N.S.	2	0.21	2	0.21	3	0.32	5	0.53	3	0.32
N.B.	3	0.4	2	0.27	6	0.8	7	0.93	8	1.06
Que.	52	0.67	51	0.65	53	0.67	26	0.33	15	0.19
Ont.	35	0.27	26	0.2	28	0.21	23	0.17	23	0.17
Man.	11	0.91	9	0.74	11	0.89	16	1.28	17	1.34
Sask.	25	2.47	12	1.17	14	1.34	14	1.32	22	2.04
Alta.	34	0.95	34	0.93	27	0.73	20	0.53	27	0.7
B.C.	29	0.66	19	0.43	23	0.51	16	0.35	18	0.39
Y.T.	1	3.02	0	0	2	5.78	1	2.83	1	2.77
N.W.T.	2	4.58	1	2.29	1	2.28	0	0	1	2.31
Nvt.	0	0	2	6.21	0	0	0	0	0	0
<b>Canada</b>	<b>197</b>	<b>0.59</b>	<b>159</b>	<b>0.47</b>	<b>169</b>	<b>0.49</b>	<b>130</b>	<b>0.38</b>	<b>138</b>	<b>0.40</b>

Source: Statistics Canada, *The Uniform Crime Reporting Survey*.

high rates in less populated provinces. In 2012, for example, Saskatchewan, Manitoba, and New Brunswick all report rates of impaired driving causing death higher than the national rate of .40, whereas Québec, Ontario, Alberta, and British Columbia have recorded rates lower than the national rate.

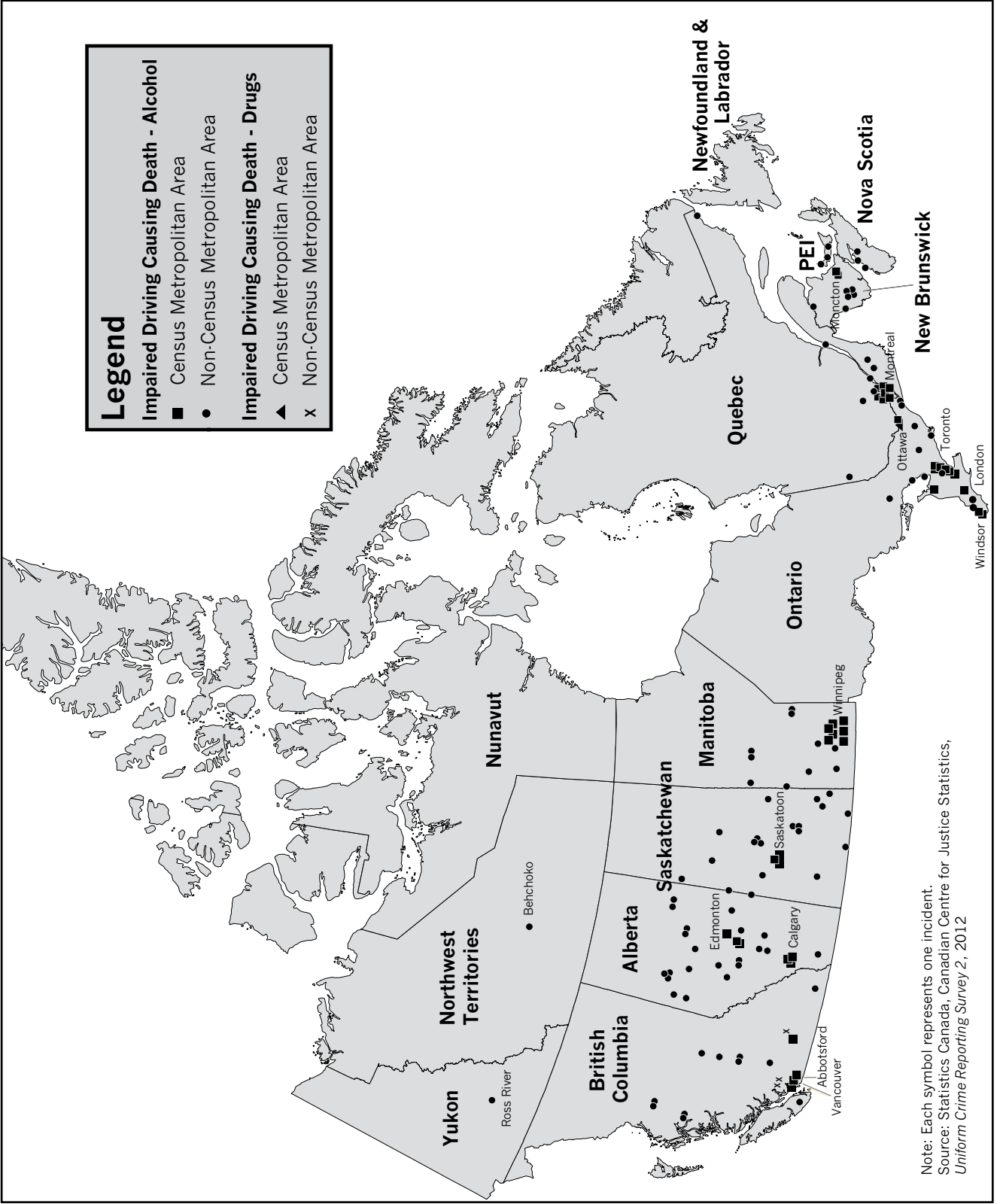
The following map depicts the number of police-reported incidents of impaired driving causing death for the 2012 calendar year, distinguished by whether they occurred within a Census Metropolitan Area (CMA) or outside of one. CMAs can be considered major urban areas. They are formed by one or more adjacent municipalities centred on a population centre, known as the core. A CMA must have a total population of at least 100,000, of which 50,000 or more live in the core (Statistics Canada 2012a).

There were 33 CMAs in Canada according to the 2011 Census (Statistics Canada 2012b). While some non-CMAs can still be considered urban,<sup>6</sup> distinguishing the locations of incidents between CMAs and non-CMAs provides an interesting comparison of where incidents of impaired driving causing death have occurred.

Geographically plotting police-reported incidents of impaired driving causing death helps to illustrate an interesting finding: 70% of all incidents of impaired driving causing death in 2012 occurred in non-CMA areas. Since roughly 7 out of 10 Canadians lived in a CMA in 2011, incidents of impaired driving causing death are overrepresented in non-CMAs (Statistics Canada 2012a). Given the wide-spread availability of alternate means of transportation in major urban centres, such as taxis and buses, this is

<sup>6</sup> Charlottetown, P.E.I., for example may be considered an urban area, but it is not a CMA.

**Figure 1: Police-reported incidents of impaired driving causing death in Canada in 2012, by Census Metropolitan Area and Non-Census Metropolitan Area**



Note: Each symbol represents one incident.  
 Source: Statistics Canada, Canadian Centre for Justice Statistics, *Uniform Crime Reporting Survey 2, 2012*

not entirely surprising. This geographic distinction shows that drivers, passengers, cyclists, and pedestrians in rural or non-CMA urban regions face a greater likelihood of being killed by an impaired driver than drivers, passengers, cyclists, and pedestrians in CMAs.

The second source of data is the report of the Traffic Injury Research Foundation (TIRF) of Canada entitled *Alcohol-Crash Problem in Canada: 2010* (TIRF 2013). This report contains information on fatally wounded drivers with alcohol detected in their blood and presents data that show that alcohol and driving result in many more fatalities than the UCR reports. TIRF collects BAC data from police reports and coroner reports relating to fatal motor vehicle crashes. TIRF data show how prevalent alcohol use and driving deaths are by looking beyond the criminal instances of impaired driving causing death, presenting a more complete estimate of the number of drivers killed in alcohol-related road accidents. Unlike the UCR, no narcotics-related fatal accidents are included. A limitation of the TIRF data is that it still underestimates how many Canadians are killed by alcohol-related accidents as it does not relate other victims killed to those drivers killed in alcohol-related road accidents.

For the latest year of data available (2010), TIRF recorded 1,621 drivers killed in a motor vehicle accident. Of these fatally wounded drivers, 36% (590) had alcohol detected in their blood. From a human cost perspective, the TIRF data show that the problem of alcohol-related deaths on Canada's highways and streets is a greater problem than homicide: there were more alcohol-related driver fatalities in 2010 than homicides (554).

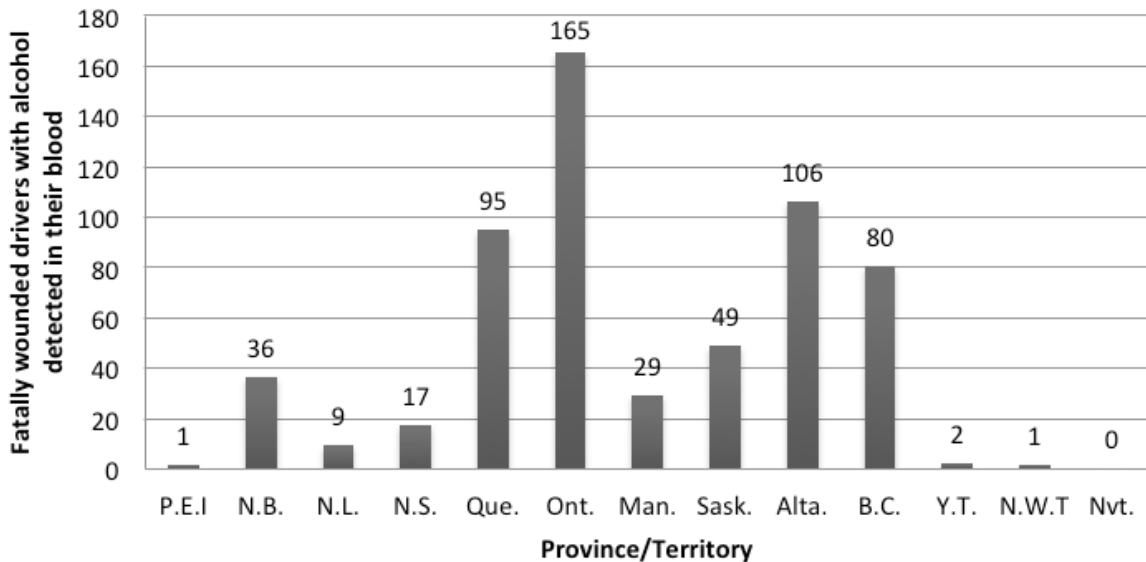
Some characteristics of fatally wounded drivers with alcohol detected in their blood are reported by TIRF. Fatally wounded drivers were mostly male (84%) and generally between the ages of 20 and 35 (44%). The BAC levels of fatally injured drivers were also reported by TIRF. Over four fifths (83%) of fatally injured drivers with alcohol detected in their blood had BAC levels above the criminal limit of .08% BAC. Crashes involving fatally wounded drivers with alcohol detected in their blood were typically found to be single vehicle crashes.

Regionally, the TIRF data mimic the police-reported data. Figure 2 presents the number of driver fatalities related to alcohol for the latest TIRF reporting year (2010) by jurisdiction.

Not surprisingly, the counts of fatally wounded drivers with alcohol detected in their blood are higher in the more populated provinces. Nevertheless, smaller provinces, such as New Brunswick, Nova Scotia, Manitoba, and Saskatchewan show high numbers for relatively small populations.

International comparisons can be made to the TIRF data, as two nations conduct similar surveys. A report by the Australian Transport Council (2011), entitled *National Road Safety Strategy: 2011–2012*, notes that 30% of Australian crashes resulting in a fatality were related to impaired driving. New Zealand reports that of the 227 drivers killed in a road crash in 2010, 26% (59 drivers) were killed in an alcohol-related accident (ANZPAA 2010). From TIRF's perspective, Canada's alcohol-related crash fatality problem is comparable, if not more serious, than in nations with comparable legal systems and cultures.

**Figure 2: Number of alcohol-related driver fatalities by province and territory, 2010**



Source: Traffic Injury Research Foundation of Canada, *Alcohol-Crash Problem in Canada: 2010*.

An analysis of the TIRF data shows how broad the problem of fatal, alcohol-related road accidents is in Canadian jurisdictions. However, these data only present the number of drivers who died as a result of their drinking and do not present the numbers of other victims, such as passengers, other drivers, cyclists, and pedestrians. Ultimately, this means that the death toll of impaired driving is much greater than either the UCR or TIRF sources estimate.

The full extent of victimization by impaired drivers in Canada is not known. In order to measure the full extent, it would be necessary to test all drivers and victims of all motor vehicle accidents for impairing substances. Currently, Canadians know only the number of incidents that are reported to, and are substantiated by, the police and the number of fatal road accidents that are alcohol-related. However, one advocacy

group, Mothers Against Drunk Driving (MADD) Canada, has generated its own estimate of the number of people killed in Canada as a result of impaired driving. MADD estimated that 1,082 individuals died as a result of impaired driving in 2010, but the group suspects the true number may be closer to 1,500 fatalities per year when off-road vehicles, such as boats and all terrain vehicles, are included (MADD 2013). Using these figures, another MADD Canada report has attempted to estimate the economic cost of impaired driving in Canada. The authors estimate that impaired driving causing death cost Canadians over \$16 billion in 2010 alone (Pitel and Solomon 2013).



## THE HUMAN COST

There is no doubt that impaired driving causing death exacts a devastating cost. Not only are lives lost, but survivors bear the costs of grieving for the family and friends they have lost. In the devastating instances where the impaired driver survives and the passengers do not, that individual bears the grief that accompanies being responsible for a friend or family member's death.

Various advocacy and lobby groups provide victim services to those individuals affected by the criminal actions of an impaired driver. MADD, the largest of such groups, organizes and participates in victim conferences and support networks, and lobbies provincial and federal governments for changes in the laws relating to alcohol and vehicle use. MADD has chapters located across Canada where trained volunteers provide court accompaniment services, support services, and assistance to victims and their family members in writing and delivering victim impact statements. MADD also produces information materials for victims and their family members. These materials concern bereavement and how to navigate the criminal justice system, amongst other issues. The agency also operates a victim support line for those seeking help. Victim Services are also available in every province and territory and such services provide information and support to victims of crime, their families, and their friends.



## CONCLUSION

Impaired driving is totally preventable, yet every year hundreds of motorists, passengers, cyclists, and pedestrians are killed in alcohol-related accidents. The exact number of fatalities as a result of impaired driving is actually not known, given the lack of available comprehensive data. Statistical data cannot prevent alcohol-related accidents. However, developing more comprehensive data and analyzing regional and local trends in impaired driving would provide a clearer picture of the full extent of the human cost of impaired driving and would help police, policy makers, and legislators combat this crime and bring about a much greater reduction in the number of Canadians killed by impaired driving.

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# Victim-Related Conferences in 2014

## **Southwest Conference against Trafficking**

January 17–19  
Pomona, CA, USA  
<http://www.swcat.org/>

## **The 28th Annual San Diego International Conference on Child and Family Maltreatment: Examining the Evidence Base for Working with Men and Boys: Preventing Child Sexual Abuse—an Interactive Global Institute**

January 28–31  
San Diego, CA, USA  
[http://www.ispcan.org/events/event\\_details.asp?id=340190&group=](http://www.ispcan.org/events/event_details.asp?id=340190&group=)

## **Innovations in Domestic and Sexual Violence Research and Practice Conference: Promising Practices for a Peaceful North Carolina**

February 6–7  
Greensboro, NC, USA  
[http://www.ncdsv.org/images/NCCADV-etal\\_2nd-annual-Innovations-in-Domestic-and-SV-research-and-Practice-conference\\_2-2014.pdf](http://www.ncdsv.org/images/NCCADV-etal_2nd-annual-Innovations-in-Domestic-and-SV-research-and-Practice-conference_2-2014.pdf)

## **Converge! Re-Imagining the Movement to End Gender Violence**

February 8–9  
Miami, FL, USA  
<http://www.law.miami.edu/academics/converge/index.php?op=0>

**26th Annual Race against Violence**

February 22  
Houston, TX, USA  
<http://hawc.donordrive.com/index.cfm?fuseaction=donorDrive.event&eventID=530>

**2014 National Conference on Bullying**

February 26–28  
Orlando, FL, USA  
<https://nationalsave.org/event/national-conference-on-bullying/>

**28th Annual Conference on the Prevention of Child Abuse**

March 3–4  
San Antonio, TX, USA  
<http://www.preventchildabusetexas.org/nextconference.html>

**3rd Forum for Disaster Victim Identification**

March 4  
London, UK  
<https://www.regonline.co.uk/builder/site/Default.aspx?EventID=1213669>

**Texas Association against Sexual Assault 32nd Annual Conference: Break the Box: Collective Action against Sexual Violence**

March 9–13  
Irving, TX, USA  
<http://taasaconference.org/>

**11th Annual Hawaii Conference on Preventing, Assessing, and Treating Child, Adolescent, and Adult Trauma**

March 11–14  
Honolulu, HI, USA  
<http://www.ivatcenters.org/>

**30th National Symposium on Child Abuse**

March 24–27  
Huntsville, AL, USA  
<http://www.nationalcac.org/national-conferences/symposium.html>

**9th Annual Conference on Crimes against Women**

March 31 to April 2  
Dallas, TX, USA  
<http://www.conferencecaw.org/>

**Child Aware Approaches Conference 2014**

March 31 to April 2  
Melbourne, Australia  
<http://aifs.govspace.gov.au/2013/09/19/child-aware-approaches-conference-2014-call-for-abstracts-now-open/>

**14th Annual International Family Justice Center Conference: The Root of All Crime**

April 2–4  
San Diego, CA, USA  
<http://www.familyjusticecenter.org/index.php/training-main/annual-conference.html>

**WVCAN 2014 Conference: The Team Response to Child Abuse**

April 3–4  
Morgantown, WV, USA  
<http://wvcn.org/event/wvcn-2014-conference-the-team-response-to-child-abuse/>

**National Victims of Crime Awareness Week 2014: Taking Action**

April 6–12  
Ottawa, ON, Canada  
<http://www.victimswweek.gc.ca/abt-apd/index.html>

**38th Annual Child Welfare Symposium**

April 7–9  
San Francisco, CA, USA  
<http://symposium.jointcouncil.org/>

**No 2 Bullying Conference**

April 7–8  
Surfers Paradise, Queensland, Australia  
<http://no2bullying.org.au/>

**8th Annual Every Victim, Every Time  
Crime Victim Conference**

April 8–9  
Bryan, TX, USA  
<http://www.evetbv.org/>

**Crimes against Children in Indian  
Country Conference**

April 8–10  
Baraboo, WI, USA  
[https://www.ncjtc.org/CONF/Pages/Crimes\\_Against\\_Children\\_in\\_Indian\\_Country\\_Conference.aspx](https://www.ncjtc.org/CONF/Pages/Crimes_Against_Children_in_Indian_Country_Conference.aspx)

**32nd Annual Protecting Our Children  
National American Indian Conference on  
Child Abuse and Neglect**

April 13–16  
Fort Lauderdale, FL, USA  
<http://www.nicwa.org/conference/>

**2014 International Conference on  
Sexual Assault, Domestic Violence,  
and Trafficking**

April 22–24  
Seattle, WA, USA  
<http://www.evawintl.org/conferences.aspx>

**Association for Death Education and  
Counselling 36th Annual conference**

April 23–26  
Baltimore, MD, USA  
[http://www.adec.org//AM/Template.cfm?Section=Annual\\_Conference\\_Home1](http://www.adec.org//AM/Template.cfm?Section=Annual_Conference_Home1)

**Powerful Partnerships: 20 years of  
the Violence against Women Act and  
the Path Ahead**

April 24–25, 2014  
Newark, DE, USA  
<http://www.h-net.org/announce/show.cgi?ID=207323>

**17th Annual Crime Victims' Conference**

May 13–14  
Topeka, KS, USA  
<http://governor.ks.gov/CVRC>

**2014 Children's Justice Symposium /  
UPC Domestic Violence Conference**

May 13–14  
Midway, UT, USA  
<http://www.cjcsym.utah.gov/>

**2014 Sexual Violence Training Summit:  
Through a Different Lens**

May 14–16  
St. Pete Beach, FL, USA  
<http://www.fcasv.org/2014-sexual-violence-training-summit-through-different-lens>

**VSE Annual Conference and General  
Meeting 2014**

May 14–17  
Warsaw, Poland  
<http://victimsupporteurope.eu/news/vse-annual-conference-general-meeting-2014-14-17-may-warsaw/>

**European Conference on Child Abuse  
and Neglect**

May 21–23  
Amsterdam, Netherlands  
<http://www.euccan.eu/en/>

**American Professional Society  
on the Abuse of Children 22nd  
Annual Colloquium**

June 11–14  
New Orleans, LA, USA  
<http://www.apsac.org/event-list>

**The 10th International Conference  
on Grief and Bereavement in  
Contemporary Society**

June 11–14  
Hong Kong  
<http://www.socsc.hku.hk/icgb2014/>

**13th Annual Crime Victim Law Conference**

June 20–21

Portland, OR, USA

[http://law.lclark.edu/centers/national\\_crime\\_victim\\_law\\_institute/projects/education\\_and\\_training/annual\\_conference/](http://law.lclark.edu/centers/national_crime_victim_law_institute/projects/education_and_training/annual_conference/)

**8th Annual National Conference on Girl Bullying and Relational Aggression**

June 30 to July 2

Chicago, IL, USA

<http://www.stopgirlbullying.com/>

**2014 Florida Crimes against Kids Conference**

July 30 to August 1

Lake Buena Vista, FL, USA

<http://www.fncac.org/index.php?s=3042>

**26th Annual Crimes against Children Conference**

August 11–14

Dallas, TX, USA

<http://www.cacconference.org/dcac/default.aspx>

**2014 National Sexual Assault Conference**

August 20–22

Pittsburgh, PA, USA

<http://www.nsvrc.org/nsac#2014>

**19th International Conference on Violence, Abuse and Trauma**

September 7–10

San Diego, CA, USA

<http://www.ivatcenters.org/>

**20th ISPCAN International Congress on Child Abuse and Neglect**

September 14–17

Nagoya, Japan

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