



Multi-Site Survey of Victims of Crime and Criminal Justice Professionals across Canada:

Executive Summary



Policy Centre for Victim Issues



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The views expressed in this report are those of the author and do not necessarily represent the views of the Department of Justice Canada.

These summaries are extracted from the ***Multi-Site Survey of Victims of Crime and Criminal Justice Professionals across Canada***, completed by Prairie Research Associates Inc. on behalf of the Department of Justice Canada.

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Introduction

The *Multi-Site Survey of Victims of Crime and Criminal Justice Professionals* was conducted in 2002 under the direction of the Policy Centre for Victim Issues (PCVI) of the Department of Justice Canada in collaboration with the Research and Statistics Division. The PCVI implements the Victims of Crime Initiative which, through the Victims Fund, legislative reform, research, consultations and communication activities, works to increase the confidence of victims in the criminal justice system and responds to the needs of victims of crime as they relate to the Department of Justice.

The purpose of the *Multi-Site Survey of Victims of Crime and Criminal Justice Professionals* is to gather information on a wide range of issues concerning the criminal justice system as it pertains to victims and criminal justice professionals, with a particular emphasis on recent *Criminal Code* provisions, specifically Bill C-79, which was introduced in 1999. This legislation amended the *Criminal Code* in several areas, such as:

- giving victims the right to read their victim impact statement at the time of sentencing if they wish to do so;
- requiring the judge to inquire before sentencing whether the victim has been informed of the opportunity to give a victim impact statement;
- requiring that all offenders pay a victim surcharge of 15% where a fine is imposed or a fixed amount of \$50 or \$100 for summary or indictable offences, respectively, and can be increased by the judge (except where the offender can demonstrate undue hardship);
- clarifying the application of publication bans and providing a discretion to order, in appropriate circumstances, a publication ban on information that could disclose the identity of victims as witnesses;
- expanding the protection of victims and witnesses under the age of 18 years from cross-examination by a self-represented accused in sexual and personal violence offences;
- allowing any victim or witness with a mental or physical disability to be accompanied by a support person while giving evidence; and
- ensuring that the safety of victims and witnesses are taken into consideration in judicial interim release determinations.

To a more limited extent, the survey also explored perceptions regarding amendments recently made to the *Corrections and Conditional Release Act* to provide victims with the opportunity to present prepared victim statements at parole board hearings.

Findings from this study will generate evidence to inform future legislative reforms and policy changes by providing insight on the use and awareness of recent reforms by criminal justice professionals as they pertain to victims of crime, the nature of information provided to victims during the criminal justice process, victims' experiences with the legal provisions and other services that are intended to benefit them throughout the criminal justice process, and barriers to the implementation of recent reforms for criminal justice professionals.

Given the breadth of findings in the final report the PCVI has prepared summary reports based on respondent groups in the survey.¹ This report is a summary of all the findings from all respondents who participated in the study. Additional summaries are available that speak specifically to the findings of Police respondents, Crown Attorney respondents, Defence counsel respondents, Judiciary respondents, Probation, Correction and Parole respondents, Victims of Crime, and Victim Advocacy and Victim Service Organizations.

¹ The full report and other summaries are available at: <http://canada.justice.gc.ca/en/ps/voc/pub.html>
For copies contact the Policy Centre for Victim Issues, 284 Wellington Street, Ottawa, Ontario,
K1A 0H8.



Methodology

The multi-site survey was conducted in 16 sites within the 10 provinces of Canada; the territories were not included in this study. The 16 sites represent five regions: Atlantic (Nova Scotia, Prince Edward Island, New Brunswick, and Newfoundland and Labrador), Quebec, Ontario, Prairie (Saskatchewan and Manitoba), and Western (British Columbia and Alberta). Each region included at least three sites of varying size (small, medium, and large cities), with consideration of diversity in geography (rural, urban, northern) and population (especially cultural and linguistic). A subcommittee of the Federal Provincial Territorial Working Group (FPTWG) on Victims of Crime guided the research team and recommended some of the selected site locations.

Data for this study came from criminal justice professionals and victims of crime. A total of 112 victims of crime participated in in-depth interviews, which were conducted in order to obtain detailed data on each individual victim's experience in the criminal justice system. Victim services providers assisted in contacting victims and obtaining their consent to participate in the study, which may have introduced selection bias into the research.

Criminal justice professionals who participated in the study were from 10 different groups: judges, Crown Attorneys, defence counsel, police, victim services providers, victim advocacy groups, probation officers, and three types of parole representatives (from the National Parole Board [NPB], Correctional Service Canada [CSC], and the provincial parole boards in Quebec, Ontario, and British Columbia). They participated through either self-administered questionnaires or interviews. Relying on two forms of data collection allowed for the most complete method of gathering information on the research questions. The use of self-administered questionnaires ensured that a large proportion of the criminal justice professionals in each site could participate, while the use of interviews meant that more in-depth, qualitative data could also be obtained.

Interviews were conducted with 214 criminal justice professionals from five respondent groups: victim services providers; police; Crown Attorneys; judiciary; and defence counsel. Interview results were captured as part of the quantitative data corresponding to that generated by the self-administered surveys. Self-administered questionnaires were also distributed to all 10 respondent groups. A total of 1,664 criminal justice professionals completed the self-administered questionnaire. Overall (in interviews and self-administered questionnaires), a total of 1,878 criminal justice professionals participated in this survey.



Summary of Findings²

Responsibility of Criminal Justice Professionals

Criminal justice professionals surveyed generally agreed that victims of crime have a legitimate role to play in the criminal justice process. Although victim services providers and advocacy organizations were the most supportive of an active role for victims, other criminal justice professionals also believe that victims are entitled to be consulted, particularly before irrevocable steps are taken. In fact, survey results show that police, Crown Attorneys, and judges consider their main responsibilities to victims of crime to include keeping victims informed of the status of their case, providing them an opportunity to be heard, and taking their views into account at various stages of the criminal proceedings. Despite supporting consultation, however, criminal justice professionals also believe that victims may not fully understand the intricacies of the legal system and therefore should not be the ultimate decision-makers.

Services for Victims

Seventy-five (67%) of the 112 victim respondents were victims of serious violent crimes. Almost nine-tenths received some form of assistance in the criminal justice system. Almost all victims received information about their case or the justice system, about half received assistance with counselling and witness support, and about 40% received help with preparing a victim impact statement. Victims considered counselling and emotional support, the provision of information, and general assistance from victim services as the most helpful assistance they received. These kinds of assistance correspond to the services offered by victim services providers surveyed. Over three-fourths reported providing crisis support, informing victims about court processes, and helping victims prepare for trial. Just over half provide counselling.

Almost all victims were referred to the victim services organizations where they received services. They stressed the importance of giving information about available services shortly after the crime because most victims are not aware of victim services. Victim services providers also commented in interviews that there is a lack of awareness of victim services. Both victims and victim services providers said that victims are often overwhelmed and traumatized after the crime and so information about services should come from a variety of methods (written and oral) and, according to victim services providers, should be provided at various points throughout the process. Both victims and victim services providers said that more public education would also be beneficial.

Initiating contact with victims must be treated carefully. While half of victims said that they would prefer victim services to take the initiative, about one-quarter would prefer to contact victim services themselves. Those who preferred to be contacted noted that victims are often too

² See the full report or the seven summary reports for more detailed findings.

traumatized or embarrassed to call; however, those who would rather initiate contact themselves said that this allowed them to feel more in control and that they do not like being contacted by someone they do not know. Several victims suggested that both options be available and that victim services only initiate contact with those who have given consent or after a reasonable period of time has passed without hearing from the victim.

Victim services providers, police, and advocacy groups who were surveyed identified a number of challenges in providing accessible services. The challenge most commonly identified was accommodating victims whose first language is not English or French. A related concern is that victim services do not respond to cultural needs. Because different cultures react differently to being victimized, respondents identified a need for more culturally sensitive services and training for victim services providers. Respondents also said that financial issues, such as the need to pay for transportation and childcare, limit accessibility to victim services. Other challenges to accessibility were: lack of victim services in rural locations, the need for victim services to respond to the needs of both genders, and physical barriers for persons with disabilities. Those involved in the post-sentencing phase also indicated a need to better connect victims to available services. During this phase, victims do not usually receive information without first registering with the National Parole Board or Correctional Service Canada. Survey respondents from these organizations identified a gap between victim services in sentencing, and in corrections and parole largely because victims are unaware of the post-sentencing services available.

Information for Victims

Victim services providers, advocacy groups, Crown Attorneys, and police who were surveyed generally agreed that victims usually receive adequate information about court dates, conditions of release, and case outcomes. The victims interviewed supported this view. About nine-tenths of victims involved in a case that went to trial said that they were told about important trial dates, and two-thirds said that they were told about changes in trial dates and received updates on their case. Over four-fifths were told the outcome of their case. In cases where the offender received probation, four-fifths of victims said that they were told whether conditions were placed on the offender; however, in cases where the offender was released pending trial, just over half of victims were told about conditions of release.

Between 60% and 70% of victims reported receiving information about their role in court as a witness, about the role of the Crown Attorney, and about the criminal justice system in general. A similar proportion of victims whose cases reached these various stages were told whether the accused was released on bail, whether the accused pleaded guilty, where the offender was incarcerated, the date the sentence began, and the length of the sentence. Victims often received information on sentencing because they were present in court.

Just under half of victims involved in a case where the offender was eligible for parole received information about the offender's eligibility. Of those involved in a case where a parole hearing had been set or had occurred, one-third were informed of the dates; and in instances where parole had been granted, about one-third were informed of release dates, conditions imposed on release, and the destination of the offender on release.



Overall, more than 60% of victims agreed that, in general, they received a sufficient amount and type of information in a timely manner. Those who were dissatisfied most often explained that the information they received was limited, inaccurate, or confusing. Other sources of dissatisfaction included having to initiate contact with a criminal justice professional or seek out information on their own; and receiving inconsistent information because of turnover in the investigating officer, Crown Attorney, or victim services worker dealing with their case.

In interviews, victim services providers characterized the provision of information as sporadic, inconsistent, and often dependent on the nature of the offence or on the individual investigator or Crown Attorney assigned to the case. They believe that victims are more likely to receive information from police or the Crown Attorney when the victim initiates contact him or herself or if victim services is involved. These shortcomings appear to be largely the result of the time and resource constraints that criminal justice professionals face. In interviews, Crown Attorneys, police, and victim services providers agreed that the sheer volume of cases in the system makes it impossible to provide all victims of crime with all of the information they may want or require. Other perceived obstacles to information provision include lack of collaboration and coordination among agencies, privacy legislation and policies that restrict information sharing, and, in some cases, victim transiency and reluctance to be contacted.

Victims' suggestions for improvement in information provision included, most commonly, regular contact and follow-up by police and Crown Attorneys to keep victims abreast of developments in their case, as well as providing information at the outset of the victim's involvement with the system, providing more detailed information and more in print form, and providing information through a single source. As to the latter suggestion, the criminal justice professionals surveyed did not, for the most part, agree on who is responsible for providing information to victims and tend to regard information provision as a shared duty rather than the sole responsibility of a single agency. However, in interviews, Crown Attorneys, police, and victim services providers did suggest that information provision to victims could be improved by stronger links among agencies and development of clear guidelines on agencies' responsibilities in providing information.

When asked what kinds of information victims of crime most want to receive, victims most often mentioned updates on the status of the police investigation and their court case, followed by information about the criminal justice system in general.

Consideration of Victim Safety at Bail

The criminal justice professionals surveyed regard victim safety as an important consideration in bail determinations, and about 70% of victims interviewed said that they made their safety concerns known, most often to police. Those who did not make their concerns known most often explained that no one asked them about safety issues.

Police reported using a variety of methods to ensure that victims' safety concerns are considered at bail; most commonly, they prepare a written submission to the Crown Attorney that includes recommendations for specific bail conditions following the investigation. Although Crown Attorneys seldom call the victim as a witness in bail hearings, virtually all generally request specific conditions to address the victim's safety at bail. Almost all defence counsel usually agree to requests for specific conditions, provided that these requests are reasonable, and almost all judges generally impose conditions for the victim's safety. Furthermore, more than three-quarters of judges said that they ask about safety issues if the Crown Attorney has not mentioned them, but, in interviews, judges noted that this is rarely necessary because the Crown Attorney is very diligent about bringing these issues to the attention of the court.

Nevertheless, only about one-third of victim services providers and advocacy organizations surveyed and 40% of victims involved in cases where the accused was charged believe that the victim's safety is generally considered at bail determinations. Victims who believe that their safety was not considered, most often explained that the conditions were either insufficient or not respected.

Provisions to Facilitate Testimony and Victims' Experience with Testifying

Publication Bans

Publication bans in non-sexual offences and exclusion of the public from a trial are used only in the most exceptional circumstances. Fewer than half of judges reported having ever granted a publication ban in non-sexual offences (about one quarter) or having ever granted the exclusion of the public. Crown Attorneys, judges, and defence counsel agreed that an open court is essential to maintaining public confidence in the criminal justice system.

Support Persons

Of the various provisions to facilitate testimony, the use of support persons to accompany a young witness or a witness with a mental or physical disability appears to be the least controversial and the most widely used. More than three-quarters of Crown Attorneys generally request that a support person accompany such witnesses, and two-thirds of defence counsel generally agree to requests. Over 80% of judges typically grant requests.

Testimonial Aids

Of the three testimonial aids designed to assist young witnesses or those with a mental or physical disability (i.e., the use of screens, videotape or closed-circuit television) screens appear to be the most popular among Crown Attorneys, defence counsel, and judges. About 60% of Crown Attorneys surveyed reported generally requesting the use of a screen in appropriate cases, and a similar proportion of defence counsel generally agree to its use. More than 80% of judges generally grant the use of screens.

Videotaped testimony is used by slightly fewer Crown Attorneys and is more often objected to by defence counsel. Just over half of Crown Attorneys request videotaped testimony in



appropriate cases, but less than one-quarter of defence counsel agree to it. They object primarily on the grounds that it interferes with effective cross-examination. Crown Attorneys, for their part, also perceive difficulties with videotaped testimony, including poor quality interviews and the fact that it does not relieve witnesses of being cross-examined by defence counsel. Over 60% of judges reported granting the use of videotaped testimony.

Closed-circuit television is the least likely of the three aids to be requested by Crown Attorneys; fewer than 40% generally request it in appropriate cases, although over 40% of defence counsel generally agree to its use. Over 60% of judges reported that they usually grant these requests.

Overall, Crown Attorney requests for testimonial aids are quite common in eligible cases, provided that the necessary technology is available. However, many Crown Attorneys explained that they do not request an aid unless there is a compelling reason to do so, and many reported having as much success without the aids as with them. Judges likewise displayed considerable willingness to grant the use of testimonial aids in eligible cases, but also emphasized the need for the Crown Attorney to present compelling evidence that the aids are truly necessary. Defence counsel expressed serious reservations about the use of testimonial aids on the grounds that these aids violate fundamental principles of the criminal justice system intended to protect the accused. Victim services providers and advocacy organizations had relatively little to say on the subject of testimonial aids, but those who offered a response believe that victims are not sufficiently aware and informed of these protections, and that they should be used more often and afforded to victims beyond the statutory age and disability requirements.

Section 486 (2.3)

This section of the *Criminal Code* restricts cross-examination of a child victim and witness under the age of 18 by a self-represented accused. A relatively small proportion of criminal justice professionals surveyed (just over one-quarter of Crown Attorneys and one-fifth of judges) has been involved in cases where section 486 (2.3) applied. Of these respondents, a large majority of Crown Attorneys reported that they would request that counsel be appointed in these cases, and over four-fifths of judges reported that they would appoint counsel for the purpose of cross-examination. Seven judges reported allowing the accused to cross-examine a young victim since section 486 (2.3) was adopted.

There was considerable support for expanding section 486 (2.3) to other offences and/or other witnesses. Three-quarters of victim services providers and advocacy groups favoured expansion, compared to half of Crown Attorneys and one-quarter of defence counsel. Across all categories of criminal justice professionals surveyed, support was most widespread for expanding the section to adult witnesses in the category of offences to which it currently applies.

Victim Experiences with Testifying

One-third of victims who participated in this study were involved in cases that went to trial, and of these, two-thirds testified at the trial. With only a few exceptions, all of those who testified

received help in preparing for testimony, most often from victim services. Just over half of those who testified reported that they felt prepared for it, and almost all of these victims attributed their preparedness to the support they received prior to and during testimony. Those who felt unprepared either felt frightened, threatened, or revictimized, or said that they had had inadequate time to prepare. When asked for ways to make testifying less stressful, victims most often suggested better explanations of the court process and of what to expect in the courtroom, and improved protections or wider availability of existing protections.

A small proportion of victims interviewed were eligible for testimonial aids and/or protections to facilitate testimony. Nine victims received information about any of the above-mentioned provisions. Four of these victims actually received one or more of the protections (the remaining five did not testify, have not yet testified, or declined the aids). Of the four who received protections, three had publication bans (two in cases involving sexual offences and one in a stalking case), and one was accompanied by a support person and granted a ban on cross-examination by the self-represented accused under section 486 (2.3). In addition, one victim who was not given information about the protections subsequently received a publication ban. The five victims were divided on the question of the effectiveness of these protections. Three victims did not find these protections effective. Two said that the protections did help them to testify. The victim accompanied by the support person and protected from cross-examination by the accused said that the protections made her more comfortable.

Victim Impact Statements

Almost four-fifths of the victims interviewed had received information on victim impact statements, usually from victim services, although sometimes from police. Of the victims who were involved in cases where someone was charged with the crime, almost two-thirds prepared a victim impact statement. The survey with criminal justice professionals as well as the interviews with victims indicated that most victims submit a written statement and that few choose to read their statements aloud in court. However, nine victims reported that they were not made aware of their opportunity to read their statement.

A related issue is providing information to victims about the impact statements. If awareness of the statements is low, submission rates will be correspondingly low. In interviews, Crown Attorneys, defence counsel, and victim services all questioned whether criminal justice professionals are completely fulfilling their roles concerning victim impact statements. Issues raised were whether police routinely inform victims about impact statements and whether Crown Attorneys diligently pursue obtaining them or submit the statements they do receive. About one-quarter of Crown Attorneys surveyed said that they usually contact the victim to see whether he or she wants to provide an impact statement in cases where none has been submitted. While most victim services respondents believe that victims are made aware of impact statements, one-fifth think that they are not. In interviews, victim services providers suggested that victims receive some form of mandatory or consistent notification; that all agencies and criminal justice professionals provide the information at various stages of the process; and that follow-up with victims is done.



Victims were asked how best to provide victims with information on impact statements. About half of victims whose accused was charged said that the information should be provided through verbal communications (in person or by telephone) so that victims can ask questions if needed. Opinion varied as to when victims should receive this information. Some said that it should be provided shortly after the crime is reported or immediately after the arrest of the accused so that victims can keep records of the crime's effect on them. However, others want victim services to let some time pass so that the victim is less overwhelmed by the experience. Most victim services providers believe that victims should be informed about victim impact statements either shortly after the crime or after the arrest of the accused.

About 60% of victim services providers surveyed reported that they assist victims with victim impact statements at sentencing mostly by providing basic assistance, such as helping victims obtain forms, explaining how to complete the impact statement, and telling victims where to send their completed statements. Close to two-thirds of victims involved in cases where someone was charged with the crime received some form of assistance with their impact statement, usually from victim services. However, in spite of this assistance, about half of victims who prepared a statement said that they had problems completing it. The most common problem was feeling unable to describe how the crime affected them, but several victims also mentioned not knowing what information they could include, having to revise their statement because of inappropriate information, and not knowing where to submit their statement.

Half of victim services providers who assist with impact statements reported that they collect and submit the completed statements for victims. From this finding, it appears that many victims submit their own impact statements to the Crown Attorney and/or court. The interviews with criminal justice professionals support this; some jurisdictions do not collect and submit victim impact statements. In these jurisdictions, unless the victims seek assistance from victim services providers, they do not receive much advice on when to submit the statement. As well, while most of the victims interviewed submitted their victim impact statements to victim services, almost one-fifth submitted them directly to the Crown Attorney. This is important because both Crown Attorneys and victim services raised the issue of the timing of submission and how it can create difficulties for victims. If victims are submitting their statements themselves, they may be unaware of the potential downsides, such as cross-examination on his or her victim impact statement. One-quarter of Crown Attorneys, one-fifth of defence counsel, and one-tenth of judges had been involved in a case where the victim was cross-examined on their victim impact statement. In interviews, Crown Attorneys and defence counsel considered it rare for a victim to be cross-examined on his or her impact statement because the Crown Attorney and defence counsel usually agree to excise any prejudicial or otherwise inadmissible material before the impact statement is submitted to the court.

There are conflicting views among criminal justice professionals on when to submit an impact statement. The major concerns are the need to receive the statement early enough to ensure that it is considered during plea negotiations versus risking cross-examination of the victim on the statement during trial. Half of Crown Attorneys surveyed and several victim services providers

in their interviews stressed the need to submit the statement early in the process in case a sudden guilty plea occurs; the statement can then assist the Crown Attorney in negotiations and can be used at sentencing. However, others (including 44% of Crown Attorneys surveyed) believe that the risk of cross-examination means that victim impact statements should only be submitted after a finding of guilt; in addition, waiting until later in the process allows the victim to prepare a more complete statement. Of the victims interviewed who prepared a victim impact statement, one-fifth submitted it early in the process, shortly after either the crime, the arrest of the accused, or the laying of charges; 54% submitted it just prior to the guilty plea or conviction.

Of the victims whose offender pleaded guilty or was convicted at trial, one quarter reported that the judge did not ask them whether they had been given the opportunity to prepare a victim impact statement even though they had not submitted one.

Over four-fifths of judges reported that they use victim impact statements in determining the sentence. The same proportion of Crown Attorneys reported that they remind judges to consider victim impact statements in cases where they are submitted. According to the judges, they consider victim impact statements as they do other relevant information to help determine the severity of the offence and the length of sentence. However, judges also noted in interviews that the use of victim impact statements is carefully circumscribed; while victim impact statements can provide relevant information, they do not and cannot influence sentencing to the extent that they express a desire for outcomes that differ from those defined by the *Criminal Code*. Crown Attorneys agreed with this perspective, commenting in interviews that while judges consider victim impact statements, they still must impose sentences that are consistent with the *Criminal Code* and case law.

The different categories of criminal justice professionals surveyed responded differently to whether there are obstacles to or problems with victim impact statements. Four-fifths of defence counsel and half of Crown Attorneys reported obstacles or problems compared to one-third of victim services providers and one-fifth of police. For Crown Attorney and defence counsel, the biggest obstacle or problem is the inclusion of inappropriate or irrelevant material in the victim impact statements, such as reciting the facts of the case, referring to the offender's alleged involvement in other criminal activities, or offering their views on sentencing. About half of judges surveyed reported disallowing parts of victim impact statements, usually for containing irrelevant or inappropriate information.

Victims were divided on whether they believed that the judge considered their impact statement. Several victims expressed dissatisfaction with the content restrictions. They said that they could not adequately explain themselves and elaborate on the effects of the crime. They also wanted to discuss issues such as their history with the offender and were frustrated by not being able to do so. Some wanted to provide their views on sentencing. A few victims were not allowed to read their victim impact statements because of inappropriate content.

Related to the issue of irrelevant information is the possible objection to the statement or cross-examination of the victim on his or her impact statement. About one-fifth of Crown Attorneys, victim services providers, and police respondents mentioned this as an obstacle to the submission of victim impact statements. In interviews, several Crown Attorneys said that the victim impact statement can be detrimental to the Crown Attorney's case; it can make the victim more



vulnerable and strengthen the defence. Victim services providers who were interviewed expressed the concern that some victims do not prepare an impact statement because they fear being questioned on its content. However, in their survey responses, victim services providers have found the biggest obstacle to occur in the preparation of the statement because of a lack of guidance and information (32% listed this as an obstacle). Another third of victim services providers listed literacy or language as a major barrier.

However, even with these potential difficulties in giving victim impact statements, four-fifths of the victims who prepared a statement were pleased that they did. About half commented that the statement gave them a voice, and about one-fifth valued the chance to let the judge and the accused know the effect of the crime. In interviews, victim services providers also commented that impact statements are beneficial in that they allow victims to express themselves and make the judge and offender aware of the crime's effect on them.

Parole survey respondents indicated that the parole board considers all forms of victim statements provided — those from trial, formal victim statements submitted directly to the parole board, and other new or additional information that the victim might provide. NPB respondents reported that the Parole Board uses this information in a variety of ways, including in making risk assessments, in determining conditions, and in assessing the offender's progress. Most provincial parole board respondents simply stated that victim information is just one factor the parole board considers. Only one victim interviewed submitted an impact statement to the parole board.

Other *Criminal Code* Provisions

Restitution

According to two-thirds of Crown Attorneys and four-fifths of defence counsel surveyed, when requests for restitution are reasonable, restitution is usually ordered. According to judges surveyed, the key factors are the ability to quantify the losses and the offender's ability to pay.

The difficulties come with enforcing restitution orders, according to all respondent groups. Half of Crown Attorneys and two-thirds of probation officers surveyed regard restitution enforcement as difficult, as do one-third of defence counsel. According to all three groups, the inability of the accused to pay is the most common obstacle to enforcement. Enforcement is often not pursued because it requires a large expenditure of money to collect relatively small amounts of money. In addition, enforcement of each form of restitution, as a condition of probation or as a stand-alone order, presents unique challenges that can leave the impression of few consequences to failure to comply. Because the Crown Attorney must prove a wilful breach of a probation order, Crown Attorneys rarely bring charges in these cases, and even if they do, the typical result is a fine that is less than the restitution order itself. For stand-alone restitution orders, all three groups noted that enforcement requires the victim to engage in a difficult legal process and bear all the costs of enforcement, which is not a realistic option for many victims of crime.

Victim services and advocacy group respondents also perceive obstacles to the use of restitution. In accord with the primary reason for enforcement difficulties given by Crown Attorney and defence counsel, the most common obstacle mentioned was the offender's inability to pay. However, unlike these other groups, victim services and advocacy group respondents believe that restitution is underused due to victims' lack of awareness and knowledge of restitution.

Few victims received restitution, and those who did found enforcement difficult. Eleven of 72 victims involved in a case where there was a conviction or guilty plea reported that restitution was ordered in their case; only one reported that the offender paid the full amount of the order. Victims who were granted restitution mentioned encountering several difficulties with enforcing these orders, including not receiving the payment or the full amount of the payment; waiting longer than expected to receive the payment; not knowing what to do to enforce the orders; and not being informed of a payment schedule.

Victim Surcharge

Under the *Criminal Code*, the victim surcharge is automatic in all cases except where the offender has requested a waiver and demonstrated that paying the surcharge would cause undue hardship. Almost 60% of judges surveyed reported that they generally apply the surcharge, and the third who do not gave the offender's inability to pay as the reason.

Other criminal justice professionals surveyed disagreed about whether the surcharge is waived appropriately. Almost nine-tenths of defence counsel believe that it is, while over two-thirds of Crown Attorneys and victim services believe that it is not. In interviews, those who believe that the waivers are appropriate see them as occurring when the offender is unable to pay. They also reported that waivers only occur after an explicit defence counsel request or after the judge has already received information about the offender's financial situation and other relevant personal circumstances. On the other hand, those who believe that the surcharge is waived too often attribute the frequent waiver to judicial attitudes; the surcharge is not seen as an integral part of the justice system. They also noted that judges often waive the surcharge without an explicit request. When requests are made to waive the surcharge, few Crown Attorneys usually challenge these applications because they rarely have any information or proof to contest the reasons presented by the defence counsel as grounds for the waiver.

Few victims were aware of the surcharge, and only three reported that the offender in their case was ordered to pay it. Some courts do not announce the award of the surcharge; it is automatic unless waived, which may explain why so few victims were aware of the surcharge being ordered.

Conditional Sentences

There is widespread agreement among all criminal justice professionals surveyed that conditional sentences are appropriate in non-violent offences, but there is less support for their use in offences against the person. Defence counsel are more likely than other criminal justice professional surveyed to think that conditional sentences are appropriate.



Survey results show that conditions for the victim's safety are almost always requested by Crown Attorneys, agreed to by defence counsel, and granted by judges when conditional sentences are imposed. Nevertheless, findings were not as consistent among victim services providers and advocacy groups. In interviews, many victim services providers as well as some Crown Attorneys noted a lack of resources for supervision and enforcement of conditional sentences, with the consequence that offenders are not being adequately punished for breaches.

Just less than one-quarter of victims involved in cases where the accused was convicted or pleaded guilty reported that such a sentence was imposed in their case. These victims were equally split between those who agreed with the sentence and those who disagreed. Almost all of the victims said that they were informed of the details of the sentence.

Restorative Justice

Of the various categories of criminal justice professional surveyed, defence counsel were most likely to have participated in a restorative justice approach (58%), followed by Crown Attorneys (43%). Other criminal justice professionals reported less involvement. Among those who had not participated, the two most common explanations overall were that restorative approaches are not available or not yet widely used in their province; and that restorative justice had never arisen as an option or that they had never had a case suitable for restorative justice. None of the victims interviewed reported that restorative justice was used in their case, and only three received information about it.

Criminal justice professionals generally agreed that it is important to consult the victim in the decision to use a restorative justice approach, although some noted that the decision whether to proceed is not the victim's alone to make since some cases can affect entire communities. They believe that restorative justice would be most effective in cases involving young offenders, first offenders, and minor property offences; in cases where the whole community is affected; and in cases where the victim consents to the process and the offender is motivated to participate. They disagreed, however, on the appropriateness of restorative approaches in violent offences, citing doubts about their ability to adequately protect victims' safety.

Victim Participation at Parole

Only a small number of parole survey respondents (NPB, provincial, and CSC) reported that victims participate in the parole process, regardless of the seriousness of the case. In keeping with these results, about three-quarters of parole respondents believe that there are obstacles to victim participation in the parole or correctional process. The main barriers cited by federal respondents are lack of funding to assist victims who want to attend hearings and lack of victim awareness of available support services and how victims can participate. Provincial parole board respondents consider the lack of victim awareness as the primary obstacle. Only one victim interviewed had submitted a victim statement to the parole board.

Impact of the *Criminal Code* Provisions Intended to Benefit Victims

Criminal justice professionals identified numerous outcomes from the *Criminal Code* provisions intended to benefit victims. While all respondent groups included some comments on the limitations of the provisions' impact, a larger proportion focused on positive accomplishments. The accomplishments receiving the most mentions from the criminal justice professionals surveyed were the creation of a more balanced criminal justice system through increased awareness of the concerns and interests of victims and the provision of more formal mechanisms to ensure that victims have opportunities to participate and have a voice in the system. In interviews, they discussed these accomplishments further. Crown Attorneys and victim services providers believe that the increased profile of the victim has led to enhanced services and a system that responds better to victim needs. Judges commented that the provisions have led to a more uniform consideration of victims in the courts and increased respect for the system by the general public. Judges, Crown Attorneys, and victim services providers also expressed the view that victims are now more satisfied with the criminal justice system. They believe that the provisions have increased victim confidence in the system and willingness to participate; however, about an equal number of judges and defence counsel expressed concern that the provisions have increased victims' expectations about what their role in the system is and how their input might affect outcomes. These respondents worry that if these expectations are not met, victims will be disillusioned. A sizeable minority (one-quarter to one-tenth) of respondents believes that the provisions have accomplished little or nothing.

Overview of Victim Experiences in the Criminal Justice System

Victims were divided on the criminal justice system's consideration of victims. Half rated the system as good, while just over one-quarter consider it to be poor. One-fifth said that the system's consideration of victims falls somewhere in between. Those who gave the system positive marks based this impression largely on their experiences with individuals in the system (i.e., their victim services provider, the Crown Attorney, the police). Victims were split in their views of the Crown Attorneys. Some appreciated the job done by the Crown Attorney, but others wanted more time with him or her and more explanation of the process.

A number of victims were critical of the system as a whole. About one-fifth of victims believe that the system favours the accused and does not hold criminals accountable for their actions. About the same number believe that the system does not treat victims with respect. These victims feel ignored by the system and believe that a lack of understanding and compassion permeates the criminal justice process. About one-tenth of victims mentioned the need for more financial assistance or victim compensation for victims, such as paying for transportation to court, and the need for more information about the criminal justice system.



Conclusion

To conclude, this multi-site survey was undertaken to provide information on a broad range of issues related to victims and criminal justice professionals with respect to recent reforms to benefit victims of crime. The findings of this survey are intended to inform the work of the Policy Centre for Victims Issues, Department of Justice Canada, and assist in identifying new areas of research as well as potential areas for future reforms. Findings will also assist other criminal justice professionals across Canada in their efforts to improve the services available for victims of crime as well as the experience victims have through the criminal justice system.



For More Information

The complete *Multi-Site Survey of Victims of Crime and Criminal Justice Professionals* report and the summary reports in this series can be ordered from the Policy Centre for Victim Issues, via mail or fax (see below).

These reports will be available online at <http://canada.justice.gc.ca/en/ps/voc/pub.html>

Summaries Available

*Multi-Site Survey of Victims of Crime and Criminal Justice Professionals:
Executive Summary*

*Multi-Site Survey of Victims of Crime and Criminal Justice Professionals:
Summary of Victims of Crime Respondents*

*Multi-Site Survey of Victims of Crime and Criminal Justice Professionals:
Summary of Victim Services Providers and Victim Advocacy Group Respondents*

*Multi-Site Survey of Victims of Crime and Criminal Justice Professionals:
Summary of Judiciary Respondents*

*Multi-Site Survey of Victims of Crime and Criminal Justice Professionals:
Summary of Crown Attorney Respondents*

*Multi-Site Survey of Victims of Crime and Criminal Justice Professionals:
Summary of Defence Counsel Respondents*

*Multi-Site Survey of Victims of Crime and Criminal Justice Professionals:
Summary of Police Respondents*

*Multi-Site Survey of Victims of Crime and Criminal Justice Professionals:
Summary of Probation Officer, Corrections, and Parole Board Respondents*

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