



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

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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.

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Executive Summary

Background and Introduction

In the early 1970s, federal, provincial and territorial governments became involved in program development for victims of crime, including criminal injuries compensation programs. Since then, the federal, provincial and territorial governments have moved beyond financial compensation for injury to the consideration of an expanded role for victims in the justice system. That role is enshrined in the Canadian Statement of Basic Principles of Justice for Victims of Crime. Originally drafted in 1988 and renewed in 2003, this statement contains principles for the promotion of access to justice, fair treatment, and assistance for victims of crime.

The federal government also made legislative changes to provide victims of crime with protections. Recent changes include 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 statements 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 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.

Amendments have also recently been made to the *Corrections and Conditional Release Act* to provide victims with the opportunity to present prepared victim statements at parole board hearings.

Purpose of the Survey

The multi-site survey was conducted under the Victims of Crime Initiative, which, through the Policy Centre for Victim Issues of the Department of Justice Canada, brings together federal, provincial, and territorial governments to respond to the needs of victims and improve victims' experiences in the criminal justice system.

The purpose of this survey 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 as outlined above. Findings from this study will generate evidence to inform future legislative reforms and policy changes by providing insight on the following issues:

- ▶ use and awareness of recent reforms by criminal justice professionals as they pertain to victims of crime;
- ▶ 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.

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 ten 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.

Findings

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. Consequently, it was suggested that information about victim 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 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 (NPB) or Correctional Service Canada (CSC). 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 with him or herself or if victim services are 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 (39%). 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 video taped 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 their 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 his or her 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 under-used 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 parole board, 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

Criminal justice professionals identified numerous outcomes from the *Criminal Code* provisions. 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 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.

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 Victim Issues, Department of Justice Canada, and assist in identifying new areas of research as well as potential areas for future reforms.



1.0 Background and Introduction

In the early 1970s, federal, provincial and territorial governments became involved in program development and legislative amendments for victims of crime. In 1973, the two orders of government entered into cost-sharing agreements on criminal injuries compensation programs where the federal government promoted minimum standards for compensation and encouraged provinces and territories to implement improvements to victim services.

In the 1980s, the government moved beyond financial compensation for injury to the consideration of an expanded role for victims in the justice system. The federal/provincial/territorial (FPT) Task Force on Justice for Victims of Crime called for the provision of information to victims, increased funding of programs and services, a broadening of the definition of damages qualifying for compensation, and the introduction of victim impact statements at sentencing.

The Department of Justice Canada (DOJ) also co-sponsored the *United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power* in 1985. The federal and provincial/territorial governments adopted this document as a guide for a Canadian statement. *The Canadian Statement of Basic Principles of Justice for Victims of Crime* was originally drafted in 1988 and contained principles for the promotion of access to justice, fair treatment, and assistance for victims of crime. (The full text of the 2003 Statement is included in Appendix A.)

As a result of fiscal restraint, federal support for the criminal injuries compensation schemes ended in 1992. With the cessation of federal funding, and facing their own fiscal restraints, some provinces and territories cut back criminal injuries programs, while others terminated these programs altogether. Still other provinces responded by introducing a victim surcharge on provincial offences or by diverting provincial funds to expand victim services.

During this period, a prominent and vocal victims advocate movement emerged, partly in response to media accounts of high profile murders and sexual assaults. These victim advocacy groups highlighted the plight of victims in dealing with police, Crown Attorney, courts, and correctional services, emphasizing the need for increased participation of victims in the criminal justice system.

In response to a motion tabled by a Member of Parliament calling for a Victim Bill of Rights, the Minister of Justice supported a referral of this issue and the broader issue of the role of the victim in the criminal justice system, to the Standing Committee on Justice and Human Rights. As a result, the House of Commons Standing Committee on Justice and Human Rights launched a comprehensive review of the role of victims of crime in the criminal justice system. The subsequent report, *Victims' Rights - A Voice, Not a Veto*, made many recommendations for change including amending the *Criminal Code* to facilitate victims' involvement in the criminal justice system. The report was identified as the starting point for "a federal plan of action and

strategy to improve the situation of the victim,” which is a key component of the “broader goal to increase the confidence of the people of Canada in our criminal justice system.”

In March 2000, the federal government launched the Victims of Crime Initiative (VCI) and established the Policy Centre for Victim Issues (PCVI) to administer and implement the Initiative. The overall goal of the VCI is to increase the confidence of victims in the criminal justice system by:

- ▶ *ensuring that victims of crime and their families are aware of their role in the criminal justice system and of services and assistance available to support them;*
- ▶ *enhancing the Department of Justice's capacity to develop policy, legislation, and other initiatives that take into consideration the perspectives of victims;*
- ▶ *increasing the awareness of criminal justice system personnel, allied professionals and the public about the needs of victims of crime, legislative provisions designed to protect them and services available to support them; and*
- ▶ *developing and disseminating information about effective approaches to respond to the needs of victims of crime both within Canada and internationally.¹*

In addition to the federal response, several provincial and territorial initiatives have taken place simultaneously. Provinces and territories have implemented legislation, programs, or policies reflecting the philosophy of the *Canadian Statement of Basic Principles of Justice for Victims of Crime*, such as the establishment of victim services programs.

1.1 Recent Criminal Code Provisions Intended to Benefit Victims

1.1.1 Bill C-79

In 1999, Parliament introduced Bill C-79 to “enhance the safety, security and privacy of victims of crime in the criminal justice system.”² The amendments highlighted the need to establish a balance between the rights of accused and the rights of victim witnesses. They also emphasized the importance of “courtesy, security and privacy”³ being extended to victims by those working in the criminal justice system. Specifically, Bill C79 amended the *Criminal Code*:

- ▶ giving victims the right to read their victim impact statements at the time of sentencing if they wish to do so;

¹ <http://canada.justice.gc.ca/en/ps/pb/fsvictims.html>

² DOJ. (March 20, 2000) Summary of Progress on Federal Initiatives for Crime Victims. Retrieved from <http://canada.justice.gc.ca/en/news>

³ DOJ. (November 25, 1999) Proclamation of the Act to Amend the *Criminal Code* (victims of crime). Retrieved from <http://canada.justice.gc.ca/en/news>



- ▶ 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 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.

In addition, Bill C-79 prompted changes to provisions regarding bail decisions. The Standing Committee, along with victim advocates and service providers, stressed the importance of considering victims' safety in decisions relating to the release of a suspect or an accused pending the first appearance in court. The amendments to the *Criminal Code* stipulate that a judicial officer responsible for a case - police officer, justice of the peace, or judge - must consider the safety of the victim in making a decision about bail. In the event that an offender is granted judicial interim release, the judge must consider including any condition of bail that is necessary to ensure the safety and security of the victim, including that the offender have no direct or indirect contact with the victim.

Further, the Report of the Standing Committee, as well as consultations with victims and victim advocates, concluded that victims receive insufficient information about the criminal justice system in general as well as the cases in which they are involved. For example, where an offender is convicted of murder and is sentenced to life imprisonment, Bill C-79 requires that judges inform victims' survivors when the offender is eligible to apply for early parole.

1.1.2 Amendments to the *Corrections and Conditional Release Act* (CCRA)

A related legislative initiative in the evolution of the federal response to victims' needs emerged from a statutory review of the *CCRA* in 1999-2000 by a special subcommittee of the Standing Committee on Justice and Human Rights. Their May 2000 report, "A work in progress: *The Corrections and Conditional Release Act*," recommended changes that

included increasing the amount of information provided to victims of crime by the Correctional Service Canada (CSC) and the National Parole Board (NPB), giving victims the opportunity to prepare and read a statement at parole hearings, and making it possible for victims to listen to a

tape-recording of the parole hearing. Effective July 2001, victims of crime are entitled to present prepared impact statements at Parole Board hearings. Additional policy and legislative changes remain under review.

1.2 Purpose of the Study

The purpose of this study 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. Findings from this study will generate evidence to inform future legislative reforms and policy changes by providing insight on the following issues:

- ▶ use and awareness of recent reforms by criminal justice professionals as they pertain to victims of crime;
- ▶ 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.

1.3 Outline of the Report

This report is divided into several sections. Section 2.0 describes the methodology used to complete the research. Section 3.0 reports the findings from the victim interviews, while Section 4.0 reports the survey findings from criminal justice professionals. Section 5.0 summarizes these findings. The report also includes three appendices, namely, Appendix A, The Canadian Statement of Basic Principles of Justice for Victims of Crime; Appendix B, the letter of introduction sent to invite respondent participation; and Appendix C, the interview guides and questionnaires.



2.0 Methodology

2.1 Selection of Sites

The multi-site survey was conducted in 16 sites within the 10 provinces in 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), with consideration of diversity in geography (rural, urban, northern) and population (especially cultural and linguistic). A subcommittee of the Federal Provincial Territorial Working Group on Victims of Crime (FPTWG) guided the research team and recommended some of the locations selected for site visits.

The choice of sites was intended to provide a cross-section of the country. Six small sites were chosen with populations between 1,500 and 33,000; four medium sites with populations between 60,000 and 160,000; and six large sites were chosen with populations over 350,000. The small and medium sites selected for this study represent rural areas or locations with smaller populations and are not simply municipalities within a larger metropolitan area. Cultural diversity came largely from immigrant groups in the large urban sites, although small and medium sites also provided cultural diversity, particularly through their Aboriginal populations. To obtain insight into the experiences and opinions of those in more remote areas, the study also included two northern sites. However, analysis of differences along cultural, linguistic, and racial lines was beyond the scope of this research as numbers for individual respondent groups were not large enough to allow this analysis.

2.2 Respondent Groups

Data for this study came from criminal justice professionals and victims of crime. Victims of crime provided their information through in-depth in person interviews. This was done in order to ensure that detailed data on each individual victim's experience in the criminal justice system could be obtained. Criminal justice professionals who participated in the study were from 10 different groups: judges, Crown Attorneys, defence counsel, police, victim services workers, victim advocacy groups, probation officers, and three types of parole representatives (from the National Parole Board, Correctional Service Canada, and the provincial parole boards in Quebec, Ontario, and British Columbia). They participated through either self-administered questionnaires or interviews (in person or telephone). Sections 2.2.2 and 2.2.3 below describe both of these methods in detail.

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. The process of

identifying respondents, gathering the data through interviews and self-administered questionnaires, and integrating and reporting results is discussed in detail below.

2.2.1 Identifying Criminal Justice Professionals

Prairie Research Associates (PRA) Inc. began the process of identifying respondents by compiling an initial list of primary contacts for the various categories of criminal justice professionals included in the study. For each of the 16 sites, PRA used Internet and referral sources to identify the Chief Crown Counsel; the Chief Provincial Court Judge; the Chief Justice (Queen's Bench); directors of victim services and advocacy organizations; the director of the provincial defence bar organization or law society; the Chief of Police; and heads of probation and parole. The initial list contained mailing addresses, telephone numbers, and fax numbers for each primary contact.

Once the list was compiled, the Department of Justice Canada (DOJ) sent letters to the primary contacts informing them of the study and requesting their cooperation in its execution. The letter advised the primary contacts that a representative of PRA would contact them in the future to discuss how their organizations might participate in the research (see *Appendix B*).

As the research proceeded, the list of primary contacts expanded, and each new contact received a letter of explanation, either from the DOJ or from PRA. All letters included the name and telephone number of a DOJ representative who would be available to respond to any questions or concerns.

2.2.2 Interviews with Criminal Justice Professionals

In total, PRA completed 214 interviews with criminal justice professionals. Interviews were completed with representatives from five respondent groups: victim services, police, Crown Attorneys, judiciary, and defence counsel. Table 1 below shows the total number of interviews completed for each category of key informants by small, medium, and large sites.

<i>Respondent Category:</i>	Large Sites	Medium Sites	Small Sites	Total
Victim services	43	19	7	69
Police	18	8	12	38
Crown Attorneys	18	8	11	37
Judiciary	17	6	8	31
Defence counsel	20	4	15	39
Total	116	45	53	214

PRA requested the assistance of the primary contacts in identifying suitable individuals to interview. The fact that the primary contact was responsible for identifying key informants may have introduced selection bias into the research, except in small sites where all criminal justice professionals in a given respondent category were interviewed.

Once the primary contact had identified appropriate key informants, PRA contacted these individuals directly to schedule interviews. In a number of instances, the primary contacts



volunteered to schedule the interviews on our behalf. Although the majority of interviews were conducted in person during visits to the sites, some key informants at each location were unable to take part due to scheduling or other conflicts. These key informants were interviewed by telephone. Interviews were conducted in the preferred language (English or French) of key informants and tape-recorded with their permission.

The interview guides used to conduct the key informant interviews are in *Appendix B*. Most of the questions are identical to questions in the corresponding survey instruments for each respondent category (the survey methodology is discussed in Section 2.2.3 below). However, a small number of questions were included only in the interview guides in order to limit the length of the surveys and avoid overly burdening respondents.

All data gathered in the interview questions that were identical to the self-administered questionnaires are included in the full quantitative data set. The main purpose of the interviews was to provide a more nuanced discussion of the findings than would have been possible with quantitative data alone.

To ensure that the qualitative dimension of the data would be included in the final report, PRA summarized the interview findings by respondent group and incorporated these findings into the final report. The purpose was to present any qualitative information from the interviews that could not adequately be captured on the survey questionnaires. For the most part, the qualitative information from the interviews enhances, explains, or provides greater detail about the quantitative data presented in this report. The interviews are clearly identified as the source of this additional qualitative information in this report.⁴

In the case of the questions asked only in interviews, the qualitative data are the only data available. Findings from questions that appear only in the interview guides are also clearly identified as such in the report.⁵ In general, the qualitative interview results provide important details that would have been missed had only quantitative data been relied upon.

2.2.3 Self-administered Survey of Criminal Justice Professionals

A total of 1,662 criminal justice professionals were included in this study using 11 different self-administered survey questionnaires (these instruments can be found in *Appendix C*).⁶ Tables 2 and 4 below show the total number of each respondent group included by small, medium, and large sites.

⁴ For example: "Crown Attorneys explained in interviews that..."

⁵ For example: "Victim services providers were asked to comment on the benefits of victim impact statements only in interviews."

⁶ For the Ontario Crown survey, a small number of questions were deleted at the request of the provincial government.

TABLE 2: RESPONDENTS WHO COMPLETED SELF-ADMINISTERED QUESTIONNAIRES BY SITE SIZE				
<i>Respondent Group:</i>	Large Sites	Medium Sites	Small Sites	Total Self-completed Questionnaires
Victim services	180	39	30	249
Police	393	141	114	648
Crown Attorney	123	25	3	151
Judiciary	58	13	8	79
Defence counsel	122	15	9	146
Advocacy groups	37	4	6	47
Probation	161	26	19	206
Total	1,074	263	189	1,526

In addition, the survey included 85 National Parole Board officers, 22 Provincial Parole Board officers, as well as 29 Correctional Service Canada personnel (See Table 3 below).

TABLE 3: PROBATION AND PAROLE RESPONDENTS WHO COMPLETED SELF-ADMINISTERED QUESTIONNAIRES	
<i>Respondent Group:</i>	Total Number of Respondents
National Parole Board	85
Provincial Parole Board	22
Correctional Service Canada	29
Total	136

The victim services respondent group includes a variety of types of organizations. To provide more detail on the organizations participating in the multi-site survey, respondents were asked to identify their organization by type. Table 4 shows the distribution of respondents by type of service and size of site. Please note that respondents could describe their organization using more than one category and responses may more accurately reflect services offered by the organization than the type of organization (i.e., police-based, court-based).



TABLE 4: VICTIM SERVICES PROVIDERS INCLUDED IN THE SURVEY				
	Large Sites (N=223)	Medium Sites (N=58)	Small Sites (N=37)	Total (N=318)*
Community-based victim services	51%	55%	43%	51%
Police-based victim services	41%	57%	60%	46%
Specialized victim services for domestic violence	43%	38%	30%	40%
Court-based victim services	31%	35%	35%	32%
Specialized victim services for sexual assaults	34%	38%	14%	32%
Specialized victim services for children	33%	28%	14%	30%
System-based victim services**	21%	28%	27%	23%
Shelters for women or children or Second stage housing	6%	-	8%	5%
Other	13%	10%	3%	11%
<p>* 249 victim service organizations were included through self-completed questionnaires, the remainder were included through in person interviews.</p> <p>** System-based victim services are services delivered by a province to assist victims throughout their contact with the criminal justice system.</p> <p>Note: Respondents could provide more than one response; therefore, totals sum to more than 100%.</p>				

As with the interviews, primary contacts were asked to identify potential respondents for self-administered questionnaires. In some cases, primary contacts were willing to provide the names and addresses of potential respondents directly, while in other cases, they chose instead to distribute the survey within their organizations themselves. There were, therefore, two main methods by which the questionnaire was disseminated. For the agencies that provided contact names and addresses, questionnaires were sent directly to all of the individuals identified. For the agencies that preferred to distribute internally, an agreed-upon number of questionnaire packages were provided to the primary contact, along with instructions for distribution.

The number of questionnaires distributed to each organization, as well as the method of distribution, was highly dependent on the preferences of the primary contact. In some instances, particularly at the small and medium sites, all criminal justice professionals within a given organization received a questionnaire, whereas elsewhere, only a sample of potential respondents was surveyed. There is some possibility of selection bias with both approaches. With the first approach, some criminal justice professionals likely self-selected out of the survey process even though all within a given organization received a questionnaire. With the second approach, selection bias may have resulted because the primary contact was responsible for defining the sample (we suggested random sampling, but this could not always be guaranteed). The decision to take one or the other approach was made by the primary contacts.

Questionnaires were distributed in both English and French to respondents at sites in Quebec and New Brunswick, unless we received explicit instructions to the contrary from primary contacts. In other provinces, questionnaires were distributed in English only, except where primary

contacts made a specific request for French or bilingual questionnaires. Regardless of whether questionnaires were mailed directly or distributed by primary contacts, respondents had the choice of returning their completed questionnaires in a self-addressed, postage-paid envelope, included with the questionnaire package, or by toll-free fax.

Results from the self-administered questionnaires were entered into a database for processing and analysis. As already noted above, responses to questions posed in both self-completed questionnaires and interviews are included in the reporting of quantitative data. Thus, when the report refers to those surveyed, this includes all respondents to the multi-site survey (both those who completed the self-administered questionnaires and those interviewed in person).⁷

2.2.4 Victim Interviews

In total, 112 interviews were completed with victims of crime. Table 5 shows the number of interviews by small, medium, and large sites.

	Number	Percent
Large site	64	57%
Medium site	30	27%
Small site	18	16%
Total	112	100%

The assistance of the primary contacts in the various victim services organizations was requested at each of the sites visited. Options for contacting victims were discussed with each of the victim services organizations, and they selected the most appropriate approach for their agency. The fact that the primary contact was responsible for identifying potential victim respondents and obtaining their consent may have introduced selection bias into the research.

Each organization was offered a package consisting of a letter explaining the study, a consent card, and a self-addressed envelope. If the agency wished to distribute the packages, victims could simply sign the consent card and mail it back to PRA. The interviewers then contacted these individuals directly to schedule interviews. In some instances, victim services staff contacted victims by phone and either gave them PRA's toll-free phone number and a contact person, or asked them for permission to give PRA their phone number. Some victim services offered to schedule the interviews for the site visit, particularly if the organization was also able to provide an office for conducting the interviews.

If an office was not available, victims were interviewed in a location of their choice. Victims were informed that if they wished, a support person could accompany them during the interview.

⁷ As an illustration, PRA surveyed 686 police as part of this research, including 38 who were interviewed and had a questionnaire completed on the basis of their responses and 648 who completed a self-administered survey questionnaire. The total number of police surveyed, 686 individuals, constitutes the sample for the quantitative results from our survey with police.



Following the interviews, victims received a debrief form with contact numbers for the local victim services.

Interviews with victims occurred in person whenever possible. If the victim preferred to be interviewed by telephone or if the interview could not be scheduled during the site visit, interviews were conducted by telephone. Interviews were conducted in the preferred language (English or French) of the victims.

2.2.5 Notes on Reporting

As discussed above, the survey of criminal justice professionals includes quantitative results from both the self-administered questionnaires and quantified responses to corresponding questions in the interviews. All references to "survey respondents," "those surveyed," or the like and all tables of the findings present the quantitative data and include the combined results from these methods of data collection.

The report also includes additional qualitative data from the interviews. To ensure that the reader is aware of the source of the data, the report specifies when the information is from interview responses only. In reporting qualitative data, the report uses the descriptors "several" or "few." This is done to prevent confusion between qualitative and quantitative data. For purposes of this report, "several" refers to six to ten respondents, and a "few" refers to three to five.

Only overall results are presented in this report, rather than results by size of site (small, medium, and large). The number of sites in this study (16) coupled with the number of respondent categories means that the results by size of site do not allow for reliable comparisons. For example, the Crown Attorney data for small sites is based on the responses of 14 individuals (this occurred because each of the six small sites has only two or three Crown Attorneys). Generalizations about the views and practices in small sites cannot be reliably made on the basis of 14 respondents. Therefore, this report relies only on overall findings. Similarly, available victim services, practices and programs vary jurisdiction to jurisdiction. Therefore, the report does not make direct comparisons across these services, practices and programs; only overall findings are provided.

For the multi-site survey of victims of crime only interviews were conducted, so there is no need for any distinctions between survey and interview data. Please note that numbers are used instead of percentages when discussing a small subset of the victim interview data.

The term "victim" is used throughout this report to refer to a complainant in a criminal case. This terminology is used when referring to situations both before and after a conviction and is used for consistency and ease of reading.



3.0 Experience of Victims in the Criminal Justice System

This section presents the results from the victims of crime respondents. Unlike the data gathering method with the criminal justice system respondents, all data from victims were gathered through in person interviews only. Please note that numbers are used instead of percentages when discussing a small subset of the data.

3.1 Overview of Case and Victim Characteristics

A total of 112 victims of crime took part in this study. Overall:

- ▶ About four-fifths are female, and one-fifth are male.
- ▶ Almost three-quarters are between the ages of 25 and 64.
- ▶ Over half (57%) of victims are from large urban cities. Just over one-quarter are from medium-sized cities, and one-sixth are from small towns and rural areas.
- ▶ For just over one-tenth, French is their first language.
- ▶ Less than one-tenth are of Aboriginal origin.

Table 6 below presents their demographic characteristics.

TABLE 6: VICTIM RESPONDENT DEMOGRAPHICS		
	Victims (N=112)	
	Number	Percent
Gender		
Female	88	79%
Male	24	21%
Aboriginal identity		
Aboriginal	8	7%
Non-Aboriginal	102	91%
No response	2	2%
Age		
Less than 18	4	4%
18-24	14	13%
25-34	23	21%
35-44	29	26%
45-54	23	21%
55-64	7	6%
65 and over	10	9%
No response	2	2%
Language		
English	92	82%
French	14	13%
Other	6	5%
Size of site where victims located		
Large	64	57%
Medium	30	27%
Small	18	16%

Among these 112 victim respondents, four-fifths (n=92) directly experienced the crime, 16 had family members who were victims of crime, and four were representatives of corporate victims. Of the 16 with family members who were victims of crime, ten were parents of the victim, four were siblings, one was a child, and one was a spouse.

Overall, the victim respondents had experienced a variety of a total of 141 violent and/or property crimes, ranging from uttering threats to murder. The most common were sexual assault (27), common assault (17), assault causing bodily harm (17), and uttering threats (14). While violent crimes against the person predominated (i.e., violent crimes accounted for 64% of all crimes experienced by victim respondents), some victims had experienced property crimes, such as theft and break and enter. Table 7 provides the complete results of the crimes upon which victim respondents based their experience of the criminal justice system.



TABLE 7: WOULD YOU PLEASE TELL ME WHAT THE CRIME WAS THAT YOU AGREED TO DISCUSS FOR THIS STUDY?		
<i>Type of Crime:</i>	Victims (N=112)	
	Number of Crimes (N=144)	Percent (%)
Sexual assault	27	24%
Assault (common)	17	15%
Assault causing bodily harm	17	15%
Uttering threats	14	13%
Theft	9	8%
Break and enter	9	8%
Criminal harassment	9	8%
Murder or manslaughter	9	8%
Assault with a weapon	8	7%
Fraud	5	4%
Child molestation or interference with a child	3	3%
Impaired or dangerous driving causing death	2	2%
Property damage	2	2%
Other	8	7%
No response	1	1%

Note: Respondents could provide more than one response; total does not sum to 100%.

Most (75%) victims knew the accused. Almost 40% reported that they had a current or former intimate relationship with the accused, and 8% said that the accused was some other family member. Most of the remaining victims identified the accused as an acquaintance (19%), a neighbour (4%), or a friend (4%). About one-quarter (23%) of victims reported that a stranger committed the crime. Another 2% either did not know or chose not to respond to the question.

Over nine-tenths of victims (93%) discussed a crime that had occurred since 1990, and over half (56%) had experienced the crime since 2001. Thirteen percent of victims reported that they first became involved with the criminal justice system between 1990 and 1998. Most (85%) said that their involvement with the system began on or after 1999 (the year of Bill C-79). Table 8 provides more detailed results.

**TABLE 8:
DURING WHAT YEAR(S) WERE YOU INVOLVED WITH THE CRIMINAL JUSTICE SYSTEM AS A RESULT OF THIS CRIME?**

	Year in Which Crime First Occurred (N=112)		Year First Involved With Criminal Justice System (N=112)	
	Number	Percent	Number	Percent
Pre-1990	7	6%	--	--
1990-1998	16	14%	14	13%
1999	9	8%	12	11%
2000	16	14%	15	13%
2001	24	21%	22	20%
2002	38	34%	44	39%
2003	1	1%	2	2%
Not applicable	0	--	2	2%
Don't know	1	1%	1	1%

Note: Totals do not sum to 100% due to rounding.

About two-thirds of all cases resulted in either guilty pleas (41%) or convictions at trial (31%). In these cases, the most common sentences were jail time (33%) and/or probation (32%). About one-sixth of victims' cases had not yet been concluded at the time of the interview. Complete results are in Tables 9 and 10.

**TABLE 9:
DISPOSITION OF CASES TO DATE OF INTERVIEWS**

<i>Disposition:</i>	Victims (N=112)	
	Number	Percent
No charges laid	9	8%
Charges dropped	4	4%
Awaiting final disposition	18	16%
Pleaded guilty	41	37%
Convicted at trial	31	28%
Found not guilty at trial	5	5%
Other	4	4%

Note: Total does not sum to 100% due to rounding.

**TABLE 10:
SENTENCES FOR CASES WHERE VICTIM REPORTED THAT THE OFFENDER PLEADED GUILTY OR WAS CONVICTED**

<i>Sentence:</i>	Victims (n=72)	Percent (%)
Incarcerated	33	46%
Probation	32	44%
Conditional sentence	16	22%
Suspended sentence	2	3%
Restitution	2	3%
Other	5	7%
Don't know	5	7%

Note: Victims could provide more than one response; total sums to more than 100%.



3.2 Services Received by Victims

Almost nine-tenths (88%) of victims received some form of assistance. Of the 13 victims (12%) who did not receive any type of assistance, six refused the services that were offered to them, five said that they were unaware of the services that were available (one had not reported the crime to police), and two were promised assistance but victim services never contacted them. Table 11 presents these results.

TABLE 11: DID YOU RECEIVE ANY VICTIM ASSISTANCE AS A RESULT OF THIS EXPERIENCE?		
Received Victim Assistance:	Victims (N=112)	
	Number	Percent
Yes	99	88%
No	13	12%
Reason for No Assistance:		
Refused the services offered to them	6	5%
Unaware of the services available	5	5%
Promised services but were never contacted	2	2%
Note: Total does not sum to 100% due to rounding.		

3.2.1 Nature of Assistance Received

A total of 99 victims received assistance from a variety of victim services organizations. About one-third reported receiving help from police-based victim services (36%) and another third from community-based victim services (31%). Just over one-quarter were assisted by court-based victim services and about one-fifth by system-based victim services (i.e., services delivered by the province to assist victims throughout their contact with the criminal justice system). Approximately one-fifth received medical assistance (e.g., from hospitals, clinics, private counsellors). As seen in Table 12 below, fewer victims used specialized victim services.

TABLE 12: TYPE OF VICTIM SERVICES PROVIDING ASSISTANCE BASE: VICTIMS WHO RECEIVED ASSISTANCE FROM A VICTIM SERVICE		
Type of Victim Services:	Victims (n=99)	
	Number	Percent
Police-based victim services	36	36%
Community-based victim services	31	31%
Court-based victim services	28	28%
Medical assistance and/or counselling	23	23%
System-based victim services	21	21%
Specialized victim services for domestic violence	13	13%
Victim compensation	8	8%
Specialized victim services for sexual assault	3	3%
Specialized victim services for children	2	2%
Other	2	2%
Note 1: Victims could provide more than one response; total sums to more than 100%.		
Note 2: Some victim services organizations are categorized as more than one type of service.		

Victims were asked about the types of assistance they received. Most victims (84%) received information in areas such as the police investigation, court procedures, and court outcomes. About half reported receiving counselling (53%). Fewer (41%) had help with their victim impact statement. About one-quarter (27%) received medical assistance, and about one-fifth received crisis assistance after the crime (18%), or financial assistance (18%). Table 13 gives the complete results.

TABLE 13: TYPES OF ASSISTANCE RECEIVED BASE: VICTIMS WHO RECEIVED VICTIM SERVICES		
<i>Types of Assistance Received:</i>	Victims (n=99)	
	Number	Percent
Information (e.g., about police investigation, court procedures, outcomes)	84	85%
Counselling	52	53%
Witness support / court accompaniment	52	53%
With preparing victim impact statement	41	41%
Medical assistance	27	27%
Crisis assistance immediately after the crime	18	18%
Financial assistance	18	18%
Referrals	9	9%
Shelter	7	7%
Emotional support	6	6%
Compensation	3	3%
Post-sentencing services	2	2%
Other	6	6%
Note: Victims could provide more than one response; total sums to more than 100%.		

When asked to identify what was most helpful about the assistance received, victims most often mentioned counselling and emotional support (36%).

Victims believe that this support enabled them to get through the initial shock of the crime and to cope with the subsequent fear and trauma. Victims also said that it was important to have someone objective to talk to.

When asked to identify the most helpful types of assistance, victims most often mentioned counselling and emotional support (36%). Victims believe that this support enabled them to get through the initial shock of the crime and to cope with the subsequent fear and trauma. Victims also said that it was important to have someone objective to talk to.

About a third (31%) of victims considered provision of information to be the most helpful type of assistance. Of these victims, 11 singled out receiving information about the criminal justice system as important. They noted that this information was comforting because it gave them some idea what to expect, and without this assistance, they would not have understood the court process. Eleven victims also mentioned that they appreciated receiving information about the case against their accused.

About a quarter of victims said that assistance received from victim services organizations generally was beneficial. These victims did not identify specific ways in which the services were helpful but, instead, reported that overall, they found the assistance useful. Others did comment on specific aspects of the services they received. Fourteen victims commented that witness



support and court accompaniment gave them the confidence to proceed with the case and testify in court. Nine mentioned that they found the assistance with their victim impact statement helpful because they had trouble discussing the crime and they valued the instruction on what they could include in their statement.

Three or four victims mentioned each of the following types of assistance as being particularly beneficial: the assistance of shelters in providing a place to stay after the crime as well as emotional support; financial assistance through victim compensation funds; and assistance with establishing security measures so that they felt safe returning home. Six victims reported that they did not find any of the assistance useful. Table 14 provides the complete findings.

TABLE 14: WHAT WAS MOST HELPFUL ABOUT THE ASSISTANCE YOU RECEIVED? BASE: VICTIMS WHO RECEIVED VICTIM SERVICES		
<i>Most Helpful Types of Assistance Received:</i>	Victims (n=99)	
	Number	Percent
Counselling	36	36%
Information (e.g., about police investigation, court procedures, outcomes)	31	31%
Victim services generally	23	23%
Witness support / court accompaniment	14	14%
With preparing victim impact statement	9	9%
Shelter	4	4%
Financial assistance or compensation	3	3%
Assistance with security measures	3	3%
Other	4	4%
Nothing or was not much help	6	6%
No response	6	6%

Note: Victims could provide more than one response; total sums to more than 100%.

3.2.2 Informing Victims about Services Available

How Victims were Informed

Victims relied on various referral sources to direct them to available services. Police were the most common source of referrals for all types of victim services. Other sources of referrals were Crown Attorneys, other victim services providers, community organizations, family or friends, and medical care providers. Several victims cited the service itself as the source of their referral. Table 15 presents the sources of referrals for each type of victim services organization.

<i>Source of Referrals:</i>	Types of Victim Services Referred To							
	Police-based Victim Services (n=36)		Court-based Victim Services (n=28)		System-based Victim Services (n=21)		Community-based Victim Services (n=31)	
	#	%	#	%	#	%	#	%
Referred by police	20	56%	12	43%	9	43%	9	29%
Referred by Crown Attorney	0	--	6	21%	1	5%	2	6%
Referred by other victim services	2	6%	0	--	3	14%	5	16%
Referred by community organization	1	3%	0	--	0	--	3	10%
From service itself	7	19%	2	7%	7	33%	1	3%
Medical service provider	0	--	1	4%	0	--	6	19%
Family or friend or co-worker	1	3%	1	4%	1	5%	2	6%
Telephone book	--	--	--	--	--	--	2	6%
Other	2	4%	4	14%	1	5%	3	10%
Don't know	4	11%	4	14%	4	19%	3	10%

Note: Victims could provide more than one response; totals sum to more than 100%.

Fifty-eight organizations initiated contact with victims, and victims initiated contact with 47. System-based and police-based organizations were more likely to initiate contact with victims. About three-quarters of system-based organizations contacted the victim, and two-thirds of police-based victim services contacted the victim. Just over half of the court-based services initiated contact. In community-based victim services it was the victim who usually initiated the contact. Table 16 provides details.

	Police-based Victim Services (n=36)		Court-based Victim Services (n=28)		System-based Victim Services (n=21)		Community-based Victim Services (n=31)	
	#	%	#	%	#	%	#	%
	Victim services contacted victim	23	64%	16	57%	15	71%	4
Victim initiated contact	7	19%	10	36%	4	19%	26	84%
Don't know	6	17%	2	7%	2	10%	1	3%

When and How Victims Should be Informed

Victims were asked their opinions on how best to inform victims about available services. Three-quarters emphasized the importance of giving this information to victims as soon as the crime is reported because they need information during the initial stages of the criminal justice process. Several (n=6) cautioned that while victims need this information quickly, waiting until a few days after the crime provides victims with time to recover from the initial shock and

The most common preferred methods for receiving information was in person or by telephone. However, many wanted written materials because they could refer to this information later. Victims also emphasized the importance of follow-up.



become more receptive to receiving information.⁸ A few (n=4) commented that the imperative for providing information about available services depends on the type of crime. These respondents believe that for major crimes, such as those that are violent and/or cause personal injuries, information provision should be immediate, but for property crimes or more minor crimes against the person, the need for information is not as urgent.

As seen in Table 17, victims suggested many different methods of information provision. The most common suggestion was some form of oral communication, either in person or by telephone. These victims consider this form of contact more personal and preferable to written information, especially if language or literacy is an issue. However, many victims desired written materials, such as brochures or personal letters, because they could refer to this information later. Victims also emphasized the importance of follow-up. They explained that victims are in shock and overwhelmed after the crime and may have difficulty remembering what they were told or where they put written information.

TABLE 17: BASED ON YOUR EXPERIENCE, WHAT DO YOU THINK WOULD BE THE BEST WAY TO HELP VICTIMS FIND THE ASSISTANCE THEY NEED?		
<i>Best Way to Help Victims Find Assistance:</i>	Victims (N=122)	
	Number	Percent
In person	56	50%
Telephone	44	39%
Brochure	39	35%
Personal letter	23	21%
Doesn't matter, any of these	13	12%
Other	4	4%
Don't know	2	2%
No response	2	2%
Note: Victims could provide more than one response; total sums to more than 100%.		

Victims provided additional comments on the best way to help victims find the assistance that they need. About one-quarter wanted to receive information from the police; however, several (n=12) preferred to receive the information directly from victim services. All of these victims emphasized that the victim of a crime should not have to look for available services. Several others (n=15) suggested that more public education and outreach about available victim services would assist victims. A few (n=4) pointed out that in certain situations, such as domestic violence, people have difficulty identifying themselves as victims and that public education would assist these individuals in coming forward and reporting crimes. The most common suggestion for public education and outreach was advertisements, especially on public transport and in places targeted to reach domestic violence victims, such as doctor's offices. A few victims (n=4) suggested a victim liaison or advocate who would work outside of the government and would assist victims with navigating the criminal justice system. One person would be assigned to the victim and would ensure that the victim is kept apprised of the court case, understands the court procedures, and knows generally what to expect. These victims thought that it would be helpful if the victim advocate had been a victim at one time, as this would ensure both empathy and an understanding of the information that victims want and need.

⁸ However, one victim wished that victim services had come to the hospital to provide her with information about available services.

Victims were asked whether they would prefer to have victim services contact them or to be given a telephone number for victim services, so that they can initiate the contact. About half said that they would prefer victim services to take the initiative and contact them directly. They noted that victims are often too traumatized or embarrassed to call and, therefore, may not receive help unless victim services contacts them. However, about a quarter of victims stated that they would prefer to contact victim services themselves because: it allows them to feel more in control and independent; they do not like being contacted by someone they do not know; and it is less stressful. Several victims (n=6) commented that the decision depends on the individual; some victims might not appreciate unsolicited contact. They suggested that both options be available to victims and that victim services only initiate contact with those who have given their consent or after a reasonable period of time has passed without hearing from the victim. The remaining victims did not express a preference.

3.2.3 Waiting Period for Services

About three-quarters of the victims who received victim services said that assistance was generally prompt. Almost one-fifth reported having to wait for services, and less than one-tenth said that the timeliness of the response depended on the service.

Victims were asked to specify how long it took to receive services, but because some initiated contact with victim services and victim services contacted others directly, slightly different questions were asked. Those who initiated contact with victim services (n=47) gave the time between making their request and receiving assistance. One-third reported receiving a response with assistance the same day; just over a quarter were helped between two and seven days; and about one-sixth (13%) waited more than a week. One-quarter could not remember the length of time it took to receive assistance.

Victims contacted by victim services (n=58) were also asked to estimate the time between reporting the crime and receiving assistance. Overall, about one-fifth of these victims received service the same day; one-third was helped between two and seven days; and another quarter waited more than a week. About one-sixth could not remember the length of time it took to receive assistance.

Response from community-based victim services was the quickest when the victim made the initial contact. However, police-based victim services were the quickest to respond when it was a services-based initial contact. Table 18 provides the waiting periods for victim services.



TABLE 18:
LENGTH OF TIME UNTIL ASSISTANCE WAS RECEIVED BY VICTIM, BY HOW CONTACT WAS INITIATED
BASE: VICTIMS WHO PROVIDED THIS INFORMATION (n=105)

	Victim Initiated the Contact (n=47)				Service Initiated the Contact (n=58)			
	Same day	2-7 days	More than 7 days	Don't know	Same day	2-7 days	More than 7 days	Don't know
Police-based Victim services	3	3	1	--	10	8	2	3
Court-based Victim services	2	2	3	3	2	5	5	4
Community-based Victim services	10	7	1	8	1	--	3	--
System-based Victim services	1	1	1	1	--	7	6	2
Total	16	13	6	12	13	20	16	9

3.3 Information Received by Victims

There were 102 victims involved in a case where the accused was charged. These victims were asked what information they received during their involvement with the criminal justice system, who provided it; and whether they received it in person, by telephone, or in writing. They were also asked to provide feedback on each of these. These results are discussed in more detail below.

General Information about the Justice System

Victims who were involved in a case where the suspect was charged (n=102) were asked whether they were informed about their role in court as a witness; about the role of the Crown Attorney in handling the case and the Crown Attorney's relationship with them; and about the criminal justice system in general. Seventy percent were told about their role in court as a witness, while about two-thirds (66%) were told about the role of the Crown Attorney, and just over one half (57%) were told about the criminal justice process in general.

Victim services were the main source of this information; more than three-quarters of victims reported that victim services personnel informed them about their role as a witness and about the criminal justice process in general.

Victim services were the main source of information when the accused was charged.

Victim services also provided information about the Crown Attorney's role in about two-thirds of cases, although in just over one-third of cases the Crown Attorney handling the case provided this information. Almost all victims were informed in person. Table 19 provides details.

TABLE 19: TYPES OF INFORMATION RECEIVED BY VICTIMS WHERE THE ACCUSED WAS CHARGED BASE: CASES IN WHICH ACCUSED WAS CHARGE (n=102)		
<i>Information Received Where Accused was Charged:</i>	Number of Victims Who Received Information	Percent of Victims Who Received Information
The criminal justice process in general	58	57%
Victim's role in court as a witness	71	70%
Crown Attorney's role	65	64%

A small proportion of victims who received general information about the criminal justice system were critical of the information they received. About one-tenth reported that they received only minimal information and would have liked to receive more. A few said that the information they were given was vague or inaccurate. Another one-tenth said that they were informed too late or received information only as court proceedings were unfolding, the unpredictability of which they found stressful.

Information about Bail

Victims who were involved in a case where charges were laid (n=102) were also asked several questions about the information they received about bail. Two-thirds (65 or 64%) reported that they were told whether the accused was released on bail. In cases where bail was granted (n=83), just over half of victims were informed about when the accused was released (55%) and about conditions of release (57%). Table 20 provides details.

TABLE 20: TYPES OF INFORMATION RECEIVED BY VICTIMS WHERE BAIL WAS GRANTED BASE: CASES IN WHICH BAIL WAS GRANTED (n=83)		
<i>Information Received About Bail:</i>	Number of Victims Who Received Information	Percent of Victims Who Received Information
When accused was released on bail	46	55%
Conditions of bail	47	57%

Police were the main source of information about bail; they provided information about whether, and when, the accused was released in over half of cases; and information about conditions of release in more than 60% of cases. Victim services provided this information in approximately one-third of cases.

Police were the main source of information to victims about bail.

Information about bail was relayed to victims by telephone in about 60% of cases.

Approximately one-tenth of victims reported that although they received information about bail, they had to take the initiative to call the police, the court, or the Crown Attorney to request it.

A few victims said that the information they received was insufficient or incomplete (e.g., one victim reported having been told about conditions, but not what an undertaking was; another said that the reason for the release of the accused was not explained). A small number found out about the accused's release through the news media or through friends or family members, and two reported that they were given information only after the release of the accused.



Information about Pleas

Victims who were involved in a case where charges were laid (n=102) were also asked about the information they received with respect to pleas. About 60% of these victims reported having been told whether the accused pleaded guilty. This information was equally likely to have come from the Crown Attorney, the police, and victim services; and was provided by telephone and in person in about 40% and 33% of cases, respectively.

Of the 42 cases where agreements were made with the accused to plead guilty, half (21 or 50%) of the victims reported having been told of these agreements. The Crown Attorney was the most frequent source of information about plea agreements (n=9), followed by police (n=7) and victim services (n=6). A small number of victims were present in court at the time the guilty plea was entered or said that they were informed that the accused would plead guilty just prior to when they would have given their own testimony in court.

Information about the Trial

Victims who were involved in a case that went to trial (n=36) were asked several questions about the information they received about the trial. With three exceptions, all were told whether there was a trial and about important trial dates. About two-thirds were told about changes in trial dates and received updates on their case, while all but seven said that they were told the outcome of their case. Table 21 provides details.

TABLE 21: TYPES OF INFORMATION RECEIVED BY VICTIMS WHERE THE CASE WENT TO TRIAL BASE: CASES WHICH WENT TO TRIAL (n=36)		
<i>Information Received About Trial:</i>	Number of Victims Who Received Information	Percent of Victims Who Received Information
Whether there was a trial	33	92%
Important trial dates	33	92%
Changes in trial dates	23	64%
Updates on the case	22	61%
Outcome of the case	29	81%

Victim services were the main source of information about trials, followed by the Crown Attorney; these two agencies provided this information in about 60% and 20% of cases, respectively, with the exception of information about the trial outcome.

Victim services were the main source of information about trials to victims.

Information was provided by telephone in about 60% of cases and in person in about 20%. Information about the outcome of the trial was provided by victim services in almost half of cases. However, almost as many victims found out about the outcome of the trial because they were present in court at the time of the disposition.

A small number of victims received trial information through the police, through a *subpoena*, through the court registry, or in court.

Information about Sentencing

Victims involved in a case where the accused pleaded guilty or was convicted (n=72) were asked several questions about the information they received about sentencing. The majority reported that they were informed about the date of the sentencing hearing (78%) and about the sentence (83%). In cases where the offender received probation (n=40), 83% of victims said that they were told whether conditions were placed on the offender. Table 22 provides details.

TABLE 22:		
TYPES OF INFORMATION RECEIVED BY VICTIMS WHERE THE ACCUSED WAS SENTENCED		
BASE: CASES IN WHICH THE ACCUSED RECEIVED A SENTENCE (n=72)		
<i>Information About Sentence:</i>	Number of Victims Receiving Information	Percent of Victims Receiving Information
Date of sentencing hearing	56	78%
The sentence	60	83%

In over half of the cases, victim services provided information about the date of the sentencing hearing; in about one-third of the cases, victims learned the date of the hearing because they were present in court. With respect to the sentence itself, about half of the victims were present in court at the time the offender was sentenced, whereas victim services provided this information in about one-third of cases. In cases where the offender received probation, victims were most likely to have been informed about conditions by victim services, although almost as many found out in court. Victims who were not present in court were about equally as likely to receive the sentencing information (including hearing date, sentence details, and probation information) in person as by telephone. Two reported that they learned about the sentence in the media.

Information about the Offender's Incarceration

Victims involved in a case where the offender was sentenced to jail time (n=33) were asked several questions about the information they received about the incarceration. Fifty-eight percent said that they were told where the offender was incarcerated. Two-thirds (67%) were told the date the sentence began, and 82% were told the length of the sentence. In cases where the offender was moved (n=28), 43% of victims were told the offender's new location. Table 23 provides details.

TABLE 23:		
TYPES OF INFORMATION RECEIVED BY VICTIMS WHERE THE ACCUSED WAS INCARCERATED		
BASE: CASES IN WHICH THE ACCUSED WAS INCARCERATED (n=33)		
<i>Information About Incarceration:</i>	Number of Victims Receiving Information	Percent of Victims Receiving Information
Where offender was incarcerated (if incarcerated)	19	58%
Date sentence began	22	67%
Length of sentence	27	82%

Victims reported receiving information about the offender's incarceration from a variety of sources. Information on where the offender was incarcerated was most often provided



by victim services. Several victims received this information from other sources such as the police, the Crown Attorney, or the victim liaison coordinator at the correctional institution; and a few found out in court. In most instances where the offender was moved and victims were informed about the relocation, a victim liaison coordinator provided the information.

Victims most frequently learned about the date the sentence began and the length of the sentence because they were present in court at the sentencing hearing. However, a few received this information from other sources, such as victim services, the Crown Attorney, the police, or a victim liaison coordinator. Except for those who were present in court, most received information about the offender's incarceration by telephone.

Information about Parole

Of the 25 victims who were involved in a case where the offender was eligible for parole, 11 victims (44%) received information about the offender's parole eligibility. Of those who were involved in a case where a parole hearing had been set or had already occurred (n=20), one-third were informed about the dates of the hearing. In instances where parole had been granted (n=18), eight victims (44%) were informed about release dates; six (33%) were informed about conditions imposed on release; and five (28%) were informed about the offender's destination on release. Table 24 provides details.

TABLE 24: TYPES OF INFORMATION RECEIVED BY VICTIMS ABOUT THE ACCUSED'S PAROLE CONDITIONS BASE: CASES IN WHICH THE ACCUSED RECEIVED PAROLE (n=18)		
<i>Information on Parole Conditions:</i>	Number of Victims Receiving Information	Percent of Victims Receiving Information
Release date	8	44%
Conditions imposed on release	6	33%
Destination of offender on release	5	28%

Information about parole came from either the victim liaison coordinator at the correctional institution, the victim liaison coordinator attached to the local parole office, or the National Parole Board (NPB). The information was provided either by telephone or via a personal letter

3.3.1 Overall Satisfaction with Information Provided and Suggestions for Improvement

All victim respondents were asked about their overall satisfaction with the way in which information was provided to them. Just over 60% agreed that, in general, they received a sufficient amount and type of information and that they received the information in a timely manner.

Just over 60% of all victim respondents felt that, in general, they received a sufficient amount and type of information and that they received the information in a timely manner.

Several singled out victim services or police as being particularly helpful in providing information. A few victims said that Crown Attorneys were helpful, and just as many said that Crown Attorneys were unhelpful.

Those who were dissatisfied, most often explained that the information 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 the case.

Victims were also asked how the provision of information could be improved. The most common suggestion was regular contact and follow-up by police and Crown Attorneys to keep victims abreast of developments. Another common suggestion was that information be provided by a single source (such as a designated victim advocate or liaison) throughout the entire criminal justice process; some victims observed that receiving information from a variety of different sources often leads to confusion.

Other suggestions included providing information in a more timely manner; providing more information at the outset of the victim's involvement with the criminal justice system; and providing more detailed information or more information in print form. Several victims mentioned a need for counselling and public education.

As shown in Table 25 below, 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 (mentioned by over 40% of victims). One-third wanted information about the criminal justice system in general, while less than one-fifth mentioned each of: information about the accused; information about the victim services available to them; information about possible outcomes and case time lines; and information about safety protections for victims.

TABLE 25: BASED ON YOUR EXPERIENCE, WHAT KIND OF INFORMATION DO YOU THINK VICTIMS OF CRIME MOST WANT TO RECEIVE? BASE: ALL VICTIM RESPONDENTS (N=112)		
<i>Information Victims Most Want to Receive:</i>	Victims (N=112)	
	Number	Percent
Case updates or information on the status of investigation	49	44%
General information about the criminal justice system	37	33%
Information about the accused	19	17%
Information about available victim services	17	15%
Information about possible outcomes or time lines	15	13%
Information about safety protections for victims	12	11%
Information about victim rights or options	3	3%
Other	17	15%
Don't know or No response	9	8%
Note: Victims could provide more than one response; total sums to more than 100%.		

Victims were divided on the best way by which to provide this information. Approximately equal numbers prefer to receive it in person and by telephone. Less than one-fifth believe that a personal letter or brochure is the best method of providing the information.



3.4 Consideration of Victim Safety at Bail

The 102 victims who were involved in a case where charges were laid were asked several questions about their experiences at bail. Two-thirds reported that the accused was released on bail in their case, and of these, almost 60% reported that the accused was detained for a period of time before being released.

Just over one-third of victims involved in cases where charges were laid said that they were aware that victim safety must be considered in release decisions, while almost half of these victims were unaware. The remaining victims did not feel that they could answer the question. Victims were much more likely to know that conditions of release could be placed on the accused. Three-quarters reported being aware of the possibility of certain conditions being imposed, whereas less than one-fifth was unaware.

Victims in cases where charges were laid were evenly divided between those who found the information they received about release decisions to be clear and complete, and those who did not. Almost all of those who found the information unclear or incomplete explained that the problem was a lack of any information on the subject whatsoever. Of the 68 victims who reported that the accused was released in their case, more than two-thirds reported that conditions were placed on the accused, although over one-quarter of these victims either did not know or gave no response. The most common condition, imposed in two-thirds of cases where the accused was released, was no contact with the victim. A condition to refrain from alcohol was imposed in almost one-quarter of cases, and a condition to keep the peace and be of good behaviour was imposed in about one-fifth of cases. Restrictions on movement were imposed in just less than one-fifth of cases. Twenty-nine (59%) of the victims involved in cases where conditions of release were imposed said that the conditions addressed their safety concerns. Table 26 gives further details on bail conditions.

TABLE 26: BAIL CONDITIONS BASE: VICTIMS WHO REPORTED ACCUSED RELEASED ON BAIL (n=68)		
<i>Bail Conditions:</i>	Victims who reported accused released on bail (n=68)	
	Number	Percent
Were conditions placed on accused?		
Yes	47	69%
Accused had existing conditions for other offences	2	3%
No	1	2%
Don't know or No response	18	26%
What types of conditions?		
No contact with the victim	45	66%
No alcohol	16	24%
Keep peace and be of good behaviour	14	21%
Curfew	6	9%
No contact with other named individuals	6	9%
No weapons	5	7%
Undergo therapy or treatment	5	7%
Restrictions on movement	5	7%
Other	12	18%
Don't know or No response	22	32%
Note: Victims could provide more than one response for the conditions that were placed on the accused; total sums to more than 100%.		

As shown in Table 27, of the total number of victims involved in cases where the accused was charged (n=102), about 40% believe that their safety was considered in the decision about the possible release of the accused. Just over one-quarter believe that their safety was not considered, while the remainder either had no safety concerns, did not know, or did not respond. Victims who believe that their safety was not considered (n=27) were asked what caused them to feel that way. Most commonly, they explained that the conditions placed on the accused were either insufficient or were not respected (n=16). Of these victims, five reported having accidental contact with the accused after release, and four said that they were harassed or threatened by the accused after release. Two pointed out that the conditions imposed were at odds with pre-existing family law orders (e.g., no contact orders conflicted with access orders).

TABLE 27: WAS THE VICTIM'S SAFETY CONSIDERED IN THE DECISION ABOUT THE POSSIBLE RELEASE OF THE ACCUSED? BASE: VICTIMS WHOSE ACCUSED WAS CHARGED (n=102)		
<i>Victim's Safety Considered in Decision About Possible Release of the Accused:</i>	Victims in cases where accused was charged (n=102)	
	Number	Percent
Yes	43	42%
No	27	27%
N/A (victim had no safety concerns)	15	15%
Don't know or No response	17	17%
Note: Total does not sum to 100% due to rounding.		



In addition to insufficient conditions, four victims each said that they were not asked about their safety concerns; that the police and/or the court did not appreciate the true extent of the danger posed to them by the accused; that the fact that the accused was released was evidence that their safety was not considered; and that they were not advised of the accused’s release.

Among victims who had safety concerns (n=87), almost three-quarters said that they made their concerns known. Table 28 provides complete results.

TABLE 28: DID VICTIMS MAKE THEIR CONCERNS WITH SAFETY KNOWN? BASE: VICTIMS WITH SAFETY CONCERNS (n=87)		
<i>Victim Concerns With Safety Shared:</i>	Victims with safety concerns (n=87)	
	Number	Percent
Yes	62	71%
No	16	18%
Don't know or No response	9	10%

Note: Total does not sum to 100% due to rounding.

A majority of the victims who made their safety concerns known provided this information to police (n=41); relatively few discussed safety issues with the Crown Attorney (n=13) or with victim services providers (n=3). One or two victims each mentioned their safety concerns in a victim impact statement, wrote a letter to the judge outlining their concerns, or told the judge about their concerns during the bail hearing. Those who did not make their safety concerns known (n=16) most often explained that no one asked them about their concerns.

3.5 Experience with Testifying

Out of 36 victims whose cases went to trial, 24 reported that they or a family member testified at the trial; eight did not testify; and four did not answer the question. Of the 24 who testified, 20 received help in preparation, most often from victim services (n=17), but also from the Crown Attorney handling their case (n=9).⁹ The various types of assistance included an explanation of courtroom procedures; an explanation of the respective roles of the Crown Attorney and defence counsel; an introduction to the courtroom; and practice in testifying. A small number of victims said that they received other types of assistance, such as a review of basic behaviour in the courtroom and what to expect. Table 29 provides complete details.

Of the 24 victims who testified, 20 received help in preparing for court, most often from victim services, but also from the Crown Attorney handling their case.

⁹ Victims could provide more than one response.

TABLE 29: DID YOU RECEIVE HELP IN PREPARING TO TESTIFY? BASE: VICTIMS WHO RECEIVED ASSISTANCE WITH TESTIFYING (n=20)		
	Victims Who Received Help in Preparing to Testify (n=20)	
	Number	Percent
Explanation of court procedures	15	75%
Explanation of roles of Crown Attorney and defence counsel	14	70%
Courtroom introduction	12	60%
Preparation for testifying or practice testifying	10	50%
Review of basic courtroom behaviour or what to expect in courtroom	7	35%
Other	5	25%
Note: Victims could provide more than one response; total sums to more than 100%.		

Just over half of the 24 victims who testified at trial reported that they felt prepared for it. Almost all of them attributed their preparedness to the support they received prior to and during their testimony. Those who felt unprepared for testifying either said that they felt frightened, threatened, or re-victimized or said that they had inadequate time to prepare. Several victims (both those who felt prepared and those who did not) said that they were nervous about testifying but that, in the end, they were able to handle the experience reasonably well.

Eight of the 36 victims whose cases went to trial reported that they did not testify at the trial. The most common reasons for not testifying were that the Crown Attorney had sufficient physical evidence (therefore, their testimony was unnecessary) and that they were not witnesses to the crime. In one case the victim did not testify because the accused pleaded guilty at trial; and in one case, the victim reported being too fearful for her safety to testify.

All 36 victims whose cases went to trial were asked to suggest ways to help victims with testifying. The most common suggestions were better explanations of the court process and of what to expect in the courtroom (e.g., preparation for defence tactics) and improved protections or wider availability of existing protections. Other suggestions included preparing for testimony through role-playing and permitting victims of crime to have their own lawyer.

The most common suggestions to help victims with testifying were better explanations of the court process and of what to expect in the courtroom, and improved protections or wider availability of existing protections.

3.5.1 Legal Provisions to Facilitate Testimony

While criminal proceedings are generally held in open court, the *Criminal Code* sets out a number of exceptions in order to protect the privacy of victims and to help them in testifying in court.¹⁰ These provisions are described below.

Publication Bans

Judges must issue an order prohibiting publication of the identity, or any information that could disclose the identity, of sexual offence victims on application. Where deemed necessary for the

¹⁰ These exceptions are included in sections 276.2 and 276.3, Section 486, and Sections 715.1 and 715.2.



proper administration of justice, a judge may order a publication ban, upon application, on the identity of a victim or witness of any offence.

Facilitating Testimony

In sexual offence proceedings, a support person may accompany a witness under the age of 14 years or who has a mental or physical disability. Additionally, a witness of specified offences, including sexual offences, who is under the age of 18 or who has difficulty communicating can provide testimony from behind a screen or by closed circuit television. A judge may prohibit personal cross-examination by a self-represented accused, of a witness under the age of 18 years in sexual or personal violence offences. The court may appoint counsel for cross-examination. In proceedings related to specified sexual offences, a victim/witness under the age of 18 years at the time of the alleged offence, or a victim/witness who has difficulty communicating, may provide testimony on videotape.

Victims in this study whose case characteristics fell within these parameters were asked about their experiences with these provisions. A total of nine victims received information about provisions to facilitate testimony. Of the victims who received this information, five were under the age of 18 at the time of their involvement in the criminal justice system; three were victims of sexual assaults but were over 18 years of age (they were only informed of publication bans); and one was a victim of a high-profile stalking case who was offered several types of protections even though she was over 18 years of age and did not have a mental or physical disability.

These victims received information about different types of protections. More specifically:

- ▶ Eight received information about publication bans.
- ▶ Five received information about the possibility of testifying behind a screen.
- ▶ Five received information about the possibility of a support person accompanying the victim.
- ▶ Two received information about the possibility of testifying by closed-circuit television.
- ▶ Two received information about *Criminal Code* section 486 (2.3).¹¹
- ▶ One received information about the possibility of testifying by videotape.

Six of the victims were given information about more than one of the protections. One of these victims was told about publication bans and screens; one was told about publication bans and support persons; two were told about publication bans, screens, and support persons; one was told about publication bans, screens, closed-circuit television, support persons, and s. 486 (2.3); and one was told about screens, closed-circuit television, videotape, support persons, and s. 486 (2.3). Information was provided by either victim services, the police, or the Crown Attorney. Four victims received information from two sources.

These nine victims were asked if they received information about provisions to facilitate testimony with enough time to decide whether to use them. Seven of the nine said that they were

¹¹ Subsection 486 (2.3) of the *Criminal Code* provides, in sexual and personal violence offence proceedings, generally the self-represented accused shall not personally cross-examine a witness under 18 years of age.

given the information in a timely manner; while two disagreed. When asked what kind of information they received about the protections, victims reported being told that the protection(s) was available (n=6) and the pros and cons of using the protection(s) (n=4). Two reported that they were simply informed that a certain protection(s) would be implemented in their case, but that they were not part of the decision of whether to use the protection. All nine victims were asked if anything about the information they received was unclear or incomplete. Six said that nothing was unclear or incomplete. The three victims who believed that the information they received was unclear or incomplete reported that they were given only general information about the protections.

Four of the nine victims who received information about protections to facilitate testimony 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 received publication bans, 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). The three victims who received publication bans reported different experiences with the effectiveness of the bans in helping them to testify: one reported being more comfortable because the ban was in place; and two said that the ban did not really help and that they were still afraid to testify. The victim who was accompanied by a support person reported being more comfortable because the support person was present, even though they could not communicate during court. This victim was also protected by s. 486 (2.3) and said that she was less nervous and upset than she would have been if the accused had been permitted to cross-examine her.

In addition to the four victims who received information and subsequently received protection(s), one reported not receiving any information but nevertheless receiving a publication ban. This victim said that the ban did not make testifying any easier.

3.6 Victim Impact Statements

Victim impact statements are written statements (VIS) in which victims can describe the effect of the crime on them and any harm or loss suffered as a result of the crime. The 1999 amendments to the *Criminal Code* allow victims to read their statements aloud during sentencing, require the judge to ask before sentencing whether the victim has been informed of the opportunity to complete a VIS, and permit the judge to adjourn the sentencing to give the victim time to prepare the statement.

Victims of crime can submit victim impact statements at sentencing and at parole. At parole, the victim can rely on the victim impact statement from sentencing and/or provide another statement to the parole board. The following discussion considers victim impact statements at sentencing. Because only one victim prepared a victim impact statement for the parole board, those results are not reported.



3.6.1 Information Provided to Victims

Out of 102 victims whose offenders were charged, eighty-one (80%) reported receiving information on victim impact statements. About three-quarters of these victims received this information from victim services and just over one-fifth from the police. Other sources of information were the Crown Attorney (n=6) and the court registry (n=6).¹² As seen in Table 30, victims received the information about VIS in a variety of ways, but the most common was in person, followed by a brochure, a personal letter, and telephone.

TABLE 30:		
HOW VICTIM RECEIVED INFORMATION ABOUT VICTIM IMPACT STATEMENTS (VIS)		
BASE: VICTIMS WHO RECEIVED INFORMATION (n=81)		
<i>How information was provided:</i>	Victims Who Received Information on VIS (n=81)	
	Number	Percent
In person	36	44%
Brochure	24	30%
Personal letter	22	27%
Telephone	16	20%
Other	8	10%
Don't know	4	5%
No response	1	1%
Note: Victims could provide more than one response; total sums to more than 100%.		

The timing of victims receiving VIS information varied. Most victims received the information either within one month of the crime (26%) or just before the final disposition (28%). Table 31 provides the complete results.

TABLE 31:		
WHEN WERE YOU PROVIDED THE INFORMATION ABOUT VICTIM IMPACT STATEMENTS?		
BASE: VICTIMS WHO RECEIVED INFORMATION (n=81)		
<i>When Information Was Provided:</i>	Victims Who Received Information on VIS (n=81)	
	Number	Percent
Within one month of the crime	21	26%
Immediately after the arrest of the accused	9	11%
At preliminary hearing	5	6%
Just prior to final disposition (trial or guilty plea)	23	28%
After a finding of guilt	2	2%
When first contacted by victim services	5	6%
Other	8	10%
Don't know	6	7%
No response	2	2%
Note: Victims could provide more than one response; total sums to more than 100%.		

¹² Victims could provide more than one response.

The interviews also explored the adequacy of information received by victims. When asked whether the information explained victim impact statements so that they understood what could be included, four-fifths of victims who received information said yes. Seventy percent said that the information explained that their statement would be provided to defence counsel and to the accused, and that the information provided sufficient detail so that they knew how to complete their statement (what form, if any, to use; where to submit the form, etc.). Just over two-thirds said that the information explained how victim impact statements are used in court. Table 32 provides the full results.

TABLE 32: TYPE OF INFORMATION PROVIDED ABOUT VICTIM IMPACT STATEMENTS		
BASE: VICTIMS WHO RECEIVED INFORMATION (n=81)		
<i>Information Provided on Victim Impact Statements:</i>	Victims (n=81)	
	Number	Percent
What could be included in a victim impact statement	65	80%
What victim generally needed to do to complete a victim impact statement	57	70%
That once submitted to a Crown Attorney, the victim impact statement has to be provided to the defence counsel and the accused	57	70%
How victim impact statements are used in court	56	69%
Note: Victims could provide more than one response; total sums to more than 100%.		

However, a substantial proportion of victims who received information about victim impact statements described it as unclear or incomplete.¹³ Ten victims reported that, in general, they found the written instructions insufficient or confusing, and therefore, they relied heavily on victim services to assist them with their statements. Other victims detailed the ways in which the information was insufficient. Several said that they did not know what information victims can include in their impact statement (n=9), or how the court would use the impact statement (n=8). A few (n=4) said that the information did not make clear that the impact statement would be disclosed to defence counsel and to the accused. Finding out after the fact that their statement went to these individuals was very upsetting to these victims. Several victims (n=7) also reported receiving conflicting advice on when to complete the victim impact statement. This seemed to occur because of the concerns about cross-examination on the impact statement; for example, one victim reported that the Crown Attorney wanted the impact statement as soon as possible, while victim services said that he should wait.

Victims were asked how best to provide information about victim impact statements. About half of victims liked in person contact, while about 40% said that a brochure would be useful. Victims were equally amenable to contact by telephone or letter. Those victims who preferred oral communication commented that it allows people to ask questions, while those who liked written material said that the ability to refer to the information later was important. Table 33 provides the complete results.

¹³ Victims could provide more than one explanation of how information was unclear or incomplete.



TABLE 33:
WHAT DO YOU THINK WOULD BE THE BEST WAY TO PROVIDE VICTIMS OF CRIME INFORMATION ON VICTIM IMPACT STATEMENTS?
BASE: VICTIMS WHOSE ACCUSED WAS CHARGED (n=102)

<i>How Information Should be Provided:</i>	Victims (n=102)	
	Number	Percent
In person	52	51%
Brochure	41	40%
Personal letter	22	22%
Telephone	22	22%
Doesn't matter (any of these)	2	2%
Depends on person or type of case	3	3%
Other	2	2%
No response	4	4%
Don't know	1	1%

Note: Victims could provide more than one response; total sums to more than 100%.

Opinion as to when victims should receive this information varied, as shown in Table 34. Approximately one-third (34%) of victims said that someone should provide this information to victims shortly after the crime is reported, and an additional 15% believe that the victim should receive this information shortly after the arrest of the accused or when charges are laid. However, almost one-fifth (19%) of victims think that the information should be provided close to the time of final disposition (either just before trial or just after a finding of guilt). Just over one-tenth (11 %) of victims warned that the information should not be provided too early; victim services should let enough time pass so that the victim is less overwhelmed by the experience.

TABLE 34:
WHEN SHOULD VICTIMS RECEIVE INFORMATION ABOUT VICTIM IMPACT STATEMENTS?
BASE: VICTIMS WHOSE ACCUSED WAS CHARGED (n=102)

<i>When Information Should be Provided:</i>	Victims (n=102)	
	Number	Percent
Shortly after the crime is reported	35	34%
Shortly after the arrest of the accused or charges laid	15	15%
Just prior to the start of the trial or before guilty plea	19	19%
After enough time has passed so victim not overwhelmed	11	11%
Other	10	10%
Don't know or No response	12	12%

Note: Victims could provide more than one response; total sums to more than 100%.

3.6.2 Preparing and Submitting Impact Statement

About two-thirds of victims in cases where someone was charged with the crime prepared a victim impact statement for sentencing (65 of 102).

Close to two thirds (n=40) of the 65 victims who prepared a statement received some form of assistance. As shown in Table 35, 88% were assisted by victim services. The others reported assistance from family or friends (n=3), the Crown Attorney (n=2), and police (n=1).

About two-thirds of victims in cases where someone was charged with the crime prepared a victim impact statement for sentencing.

TABLE 35: WHO HELPED YOU IN PREPARING YOUR VICTIM IMPACT STATEMENT (VIS)? BASE: VICTIMS WHO RECEIVED ASSISTANCE WITH PREPARING VIS (n=40)		
<i>Who Provided Help to the Victim:</i>	Victims (n=40)	
	Number	Percent
Victim services	35	88%
Family or friends	3	8%
Crown Attorneys	2	5%
Police	1	3%
Other	2	5%
Note: Victims could provide more than one response; total sums to more than 100%.		

Victims received several types of assistance with their victim impact statements. Three-quarters said that the person who assisted them either provided the necessary forms or told them where forms could be obtained. About three-quarters had received explanations about the kinds of information permitted in victim impact statements and the general instructions on how to complete the statement. For almost two-thirds of victims, the person who assisted them reviewed their statement and collected the statement for submission to the court or Crown Attorney.

A number of victims received the following: assistance in formulating their thoughts (38%); information about where to send their completed statement (28%); and help with completing their statement (20%) where the person assisting them wrote down what the victim said about the crime's effects. Please see the results in Table 36.

TABLE 36: WHAT KINDS OF HELP DID YOU RECEIVE IN PREPARING YOUR VICTIM IMPACT STATEMENT (VIS)? BASE: VICTIMS WHO RECEIVED ASSISTANCE (n=40)		
<i>Type of Assistance Received With VIS:</i>	Victim (n=40)	
	Number	Percent
Provided with forms	30	75%
Explanation of information that can be included in VIS	29	73%
Instructions on how to complete VIS	28	70%
Review of the completed statement	25	63%
Collection of the completed statement	25	63%
Help with drafting statement (assist victim with formulating his or her thoughts)	15	38%
Informed of where completed statements should be sent	11	28%
Help completing statement (writing what victim says)	8	20%
Informed of where to obtain forms	6	15%
Other	6	15%
Note: Victims could provide more than one response; total sums to more than 100%.		

In spite of this assistance, when asked if they had any problems with completing their victim impact statement, 43% of victims said that they had problems. They mentioned a number of different difficulties: 14 victims said that they felt unable to describe how the crime affected them and found the process emotionally difficult; six commented that they were uncertain as to what information they could include; four had to revise their statement because it included



inappropriate information; and five did not know who to give the completed statement to or when they should submit the statement.¹⁴

Two-thirds of victims who prepared a victim impact statement (45 of 65) submitted it to victim services. Twelve submitted it to the Crown Attorneys. Of those remaining, two victims gave their statement to the police, one to the court directly, and five could not remember to whom they submitted their statement.

Victims submitted their impact statements at various stages of the criminal justice process. The most common stage was just prior to guilty plea or trial (40%). Their complete responses are presented chronologically in Table 37.

TABLE 37: AT WHAT STAGE DID YOU SUBMIT A VICTIM IMPACT STATEMENT (VIS)? BASE: VICTIMS WHO PREPARED A VICTIM IMPACT STATEMENT (n=65)		
<i>When the VIS Was Submitted:</i>	Victims (n=65)	
	Number	Percent
Shortly after crime	3	5%
Shortly after arrest of accused	8	12%
Shortly after charges were filed	2	3%
Just prior to guilty plea or trial	26	40%
During trial but before conviction	9	14%
After conviction or guilty plea but before sentencing	10	15%
Other	3	5%
Don't know	4	6%

3.6.3 Presenting Impact Statement

Starting in 1999, victims could read their impact statement in court. Sixty-three of the 65 respondents who completed a victim impact statement had been victimized since 1999, and, therefore, were eligible to read their statement in court. These respondents were asked whether they were told that they could read their statement in court. Of these victims, 48 (76%) were told that they could read their statement in court; and nine of these victims chose to do so. The main reasons for not reading the victim impact statement were: there was no conviction or guilty plea (n=11 cases); victims did not feel emotionally ready to read the statement (n=10); they felt it was not worthwhile (n=5); they did not want to read the statement in public (n=5); or they found the accused intimidating (n=4).¹⁵

Of the 72 victims whose offender pleaded guilty or was convicted at trial, about one-fifth said that the judge asked them whether they had been given the opportunity to prepare a victim impact statement. One-third of the victims said that the judge already had the statement so the question was not necessary, while one-quarter reported that they were not asked even though they had not submitted a statement. The remaining victims did not remember whether the judge asked them this question.

¹⁴ Victims could provide more than one response.

¹⁵ Victims could provide more than one response.

3.6.4 Satisfaction with Preparing Impact Statement

Before asking victims about their satisfaction with preparing a victim impact statement, the interviews sought insight into victims' rationale for giving a statement. Over half of the 65 respondents who prepared a statement did so because they wanted the court to understand the effect of the crime (54%); many also wanted the offender to know the crime's full effect (39%). Only 28% of victims who prepared a victim impact statement thought that the statement would affect the offender's sentence. Table 38 presents victims' reasons for preparing a statement.

TABLE 38: WHY DID YOU DECIDE TO PREPARE A VICTIM IMPACT STATEMENT (VIS)? BASE: VICTIMS WHO PREPARED A VICTIM IMPACT STATEMENT (n=65)		
Reasons For Preparing a VIS:	Victims (n=65)	
	Number	Percent
Wanted court to understand effect of crime	35	54%
Wanted offender to understand effect of crime	25	39%
Thought statement would affect sentence	18	28%
Felt statement would help victim heal from crime	12	18%
Was asked to or encouraged to give statement	11	17%
Wanted to have a voice	5	8%
Other	5	8%
Don't know	2	3%
No response	4	6%

Note: Victims could provide more than one response; total sums to more than 100%.

Of the 27¹⁶ victims who did not prepare a statement, nine either have not yet decided on whether to complete a statement (the case is ongoing) or the charges were dropped. Of the 20 victims who could have prepared a statement but chose not to, about half (n=9) said that they did not know about victim impact statements. Other reasons given for not preparing a VIS included: that the crime was too minor to have an effect on them; they were told they were not eligible to complete a statement; and they felt the statement violated their privacy (i.e., they did not want the offender to receive a copy or did not want the statement read in public).

Fifty-three of the 65 victims who prepared a victim impact statement had the opportunity to submit their victim impact statement to the court for consideration at sentencing.¹⁷ Almost two-thirds of these victims reported that they were satisfied with their opportunity to give their statement. Sixteen were dissatisfied and four did not respond.

Most of the 16 victims who expressed dissatisfaction with their opportunity to present their victim impact statement to the court either did not like the restrictions placed on the content of statements (n=6) or wished that they had read their statement (n=7). Those who disliked the content restrictions said that they could not adequately explain themselves and elaborate on the effects of the crime. They also wanted to discuss items such as their history with the offender and were frustrated by not being able to do so. A few victims stated that they wanted to comment on issues such as the sentence of the offender (e.g., they wanted to encourage anger management

¹⁶ There were eight victims who did not respond to this question.

¹⁷ The other 12 victims who prepared victim impact statements either are involved in ongoing cases or their accused was not found guilty.



counselling), or their frustration with the criminal justice system. One victim had to substantially revise her victim impact statement because it contained inappropriate information. This person found it traumatic to have to remove information of importance to her.

Seven victims who were involved in cases since 1999 wanted to read their victim impact statement, but did not have the opportunity. The reasons varied: some were not informed that they could read their statements; others were not allowed to read their statement (either by the judge or the Crown Attorney);¹⁸ and one wanted to read her statement but was too intimidated by the offender's presence.

Victims who prepared a victim impact statement (n=65) were asked whether they were pleased that they prepared the statement. Over four-fifths (n=53) said that they were pleased. As shown in Table 39, they provided several reasons: victim impact statements give victims a voice and are therapeutic; they give victims an opportunity to make the judge aware of the effect of the crime; and they give victims an opportunity to make the offender aware of the affect of the crime.

4 out of 5 victims who prepared a VIS were pleased that they did.

TABLE 39:
REASONS WHY VICTIMS WERE PLEASED THAT THEY PREPARED A VICTIMIMPACT STATEMENT
BASE: VICTIMS WHO WERE PLEASED THAT THEY PREPARED A VIS (n=53)

<i>Reasons Victims Were Pleased That They Prepared a VIS:</i>	Victims (n=53)	
	Number	Percent
Gave them a voice and are therapeutic	27	51%
Made judge aware of affect of crime	13	25%
Made offender aware of affect of crime	10	19%
Generally pleased	8	15%
Other	5	9%
Don't know or No response	3	6%

Note: Victims could provide more than one response; total sums to more than 100%.

The remaining 12 victims who prepared a victim impact statement were about evenly divided between those who did not know how they felt (n=6) and those who were not pleased (n=6) that they had prepared a VIS. The latter questioned whether victim impact statements have any effect on sentencing. In fact, a few of those who were pleased that they prepared a statement also questioned whether the statement had any real effect on the outcome (n=3).

Of those whose victim impact statement was submitted to the court (n=53), about 40% said that they thought the judge considered their impact statement. When asked what led them to believe this, 10 said that the judge mentioned their impact

About 40% of victim respondents who submitted their VIS to the court said that they thought the judge took their statement into consideration.

¹⁸ One of these victims was told that reading her victim impact statement was unnecessary because the offender was receiving the maximum penalty under the law.

statement; five believed that the judge appeared moved by their statement; four thought that the sentence received by the offender reflected consideration of the impact statement; and two said that either the Crown Attorney or defence counsel commented on their statement's effectiveness.

Victims who thought that the judge did not consider their statement (n=19) gave the following reasons for holding that view: the sentence of the offender was not proportionate to the harm described in the impact statement (n=10); the judge did not mention the impact statement or did not appear moved by the statement (n=5); the Crown Attorney commented that the impact statement would not affect the sentence and/or did not submit their statement (n=4).

3.7 Other Criminal Code Provisions and Restorative Justice

This section briefly discusses victims' experiences with respect to restitution, the victim surcharge, conditional sentences, and restorative justice. Overall, very small proportions of victims had relevant experience with these provisions.

3.7.1 Restitution

Restitution requires the offender to compensate the victim for any monetary loss or any quantifiable damage to, or loss of, property. The court can order restitution as a condition of probation, where probation is the appropriate sentence, or as an additional sentence (a stand-alone restitution order), which allows the victim to file the order in civil court and enforce it civilly if it is not paid.

Victims who were involved in a case where there was a conviction or guilty plea (n=72) were asked whether the court ordered restitution in their case. Eleven of these victims reported that restitution was ordered in their case. Ten among these respondents answered subsequent questions pertaining to restitution.

Five victims said they were given information about restitution after the crime was committed, and two reported being aware of restitution as a sentencing option. Information about restitution was provided by victim services in three cases and by the Crown Attorney in one case; one victim (speaking on behalf of a corporate entity) received information through her employment. Four out of the five victims who received information said that the information explained restitution so that they knew how to request it. Two of the five victims said that the information they received was unclear or incomplete; in particular, it was not clear what they had to do to collect restitution.

Of the victims who said that restitution was ordered in their case, five reported that the offender did not pay the full amount of the order; three said that the time to pay the order has not expired; and one said the offender did pay the full amount. The remaining one victim, speaking on behalf of a corporate entity that had been the target of multiple crimes, reported that the corporation's experience in general was that offenders sometimes pay the full amount of the restitution 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 payment; not knowing what to do to enforce the orders; and not being informed of a payment schedule. The victim representing a corporate entity noted the greater difficulty in collecting payment in cases of stand-alone restitution orders compared to probation orders.

3.7.2 Victim Surcharge

The victim surcharge is a penalty of 15% where a fine is imposed, or a fixed amount of \$50 or \$100 for summary or indictable offences, respectively, which can be increased by the judge. This surcharge is imposed on the offender at sentencing and used by provincial and territorial governments to fund services for victims of crime. The 1999 amendments to the *Criminal Code* made the surcharge automatic in all cases, except where the offender has requested a waiver and demonstrated that paying the surcharge would cause undue hardship.

The 72 victims involved in a case where there was a conviction or guilty plea were also asked if they were aware of the victim surcharge. Nine of these victims reported being aware of the surcharge: three found out about the surcharge from victim services; two found out through the news media; and one each found out in court, through personal experience, or from a victim advocacy group. One could not recall how she was informed about the surcharge.

Three of the nine victims reported that the offender in their case was ordered to pay the surcharge. Four said the offender was not ordered to pay the surcharge (they did not know why) and two did not know if the offender in their case was ordered to pay the surcharge.

3.7.3 Conditional Sentences

The *Criminal Code* permits judges to order that sentences of less than two years' imprisonment be served in the community instead of in jail. Conditional sentences may be imposed only when the court is convinced that the offender poses no threat to public safety. They are accompanied by restrictive conditions that govern the behaviour of the offender and strictly curtail his or her freedom.

Victims involved in cases where the accused was convicted or pleaded guilty were asked if the offender was given a conditional sentence in their case. Seventeen of these victims reported that a conditional sentence was imposed. Nine of the seventeen victims said that they disagreed with the decision to impose a conditional sentence; the remaining eight agreed with the conditional sentence. Almost all of the victims (n=14) said that they were informed of the details of the conditional sentence, such as the conditions imposed on the offender. Six victims learned the details because they were present at court during the sentencing hearing; another five found out about the details of the sentence from victim services, and the remainder found out from the Crown Attorney or from police.

When asked what input victims of crime should have in the conditions attached to conditional sentences, victims said that they should have extensive input as a means of ensuring that the court considers all relevant information when making sentencing decisions, and in order to ensure that victims' safety concerns are considered.

3.7.4 Restorative Justice

In recent years, restorative justice approaches have become more widely used at all stages of criminal proceedings. Restorative approaches seek to restore peace and equilibrium within a community by requiring the accused to accept responsibility for their actions and by reconciling them with whomever they have wronged. Restorative approaches can afford victims of crime greater opportunities to participate actively in decision-making than does the traditional criminal justice system and, in theory, may increase victims' satisfaction with the ultimate outcome of their case.

Victims involved in cases where charges were laid (n=102) were asked if they were given information about restorative justice processes after the crime. Three of these victims said that they were given such information. The information was provided by the Crown Attorneys in two cases (in one of these cases, the Crown Attorney provided the information at the request of the victim), and by the victim's parents in the other. One of the three victims was simply told that restorative justice could not be used because the offender did not plead guilty, the second received general information about restorative justice, and the third said that the information explained other ways that the case might be handled.

All victims involved in cases where charges were laid were also asked whether a restorative justice approach was used in their case. The vast majority (90%) of victims reported that such an approach was not used. The remainder did not know or did not respond.

3.8 Victims' Overview of Their Experiences

To provide an overview of their experiences, the 112 victims were asked how well the criminal justice system considers victims of crime and, at the end of the interview, were offered the opportunity to provide any further comments.

As shown in Table 40, when asked how well the criminal justice system considers victims of crime, about half of the victims said that the criminal justice system does a good job; while just over one-quarter said that it does a poor job. One-fifth said that the system's consideration of victims of crime falls somewhere in between. The remaining victims characterized the criminal justice system in some other way or did not provide an answer.

TABLE 40:		
OVERALL, WOULD YOU SAY THAT THE CRIMINAL JUSTICE SYSTEM DOES A GOOD JOB OR POOR JOB OF CONSIDERING VICTIMS OF CRIME?		
BASE: ALL VICTIM RESPONDENTS (n=112)		
<i>How Well the Criminal Justice System Does in Considering Victims:</i>	Victims (N=112)	
	Number	Percent
Good job	51	46%
Poor job	32	29%
In between or depends	19	17%
Other	4	4%
Don't know or No response	8	7%
Note: Total does not sum to 100% due to rounding.		



Many victims chose to comment on their experiences with different criminal justice professionals. Thirty (27%) found the police helpful, sympathetic and supportive, and emphasized that the police took their concerns seriously. Sixteen (14%) victims were dissatisfied with their interactions with police. These victims believe that the police lacked sensitivity and considered their case to be just another file. They also thought that their claims were not taken seriously. A few found it difficult to get information from the police.

Victims were much more divided in their experiences with the Crown Attorney. Thirteen had positive comments to make about the Crown Attorney, and 16 expressed dissatisfaction. Those who were dissatisfied gave a variety of reasons: they did not understand the court procedures and wanted more explanation from the Crown Attorney; they had several different Crown Attorneys; they wanted more contact with the Crown Attorney; or they felt that the Crown Attorney was unprepared. Victims with positive comments usually just said that the Crown Attorney had done a good job. A few victims provided more details: they appreciated the sympathy shown to them by the Crown Attorney; or the Crown Attorney worked to get a plea so they would not have to testify, which they appreciated.

Fewer victims mentioned victim services or the court. One victim said that victim services did not respond to questions in a timely manner, but 11 victims had only positive comments. They most often commented that victim services treated them well and gave them the support they needed. While four victims had favourable comments about the court, 10 did not. Those who were dissatisfied primarily mentioned the inadequacy of the offender's sentence or the related belief that they were not considered or listened to.

When asked if they had any other comments about their experiences in the criminal justice system that they would like to share with those responsible for drafting legislation and developing policy, victims most often mentioned their perception that the system favours the accused (n=24 or 21%). Victims believe that the system does not hold criminals accountable for their actions because the sentences are too lenient. A few commented that although they initiated the action, subsequently the law did little to make the effort worthwhile. They also objected to the many rights of the accused compared to victims. In particular, they commented on the fact that the accused receives information about the victim, while the victim cannot get details about the accused.

About one-fifth of victims (n=20) believe that the system does not treat victims with respect. They felt ignored by the system and believe that a lack of understanding and compassion permeates the criminal justice process. The words "respect" and "dignity" were often used when describing how victims wished they were treated. A few felt treated as if they were accused, or believed that the system judged them on the basis of their race or what they did for a living.

Fourteen victims addressed the need for financial assistance or additional victim compensation. Most victims simply commented that compensation should be available for economic losses. Several victims specifically mentioned the need for financial assistance with expenses incurred to attend court, such as transportation, parking and meal expenses. A few victims who lived far from the courthouse said that transportation expenses created a barrier to attending court.

Relatives of murder victims raised the need for financial assistance with cleaning the murder scene in instances where the deceased's relatives would otherwise have to clean it themselves.

Eleven victims said that they needed more information, in particular about the criminal justice system, while six felt that they were kept informed. Those who wanted more information found the system complex and confusing and said that victims need to both understand the system and know what to expect. In particular, victims need to be prepared for the length of the process and delays involved. Eight victims commented that the process is too lengthy and that the delays are very stressful and disruptive to victims' lives.

Several victims (n=8) spoke in favour of expanding victim services to cover situations where no charges are laid and where the accused is found not guilty. They noted that services do not typically extend to these situations; however, victims still need assistance and support to deal with the aftermath of the crime or the verdict. Victims who had received these services (e.g., a telephone call from victim services on the anniversary of the crime) expressed gratitude for the concern and thoughtfulness this displayed. Other victims wanted services to extend beyond sentencing. They wanted information about the offender's activities after sentencing. Given that some services are available for victims these comments demonstrate a gap in connecting victims with these services. Four victims commented that they believe that parole and probation victim services should offer their assistance to victims; victims should not have to ask.

To summarize, about half of victims rated the job done by the criminal justice system in considering victims as good. This positive impression appears to be largely based on their experiences with particular individuals in the system (i.e., their victim services provider, the Crown Attorney or the police officer who worked on their case). However, as seen in the above discussion, when asked if they wanted to share any of their experiences in the criminal justice system with those responsible for drafting legislation and developing policy, victims provided more critical comments that covered a range of issues: they perceive the system as favouring the accused; victims need to be treated with more respect; there is a need for more financial assistance and victim compensation; the provision of information to victims could be improved; and victim services should be expanded to cover situations where no charges are laid or the accused is found not guilty.



4.0 Findings from Criminal Justice Professionals

This section of the report integrates the findings from the survey self-completed questionnaires and interviews with criminal justice professionals.

4.1 Role of the Victim in the Criminal Justice Process

While victim services providers and advocacy organizations were most supportive of an active role for victims, there is considerable agreement among all respondent groups that victims of crime have a legitimate role to play in the criminal justice process. In interviews, victim services providers emphasized that providing information to victims and giving them opportunities for input not only empowers victims, but also allows victims to gain a better understanding of the criminal justice system as a whole and a greater acceptance of decisions made in their case.

Crown Attorneys, defence counsel and judges, for their part, regard the victim primarily as a witness and a source of information. They generally believe that victims are entitled to be consulted to some extent, especially before irrevocable steps are taken, although support for consultation was less prevalent among defence counsel than among Crown Attorneys and judges. Respondents from all three groups cautioned that the criminal justice system must deal with the accused in a manner that serves the public interest and protects society. They emphasized that decision-making ultimately must remain with the court and the Crown Attorney, who are more knowledgeable about the law and can be more objective. Concern was expressed that allowing too large a role for victims would erode the principle of innocent until proven guilty and thereby distort the criminal justice process. However, as Table 41 indicates, a sizeable minority (ranging from 49% to 23%) of Crown Attorneys, defence counsel and judges think the victim should be consulted at bail decisions, plea negotiations and sentencing.

Table 41 shows how criminal justice professionals interpret the role of the victim with respect to three specific aspects of the criminal justice process: bail decisions, plea negotiations, and sentencing.

TABLE 41: WHAT ROLE SHOULD VICTIMS HAVE IN THE FOLLOWING STAGES OF THE CRIMINAL JUSTICE PROCESS (I.E., SHOULD VICTIMS BE INFORMED, CONSULTED OR HAVE NO ROLE)?						
	Victim Services (N=318)	Crown Attorneys (N=188)	Defence Counsel (N=185)	Judiciary (N=110)	Police (N=686)	Advocacy Groups (N=47)
<i>Bail decisions</i>						
Victim should be consulted	64%	48%	34%	46%	59%	70%
Victim should be informed only	32%	42%	49%	40%	35%	30%
Victim should not have any role	2%	4%	17%	9%	4%	--
No response	3%	6%	0%	4%	3%	--
Totals	101%	100%	100%	99%	101%	100%
<i>Plea Negotiations</i>						
Victim should be consulted	61%	44%	25%	N/A	N/A	81%
Victim should be informed only	32%	35%	38%	N/A	N/A	13%
Victim should not have any role	3%	14%	37%	N/A	N/A	2%
No response	4%	6%	1%	N/A	N/A	4%
Totals	100%	99%	101%	N/A	N/A	100%
<i>Sentencing</i>						
Victim should be consulted	64%	49%	23%	56%	N/A	75%
Victim should be informed only	31%	36%	54%	33%	N/A	21%
Victim should not have any role	2%	9%	23%	8%	N/A	--
No response	3%	6%	1%	3%	N/A	4%
Totals	100%	100%	101%	100%	N/A	100%
Note: Respondents could give only one response, however, totals do not always sum to 100% due to rounding.						

Bail Decisions

Among the criminal justice professionals surveyed in this research, a substantial proportion in all categories believes that victims should be consulted in bail decisions. Advocacy organizations, victim services, and police were most likely to support a consultative role for victims at bail, followed by Crown Attorneys and judges and lastly by defence counsel. In interviews, victim services providers pointed out that victims can sometimes shed light on prior unreported criminal activity in which the accused may have been involved and past breaches of conditions, and can thus assist the court in determining appropriate conditions in bail decisions. While about half of Crown Attorneys surveyed believe that victims should be consulted in bail determinations, several emphasized in interviews that victims should not be involved in the decision to release or detain the accused. Similarly, judges explained in interviews that victims should make their safety concerns known to the police and to the Crown Attorney, whose responsibility it then becomes to bring these concerns forward to the court.

Among defence counsel surveyed, one-third believe that victims should be consulted, while about half believe that victims should simply be informed, and one-fifth believe that they should have no role at all. In interviews, defence counsel expressed their conviction that the victim's input should never be determinative, although they acknowledged the Crown Attorney's need to get information from the victim about safety issues and the desirability for some amount of victim input about conditions. A few of those interviewed said that any victim involvement in bail determinations erodes the presumption of innocence and should, therefore, be very limited.



Plea Negotiations

Compared to bail decisions, a slightly smaller proportion of victim services providers and Crown Attorneys support consulting with victims during plea negotiations (the opposite was true for advocacy groups). Slightly more than 60% of victim services providers and 44% of Crown Attorneys surveyed believe that victims should be consulted at this stage. Several Crown Attorneys acknowledged in interviews that consultation helps to ensure that the Crown Attorney considers all of the relevant facts and issues in any negotiations, and a few said that it is appropriate for victims to have input where restitution and conditions are involved. However, even Crown Attorneys who think that victims should be consulted emphasized that the victim's views are only one element in the Crown Attorney's decision. Observing that victims lack objectivity and knowledge of the law, Crown Attorneys said in interviews that prosecutorial discretion must prevail in order to ensure that decisions accord with the interests of society. Fourteen percent of Crown Attorneys surveyed believe that victims should have no role at all in plea negotiations.

Defence counsel are the least prepared of the respondent groups to accept a prominent role for victims in plea negotiations. One-quarter of those surveyed approve of consulting the victim, whereas almost 40% support keeping the victim informed, and the same proportion believes that the victim should have no role whatsoever. In interviews, defence counsel who favoured no role for the victim pointed out that the court decision whether to accept a plea must be based on the evidence, which is a legal issue that the victim cannot evaluate. Similarly, those who approved of consulting the victim during negotiations did so with the proviso that the Crown Attorney's discretion should remain unfettered.

Sentencing

There is also considerable support for consulting victims at sentencing. With the exception of defence counsel, between half and three-quarters of respondents surveyed in all categories approve of consulting the victim at this stage. In interviews, Crown Attorneys, judges, and victim services providers said that consultation at the sentencing stage should occur primarily by way of the victim impact statement. In addition, a few victim services providers suggested in interviews that victims should be permitted to make sentencing recommendations. This position, however, had no proponents among the other respondent groups.

In interviews, several Crown Attorneys and judges, and a few defence counsel, supported consulting victims for sentences served in the community, and a few judges noted that victims have the opportunity to contribute to crafting a sentence when restorative approaches are used. However, there is also general agreement that victims should not have any say regarding the length or severity of sentences. Crown Attorneys, judges, and defence counsel believe that it is inappropriate for victims to suggest or determine a sentence, since the court is obligated to consider society's interests in sentencing, which may differ from those of the individual victim. From their perspective, introducing a personal or emotional element into sentencing would result in dissimilar sentences for similar crimes based on individual victims' characteristics. Such a practice would threaten the credibility of the criminal justice system.

Other Aspects of the Criminal Justice Process

Some groups of criminal justice professionals were asked to comment on the victim's role in various other aspects of the criminal justice process. For example, police were asked for their view of the victim's role in the police investigation. Almost two-thirds of police surveyed believe that the victim should merely be kept informed of developments over the course of the police investigation; the remaining one-third support consultation. In interviews, police explained that victims should not play an active role in the police investigation beyond providing information about the facts. They stressed the importance of the victim's role (noting that often the victim is the only source of information available to support the investigation), but qualified this response by saying that information provided by victims might be coloured by emotion and therefore has to be objectively assessed.

Survey respondents representing parole agencies (NPB, CSC, and provincial parole boards) were asked for their view of the victim's role in conditional release decisions. More than half (55%) think that the victim should be consulted in these decisions, while 40% believe that the victim should simply be informed. CSC respondents were also asked about the victim's role in decisions about the offender's incarceration: 41% approve of consulting the victim, whereas 28% support keeping the victim informed, and 14% believe that the victim should not play any role.

Overall, criminal justice professionals believe that victims should be informed and involved in the criminal justice system. However, they also believe that victims do not fully understand the intricacies of the legal system and therefore should not be the ultimate decision-makers.

4.2 Responsibility of Criminal Justice Professionals to Victims

In both the interviews and the self-completed questionnaires, police, Crown Attorneys, and judges were asked to describe their responsibility to victims of crime through an open-ended question (i.e., no check list of possible responses was provided). All three groups identified responsibilities such as explaining the criminal justice system, keeping victims informed of the status of their case, and providing them an opportunity to be heard and considering their views.

Police Responsibility to Victims

Police perceive one of their most important obligations to be informing victims of the status of the police investigation; 56% of those surveyed mentioned this responsibility. Provision of information for victims by police is greatest at the outset of the criminal justice process. Almost all police surveyed (94%), for example, said that they generally provide victims with information about victim services. More than three-quarters maintain regular contact with victims of crime throughout the investigation, and approximately two-thirds usually inform victims about outcomes of bail decisions and about victim impact statements. Police involvement tapers off once a case has gone to court; less than two-thirds of those surveyed usually provide information about court dates, and just over half usually provide information about outcomes of court processes other than bail decisions. In interviews, several police observed that the amount of police contact with victims varies by the nature of the case and the individual officer.



As Table 42 shows, police surveyed also mentioned referring victims to appropriate services and resources (25%); ensuring their safety (19%); investigating complaints thoroughly (18%); and treating victims with compassion and respect (17%) among their other responsibilities.

TABLE 42: WHAT IS THE RESPONSIBILITY OF POLICE WITH RESPECT TO VICTIMS?¹⁹	
<i>Responsibility:</i>	Police (N=686)
Inform victims of the status of the police investigation	56%
Refer victims to appropriate services	25%
Ensure the protection or safety of the victim	19%
Investigate complaints thoroughly	18%
Treat victims with compassion or respect	17%
Explain the criminal justice system	11%
Give victims priority	11%
Inform victims about their legal options	7%
Other	<1%
No response	9%
Note 1: Open-ended question.	
Note 2: Respondents could provide more than one response; total sums to more than 100%.	

The majority of police surveyed (67%) do not think that responding to victims' needs impedes their police work. On the contrary, in interviews, many police stressed that attending to victims' needs is an integral part of their work, although high workloads and limited resources compel them to prioritize their time. When asked how the needs of victims might be balanced with their time and resource restraints, police who were surveyed most often suggested that services to victims be provided by court-based or police-based victim services instead of by police themselves. This would allow police to focus their efforts on the conduct of the investigation.

Crown Attorney Responsibility to Victims

A substantial proportion of Crown Attorneys surveyed in this research believe that they have a responsibility to keep victims informed of developments as their case proceeds through the criminal justice system (46%); to explain to them the functioning of the criminal justice system (40%); and to listen to their views and concerns and take these into account when making decisions (25%).

As shown in Table 43, 15% of those surveyed observed that the Crown Attorney has a responsibility to act in the public interest. In interviews, Crown Attorneys explained that they, as the representative of the state, must see that cases proceed with respect to the *Criminal Code*. Crown Attorneys have an obligation to remain objective, to consider the whole facts, and to advance admissible evidence in what are alleged to be crimes. Their duties therefore include correcting the common misperception that the Crown Attorney is counsel for the victim. Important aspects of the Crown Attorney's role are to explain to victims the limits of criminal law and the criminal justice system, to make sure they understand the rules and criteria used in decision-making, and to make sure they have a realistic expectation of how their case might

¹⁹ Note: Police were asked to describe their responsibility to victims of crime through an open-ended question (i.e., no check list of possible responses was provided).

unfold. Although Crown Attorneys said that they always bear the victim's experience and opinions in mind, the victim does not and should not control the prosecution.

TABLE 43: WHAT IS THE CROWN ATTORNEY'S RESPONSIBILITY TO VICTIMS?²⁰	
Responsibility:	Crown Attorneys (N=188)
Inform victims of the status of their case	46%
Explain the criminal justice system	40%
Listen to or consider the victim's views	25%
Act in the public interest	15%
Treat victims with respect	14%
Obtain information from the victim	10%
Prepare victims for testimony	9%
Explain Crown Attorney decisions	8%
Convey the victim's views to the court	6%
Ensure victims are not re-victimized	5%
Other	3%
No response	11%
Note 1: Open-ended question.	
Note 2: Respondents could provide more than one response; total sums to more than 100%.	

Slightly fewer than 30% of Crown Attorneys surveyed believe that they have sufficient opportunity to meet with victims during a typical case; approximately two-thirds said that they do not. In interviews, many Crown Attorneys said that they prioritize their time to ensure that they devote sufficient attention to child victims and victims of sexual assault, domestic violence, murder, and other serious crimes, and meet with victims of other types of offences only if the victim initiates contact.

When asked what else Crown Attorneys should do to further assist victims if time were not an issue, 26% of those surveyed mentioned better pre-trial consultation and preparation; another 25% simply mentioned more consultation in general. In interviews, Crown Attorneys explained that they would like to be able to meet with victims well in advance of the court date, rather than on the day of the trial or hearing, and to extend to all victims the time and attention they devote to victims of violent crimes. Another 17% of Crown Attorneys surveyed said that they would like to be able to keep victims informed at every stage of the criminal justice process. However, 12% believe that they should not do anything further to assist victims.

In interviews, many Crown Attorneys emphasized the indispensable role of victim assistance workers in doing some of this work. Sixty-three percent of Crown Attorneys surveyed reported that victim and witness assistants are available to work with them in their offices.

²⁰ Note: Crown Attorneys were asked to describe their responsibility to victims of crime through an open-ended question (i.e., no check list of possible responses was provided).



Judicial Responsibility to Victims

As Table 44 shows, judges believe that their main responsibility to victims of crime is to give victims an opportunity to be heard; 42% of those surveyed mentioned this responsibility. In interviews, judges explained that the judiciary has a responsibility to provide a forum in which victims can be heard, to listen to their views and concerns, and to let them know that the court appreciates their concerns and the harm that has been done to them.

TABLE 44:
WHAT IS THE COURT'S RESPONSIBILITY TO VICTIMS?²¹

Responsibility:	Judiciary (N=110)
Listen to victims or give them an opportunity to be heard	42%
Provide a fair process or maintain an impartial role	18%
Protect the victim	17%
Treat victims with respect	14%
Explain the disposition	10%
Keep victims informed	9%
Apply the law	8%
Explain the law or the criminal justice process	3%
Other	6%
No response	12%

Note 1: Open-ended question.
Note 2: Respondents could provide more than one response; total sums to more than 100%.

Some of the judges surveyed focused on the court's obligations to provide a fair and impartial process that will ensure that justice is done (18%) and to apply the law (8%). In interviews, judges expanded on these ideas, explaining that the judiciary has a responsibility to be fair to everyone who appears before it - whether victim, accused, or other member of the public. Some concern was expressed that since the introduction of victims of crime legislation, it is no longer clear how the judiciary is to balance its responsibility to victims with its responsibility to the accused and to society as a whole. Several judges observed, in interviews, that the judiciary must keep the public interest foremost in mind when balancing the rights of the victim with the rights of the accused.

Judges who were surveyed also mentioned their responsibility to protect the victim (17%), to treat victims with respect (14%), to explain the disposition of the case (10%), and to keep victims informed (9%). In interviews, judges at small sites noted that the judiciary has a responsibility to provide court facilities that allow victims to maintain a sense of dignity. In small rural or remote locations, it can be difficult to provide adequate facilities with separate waiting areas for victim and accused, courtrooms in which victim and accused sit apart from each other, and adequate interview rooms, telephones, and washrooms.

²¹ Note: Judges were asked to describe their responsibility to victims of crime through an open-ended question (i.e., no check list of possible responses was provided).

4.3 Services for Victims

The following section considers the availability and accessibility of victim services in the sites studied. Respondents were asked about the types of services available in their community; the services offered by their particular victim service organization(s); challenges to accessing victim services; and how to improve accessibility, including how best to inform victims about available services.

4.3.1 Types of Services Available

In order to determine the full range of victim services available in the sites studied, respondents to the victim services, Crown Attorney, and police surveys were asked to list the types of victim services available in their community (including their own organization, if applicable). Table 45 below provides these results.

<i>Type of service:</i>	Victim Services (N=318)	Crown Attorneys (N=188)	Police (N=686)
Police-based victim services	82%	64%	82%
Court-based victim services	57%	50%	49%
Specialized victim services for domestic violence	78%	73%	79%
Specialized victim services for sexual assault	69%	65%	73%
Specialized victim services for children	66%	64%	69%
Note: Respondents could provide more than one response, therefore, totals sum to more than 100%. Only those categories of service named in all of the surveys are included. Respondents who listed another type of service or those who gave no response are not represented in this table.			

As seen in Table 45, two-thirds to four-fifths of respondents reported that police-based victim services and specialized victim services for domestic violence, sexual assault, and children are available in their communities. A smaller percentage of respondents reported that court-based services are available.

4.3.2 Specific Services Offered by Victim Services

In addition to obtaining information about the types of services available to victims, the survey also sought information on the specific services offered. Each victim services respondent was asked to identify the services provided by his or her organization from the list given in Table 46 below.

From the survey responses, it appears that victims generally receive most of the services on the list. In particular, as Table 46 shows, victim services almost always make referrals, provide crisis support, accompany victims to court, and inform victims about court procedures and the workings of the criminal justice system. Many of these organizations also inform victims about victim impact statements and help them prepare to testify in court. Assisting victims with requests for restitution received the fewest mentions.



TABLE 46:
TYPES OF SERVICES PROVIDED BY TYPE OF VICTIM SERVICES (VS) PROVIDERS

<i>Type of Victim Service Provided:</i>	All Victim Services	Police based VS	Court based VS	Community based VS	System based VS
Make referrals	92%	96%	100%	84%	90%
Provide crisis Support	88%	93%	63%	93%	80%
Accompany victims to court	84%	83%	100%	76%	80%
Inform victims about court procedures	83%	92%	92%	75%	90%
Inform victims about the criminal justice system	82%	91%	92%	75%	90%
Inform victims about victim impact statements	78%	90%	79%	61%	85%
Help victims prepare to testify in court	73%	73%	89%	69%	80%
Inform victims of the opportunity to request restitution	64%	80%	68%	40%	70%
Inform victims about the police investigation	59%	71%	37%	61%	70%
Inform the police, Crown Attorney, or court of victims' safety concerns at bail	59%	57%	76%	63%	70%
Liaise with Crown Attorneys	58%	52%	89%	57%	80%
Provide counselling	55%	34%	61%	78%	60%
Inform victims about bail outcomes	54%	61%	82%	42%	75%
Help victims prepare forms to request restitution	45%	51%	42%	43%	55%

Note: Respondents could provide more than one response, therefore totals sum to more than 100%. Respondents who gave no response are not included.

4.3.3 Challenges to Access

In addition to the availability of victim services, the survey asked about accessibility. Three respondent groups - victim services providers, police, and advocacy groups were asked to comment on whether particular accessibility issues exist for victim services in their communities. Across all three respondent groups, a sizeable minority (approximately 10-2%) did not comment. As seen in Table 47, police and advocacy groups have conflicting views about the accessibility of victim services. Few police perceive any difficulties with accessibility, and most advocacy group respondents say that some impediments exist. Victim services respondents represent a middle ground. While these respondent groups may disagree about the extent to which accessibility is a problem, there is considerable agreement about the reasons. However, one-third to two-thirds of respondents did not provide any additional explanations.

TABLE 47:
DO VICTIMS OF CRIME FACE CHALLENGES IN ACCESSING VICTIM SERVICES IN YOUR COMMUNITY?

<i>Percentage of respondents who indicated challenges to accessing victim services:</i>	Victim Services (N=318)	Police (N=686)	Advocacy Groups (N=47)
Language barriers	53%	11%	66%
Financial barriers	43%	6%	77%
Services do not respond to cultural needs	35%	5%	70%
Lack of victim services because of rural location	29%	9%	55%
Services do not respond to needs of both genders	26%	6%	53%
Physical barriers for person with disabilities	21%	3%	51%

Note: Respondents could provide more than one response; totals sum to more than 100%. Respondents who gave no response are not represented in this table.

The most common challenge to accessing victim services mentioned by victim services providers is providing services to victims whose first language is not French or English. As Table 47 shows, about half said that language barriers exist in accessing victim services in their community. Two-thirds of advocacy groups and one-tenth of police agreed. A shortage of interpreters and translators and the existence of immigrant or diverse cultures in their communities were the main reasons offered.

Financial and cultural issues were mentioned by over one-third of victim services providers and about three-quarters of advocacy groups. Less than one-tenth of police agreed. The two main financial obstacles offered by survey respondents were transportation and/or childcare costs.

In interviews, several victim services providers indicated the importance of culturally sensitive services by noting that different cultures react differently to being victimized and, as a result, many individuals who belong to certain cultural groups choose not to report a crime or not to access victim services. They also mentioned the need for training in cultural sensitivity for victim services providers and the need for more cultural diversity among victim services providers. Similarly, a few police noted in interviews that some racial or ethnic groups exhibit a general mistrust of police, resulting in reluctance to access police-based victim services.

The absence of victim services in some rural locations is a challenge according to about one-third of victim services providers, half of advocacy groups, and one-tenth of police surveyed. Lack of adequate transportation is the major impediment to access. In interviews, victim services providers in both large and small centres mentioned the challenges in serving their geographic area. Respondents in large centres noted that while the city boundaries extend over a large area, many victim services are concentrated in the city centre. Respondents in small communities noted the difficulties in serving more rural areas. While a few victim services organizations do home visits to these rural locations, distance is a challenge faced by many victims.

About one-quarter of victim services respondents surveyed said that victim services are not responsive to the needs of both genders. Half of advocacy groups and 6% of police agreed. According to those interviewed, there are significantly fewer specialized victim services for men; many of the specialized services for victims of domestic and partner abuse serve women and child victims only. Interview respondents also indicated that not only are there fewer services for male victims, there has also been less education regarding male victimization, which results in very few men in these situations coming forward and asking for help. In addition, a few victim services and advocacy group interview respondents commented that individuals in same-sex relationships who experience partner abuse are disadvantaged because often these cases are not considered to be 'domestic' and thus are not included in the mandates of specialized victim services.

One-fifth of victim services respondents and half of advocacy groups mentioned accessibility issues for persons with disabilities. The most common difficulties mentioned were inaccessible buildings, and lack of appropriate transportation. Three victim services providers also mentioned insufficient staff for home visits.



In interviews, victim services providers also mentioned additional access issues that did not appear on the survey. Several believe that there is a lack of awareness of the available services, which could be rectified with more publicity for victim services and more education of both the public and criminal justice professionals about what services are available. In addition, a few cited the extensive waiting lists for services caused by the increase in the volume of cases without a corresponding increase in resources. Literacy was also mentioned by several respondents who indicated that victim services mail outs, brochures, and pamphlets are often too complex and are not understood by many individuals.

Lack of coordination, integration, and information-sharing among the various agencies and professionals was mentioned as an important challenge by a few victim services providers who were interviewed in large cities. A concern was expressed that non-acceptance by the formal criminal justice system limits referral by other organizations.

4.3.4 Improvements to Increase Accessibility of Services

Victim services providers were asked only in interviews about what could be done to improve accessibility of victim services. Few offered suggestions; however, those who did advanced a number of possible improvements. The main suggestion was that Police, Crown Attorneys, and judges would benefit from additional training on victims' issues. Likewise, victim services providers would benefit from training on cultural diversity and the needs of male victims and gay, lesbian, and trans-gendered victims of crime. Finally, a few victim services providers stated that increased collaboration and information-sharing among all professionals and victim services providers would be beneficial to victims and would facilitate their access to services. A few respondents also indicated that more outreach is needed.

4.3.5 Best Way to Inform Victims of Available Services

In interviews, victim services providers were asked what would be the best way to inform victims of services available in their community. Interviewees stressed flexibility and repetition, explaining that information should come from a variety of methods (written and oral) and should be provided at various points throughout the criminal justice process. According to several victim services providers, this is important because victims, at the time of the crime, are often too traumatized and overwhelmed to retain everything that is said to them. Therefore, while police should initially inform victims of available services both orally and in writing with a list of resources, victim services must follow up this contact by phone and/or mail. A few believe that victim services should first use written material to ensure that they are not too intrusive and to give the victim the opportunity to initiate contact with victim services.

Several of those interviewed also suggested public education and publicity through the media as effective methods for creating awareness. A few specialized victim services organizations mentioned the importance of having visible information on victim services in places such as doctors' offices, grocery stores, etc. According to these victim services providers, this type of publicity will assist in reaching victims of domestic violence and spousal abuse.

4.3.6 Post-sentencing Victim Services

In addition to victim services provided before final disposition, the *Multi-Site Survey* sought information about services provided post-sentencing. For this, probation officers, officials with CSC and federal and provincial parole personnel were asked about services they or others provided to victims during the post-sentencing phase.

According to those probation officers surveyed, a main service to victims is providing information related to offender's release on probation. Details on this are included in Table 52 and discussed in Section 4.4.4 below. A number of probation officers reported that they also provide the following types of services to victims: referring victims to other resources (38%); providing offender or disposition information (other than probation-related information) (13%); assisting victims with safety planning (11%); referring victims or providing information on victim services (10%); and generally serving as an information source (9%).

Corrections and parole personnel provide a number of services to victims as listed in Table 48 below. For many of these services at least two-thirds of survey respondents reported that their organization provides these.²² All NPB respondents (100%) reported accompanying victims to parole board hearings, followed by 68% of provincial parole board respondent and 66% of Corrections personnel; and virtually all Corrections personnel (100%) and NPB (99%) provide victim notification once the victim has requested information.

In response to the question on the best ways to provide information to victims, interviewees stressed a need for flexibility and repetition, that a variety of methods (written and oral) should be used, and that it should be provided at various points throughout the criminal justice process. They explained that this is important because victims, at the time of the crime, are often too traumatized and overwhelmed to retain everything that is said to them.

<i>Percentage of respondents whose organization provides this service:</i>	National Parole Board (N=85)	Correctional Service Canada (N=29)	Provincial parole board (N=22)
Assistance with making requests for information	93%	86%	46%
Victim notification once the victim has requested information	99%	100%	64%
Information about victim statements	85%	62%	36%
Assistance with preparing victim statements	44%	35%	27%
Assistance with requests to attend parole board hearings	91%	69%	27%
Accompaniment to parole board hearings	100%	66%	68%
Ensure that parole board members are aware of victim concerns	87%	66%	68%
Referrals to other victim services	52%	72%	41%

Note: Respondents who gave no response are not represented in this table.

²² It is important to note that provincial parole board hearings vary from federal parole board hearings, for example, the National Parole Board policy permits a victim impact statement to be submitted, but provincial parole board policy may vary.



In addition, at least two-thirds of corrections and parole respondents are aware of other victim services that assist victims post-sentencing and, more specifically, with the parole process. These other services, found in Table 49, appear to help fill in some gaps in services identified in Table 48. For example, while 46% of provincial parole board respondents reported that their organization assists victims with making requests for information, 93% are aware of other organizations that provide this assistance. Further, while a minority of respondents reported that their organizations assist with the preparation of victim statements; over half of respondents reported that other organizations assist with victim statements. Table 49 provides the complete results for other services that assist victims post-sentencing.

TABLE 49: WHAT SERVICES DO OTHER VICTIM SERVICES ORGANIZATIONS PROVIDE TO ASSIST VICTIMS WITH THE PAROLE PROCESS? BASE: RESPONDENTS WHO ARE AWARE OF OTHER VICTIM SERVICES ORGANIZATIONS THAT ASSIST VICTIMS POST-SENTENCING.			
<i>Percentage of respondents who report that other organizations provide this service:</i>	National Parole Board (n=59)	Correctional Service Canada (n=24)	Provincial parole board (n=14)
Assistance with making requests for information	78%	79%	93%
Victim notification once the victim has requested information	58%	58%	79%
Information about victim statements	53%	75%	71%
Assistance with preparing victim statements	59%	83%	64%
Assistance with requests to attend parole board hearings	56%	58%	57%
Accompaniment to parole board hearings	64%	67%	36%
Ensure that parole board members are aware of victim concerns	29%	46%	71%

Note: Respondents who gave no response are not represented in this table.

While the above discussion concerns what assistance is available post-sentencing for victims, connecting victims to available services is an issue according to most corrections and parole respondents. When asked if they think there is a service gap between sentencing, and corrections or parole, about 60% of respondents said yes. Each respondent group provided slightly different suggestions for improving the situation, but they all revolved around better provision of information to victims. The main suggestions were that the criminal justice system should provide more information about services; victims should be advised of NPB and CSC services at sentencing; and more communication is needed between the NPB and CSC and other agencies.

4.4 Information for Victims

4.4.1 Adequacy of Information Provided

Victim services providers who were interviewed were asked to describe the kinds of information they believe victims of crime most want to receive. There is general agreement that victims primarily want to be informed of developments regarding their own case, since this enables them to regain some degree of control over their situation. Victim services providers also believe that victims want general information about the criminal justice system as a whole, such as an explanation of the various stages of the process, a description of what they can expect in the courtroom, and an understanding of their role, their rights, and their options at every stage of the process. Additionally, victims want to understand the reasons for the release of the accused and

any conditions attached to the release, and want to know how they can keep themselves safe and what the system will do to protect them. Victims also need to be informed about any services and resources available to them, and about what will happen to the accused after final disposition.

From the perspective of victim services providers who were interviewed, information provided to victims is sporadic and inconsistent. They believe that victims are more likely to obtain information if they initiate contact with the Crown Attorney or police or if victim services organizations are involved; sometimes the extent of information that victims receive depends on the particular police investigator assigned to the case. A few victim services providers reported that victims of crimes against the person are more likely to get adequate information than victims of property crime.

Table 50 shows the proportion of respondents who believe that victims usually receive adequate information on various aspects of their case and on the criminal justice system as a whole. There is substantial agreement among victim services providers, Crown Attorneys, and police that victims generally receive adequate information with respect to the date and location of their court proceedings; victim impact statements; victim services; the ultimate outcome of their case; and conditions of release.

Areas where improvements in information provision may be necessary include the progress of the police investigation, the rights of the accused, and alternative processes. It is worth noting that in all three of these areas (and in general), police had a more positive opinion than their colleagues of the adequacy of information provided to victims of crime. Please refer to Table 50 below.

TABLE 50: DO VICTIMS USUALLY RECEIVE ADEQUATE INFORMATION?				
<i>Percentage of respondents who agree that victims usually receive adequate information on...</i>	Victim services (N=318)	Crown Attorney (N=188)	Police (N=686)	Advocacy Groups (N=47)
The progress of the police investigation	42%	32%	83%	19%
Outcomes of bail decisions	40%	64%	69%	23%
Conditions of release	55%	64%	79%	23%
Date and location of court proceedings	81%	70%	78%	60%
Charges laid	70%	59%	90%	49%
Charges dropped	49%	52%	67%	32%
Victim impact statements	71%	78%	74%	53%
Restitution	47%	66%	59%	15%
The ultimate outcome of the case	60%	61%	75%	43%
The criminal justice process	54%	38%	62%	21%
Alternative processes	27%	24%	57%	23%
Rights of accused	43%	28%	63%	32%
Victim services	69%	76%	93%	43%
Other community support services	66%	44%	76%	32%

Note: Respondents who gave no response are not represented in this table.



4.4.2 Responsibility for Information Provision

Table 51 below shows respondents' perceptions of criminal justice professionals' responsibility for providing information to victims of crime. With respect to certain pieces of information, respondents were mostly in agreement over which agency - Crown Attorney, police, or victim services - should be responsible for informing victims. For example, a majority of respondents in all groups believes that police should inform victims about the progress of the police investigation and any charges laid. Similarly, a majority in all categories believes that victim services providers should provide information about victim services and other community support services, while Crown Attorneys should provide information about the ultimate outcome of the case. However, when it comes to the other types of information, there is less certainty among respondents regarding the three agencies' responsibilities for information provision.

Furthermore, in no instance did respondents assign full responsibility for information provision to a single agency. Instead, they regard information provision as a shared duty. Even where large majorities of respondents identified a certain agency as primarily responsible for providing information to victims, substantial proportions also believe that the other two agencies also have a role to play.

TABLE 51: WHO SHOULD PROVIDE THE FOLLOWING INFORMATION TO VICTIMS?				
	Victim Services (N=318)	Crown Attorneys (N=188)	Police (N=686)	Advocacy Groups (N=47)
<i>The progress of the police investigation</i>				
Crown Attorneys	19%	4%	9%	26%
Police	81%	85%	90%	68%
Victim services	38%	13%	19%	43%
<i>Outcomes of bail decisions</i>				
Crown Attorneys	52%	34%	58%	64%
Police	38%	34%	42%	23%
Victim services	47%	51%	23%	40%
<i>Conditions of release</i>				
Crown Attorneys	48%	34%	51%	62%
Police	51%	35%	54%	34%
Victim services	48%	51%	23%	36%
<i>Date and location of court proceedings</i>				
Crown Attorneys	50%	36%	47%	57%
Police	29%	30%	47%	26%
Victim services	61%	50%	28%	45%
<i>Charges laid</i>				
Crown Attorneys	35%	26%	28%	49%
Police	70%	60%	79%	66%
Victim services	30%	22%	10%	17%
<i>Charges dropped</i>				
Crown Attorneys	56%	65%	76%	68%
Police	50%	27%	35%	38%
Victim services	31%	24%	10%	21%
<i>Victim impact statements</i>				
Crown Attorneys	37%	28%	35%	60%
Police	35%	34%	50%	15%
Victim services	82%	67%	46%	72%

TABLE 51: WHO SHOULD PROVIDE THE FOLLOWING INFORMATION TO VICTIMS?) (CONTINUED)				
	Victim Services	Crown Attorneys	Police	Advocacy Groups
<i>Restitution</i>				
Crown Attorneys	42%	36%	63%	66%
Police	21%	32%	29%	13%
Victim services	62%	48%	28%	51%
<i>The ultimate outcome of the case</i>				
Crown Attorneys	70%	62%	68%	81%
Police	25%	29%	42%	11%
Victim Services	51%	37%	18%	45%
<i>The criminal justice process</i>				
Crown Attorneys	55%	44%	69%	68%
Police	30%	20%	33%	21%
Victim services	73%	66%	38%	60%
<i>Alternative processes</i>				
Crown Attorneys	55%	37%	65%	62%
Police	26%	30%	35%	23%
Victim services	55%	49%	32%	55%
<i>Rights of accused</i>				
Crown Attorneys	59%	51%	49%	60%
Police	47%	19%	53%	40%
Victim services	46%	41%	25%	43%
<i>Victim services</i>				
Crown Attorneys	40%	26%	19%	57%
Police	64%	43%	68%	53%
Victim services	75%	73%	61%	75%
<i>Other community support services</i>				
Crown Attorneys	31%	17%	16%	36%
Police	45%	28%	48%	49%
Victim services	87%	84%	74%	79%
Note: For each item in Table 51, respondents could provide more than one response; totals sum to more than 100%. Respondents who answered "other" or "don't know", or gave no response are not represented in Table 51.				

4.4.3 Obstacles to Information Provision and Possible Improvements

In interviews, Crown Attorneys, police, and victim services providers explained that there are several obstacles to providing information to victims of crime. Insufficient time and limited resources are perhaps the most significant. All three groups agreed that the sheer volume of cases in the system makes it impossible for criminal justice professionals to provide all victims of crime with all of the information that they may want or require. From the perspective of victim services providers, this difficulty is exacerbated by a lack of coordination and collaboration between victim services, police, and the Crown Attorneys. In a related vein, both police and victim services providers pointed to their own limited access to Crown Attorneys, court, and (in the case of victim services) police information systems, and observed that privacy legislation and policies limit the extent to which the various agencies involved can share information. Other difficulties in providing information include victim transience or reluctance to be contacted, and the possibility that disclosure of certain information may jeopardize the trial.

Among the more frequently mentioned measures to improve the information given to victims were more widespread establishment of court-based or police-based victim assistance programs;



better provision of information by police and by the Crown Attorney and/or more police and Crown Attorney resources; a more active role for the court in providing information; creation of stronger links among all agencies involved in order to establish clear guidelines and direction on who should provide what information; and increased information-sharing among agencies. Other suggestions included education and training so that all criminal justice professionals gain a better understanding of the role of victim services organizations; more print materials; and implementation of a standardized checklist or protocol for reference by police, the Crown Attorney, and victim services, to ensure that all professionals dealing with victims are providing information in a consistent manner. There were also suggestions for implementation of a centralized, computerized repository of information accessible to all agencies and for improved public education about various aspects of the criminal justice process.

4.4.4 Information for Victims Post-sentencing

Respondents to the probation and parole surveys were asked about the information provided to victims after a sentence has been imposed. Probation was asked who provides victims with information related to the offender's release on probation; the results are shown in Table 52.

A majority of survey respondents reported that probation officers inform victims about the date and location of the offender's release on probation (58%) and about conditions of probation (69%).

It is apparently less common for probation officers to provide victims with other types of information, such as breaches of a condition of probation (39%), proceedings for failure to comply with a condition of probation (29%), and outcomes of such proceedings (30%). Furthermore, about 40% of survey respondents reported that, to their knowledge, no one provides this information to victims.

TABLE 52: WHO PROVIDES VICTIMS WITH INFORMATION AFTER A SENTENCE OF PROBATION HAS BEEN IMPOSED?	
	Probation Officers (N=206)
<i>Date and location of offender's release on probation</i>	
Probation officers	58%
Police	17%
Victim services	16%
No one	18%
Other	11%
Don't know or No response	10%
<i>Conditions of probation</i>	
Probation officers	69%
Police	8%
Victim services	14%
No one	12%
Other	8%
Don't know or No response	10%
<i>Any breaches of a condition of probation</i>	
Probation officers	39%
Police	11%
Victim services	6%
No one	41%
Other	3%
Don't know or No response	8%
<i>Proceedings for failure to comply with probation order</i>	
Probation officers	29%
Police	6%
Victim services	10%
No one	42%
Other	3%
Don't know or No response	20%
<i>Outcome of failure to comply proceedings</i>	
Probation officers	30%
Police	4%
Victim services	9%
No one	39%
Other	5%
Don't know or No response	21%
Note: For each item, respondents could provide more than one response, therefore, totals sum to more than 100%.	

Respondents representing CSC were asked whether they generally provide victims with various pieces of information about the offender's incarceration, upon the victim's request.²³

A large majority (86%) reported that they generally inform victims about the date that the offender's sentence began and the length of the sentence. Fewer, but still a considerable majority, generally inform victims about dates of temporary absences or work releases (72%) and where the offender is incarcerated (66%). Just under half (48%) provide information about the offender's location during temporary absences or work releases.

²³ Note: Victims must register with CSC to ensure information is provided to them.



Survey respondents representing the NPB, CSC, and provincial parole boards were asked about the information provided to victims at parole. Results are shown in Table 53. In general, victims are most likely to receive information about release dates and conditions of release, and least likely to receive information about the destination of the offender on release and whether the offender has appealed a Parole Board decision. However, there are various differences among the three agencies (see Table 53).

TABLE 53: DO YOU GENERALLY PROVIDE THE FOLLOWING INFORMATION ABOUT THE OFFENDER TO VICTIMS WHEN THEY REQUEST IT?			
<i>Percentage of respondents who indicated generally providing the following information to victims if requested...</i>	National Parole Board (N=85)	Correctional Service Canada (N=29)	Provincial parole boards (N=22)
Offender's eligibility for conditional release	93%	72%	50%
Hearing dates for conditional release	92%	45%	46%
Release dates	82%	69%	59%
Conditions imposed on release	89%	59%	59%
Reasons for a release decision	81%	7%	41%
Destination of offender on release	51%	45%	46%
Suspension or revocation of release	66%	N/A	36%
Whether offender has appealed a Parole Board decision	47%	7%	23%
Copy of decision by appeal division	47%	7%	55%
Travel permits granted to offender	N/A	59%	N/A
Changes to the offender's custodial status	N/A	66%	N/A

Note: Respondents could provide more than one response; totals sum to more than 100%.

Finally, all parole respondents were asked whether they generally inform victims about their rights and opportunities. When contacted by victims, the majority of NPB and CSC respondents inform victims of their opportunities at the parole stage; provincial parole board respondents were less likely to inform victims. Across all three respondent groups, victims are more likely to receive this information if they contact the organization. Complete results are in Table 54.

TABLE 54: DO YOU USUALLY INFORM VICTIMS OF THE FOLLOWING:						
Percentage of respondents who generally inform victims of the following...	National Parole Board (N=85)		Correctional Service Canada (N=29)		Provincial parole boards (N=22)	
	All victims	Victims who have contacted NPB	All victims	Victims who have contacted CSC	All victims	Victims who have contacted Board
The right to request information about the offender's parole eligibility and release*	8%	89%	N/A	N/A	9%	59%
The right to request certain kinds of information about the offender**	N/A	N/A	21%	62%	N/A	N/A
The ability to provide new or additional information to the Parole Board that the victim considers relevant	9%	80%	17%	66%	9%	64%
That any information they provide will be shared with the offender	14%	78%	17%	59%	41%	41%
The opportunity to attend Parole Board hearings as observers	15%	82%	21%	62%	5%	23%
The opportunity to present a statement at the parole hearing in person or via audiotape or videotape	13%	85%	21%	59%	5%	36%
* This question was not asked of CSC respondents. ** This question was only asked of CSC respondents. Note: Respondents who answered no, don't know or gave no response are not represented in this table.						

Information-sharing and Collaboration

The victim services and police surveys and interviews used open-ended questions to examine the extent to which information-sharing and collaboration occur between victim services, on one hand, and among other victim services and community organizations, the Crown Attorney, and police on the other. While there is evidence of some collaboration among agencies serving victims, as noted above, there is also support for establishing stronger links among them in order to improve services for victims.

Victim Services and Community Organizations

Victim services providers were asked to describe their relationship with other victim services and community organizations. The results are in Table 55 below. Although 29% of those surveyed simply said that they have a strong working relationship with these other agencies, many gave specific details about the nature of that relationship. Referrals are evidently the most important aspect of the relationship; 38% reported referring victims to other community resources and receiving referrals from them. Additionally, 21% reported that they share information with other organizations through various committees, consultations, and meetings.

In interviews, victim services providers explained the nature of this information-sharing further, reporting that they meet with other community agencies on a regular basis to discuss a variety of



issues, to coordinate activities, and to inform one another of the range of services available to victims, and a few reported sharing information on specific cases, although only with the consent of the victim. Small proportions of victim services providers reported the existence of working protocols with court-based or police-based victim services, inter-agency training and information sessions, and participation in community coalitions. Five percent reported no contact with other victim services or community organizations.

**TABLE 55:
COLLABORATION OF VICTIM SERVICES WITH OTHER VICTIM SERVICES AND COMMUNITY ORGANIZATIONS, AS REPORTED BY VICTIM SERVICES**

<i>Nature of collaboration:</i>	Victim Services (N=318)
Referrals	38%
Strong working relationship – nature unspecified	29%
Share information	21%
Working protocols with court-based or police-based victim services	6%
Training or information sessions	4%
Part of coalition of agencies	3%
Limited collaboration or contact	5%
Do not work together or share information	5%
Other	7%
Don't know or No response	14%
Note: Respondents could provide more than one response; total sums to more than 100%.	

Collaboration with police

Police were asked to describe the nature of their relationship with victim services. As shown in Table 56, just under one-fifth of those surveyed reported that victim services has access to police reports and file, while a similar proportion simply explained that police share information with victim services. While 15% reported sharing office space, 12% said that police and victim services do not work together or share information at all.

**TABLE 56:
COLLABORATION OF POLICE WITH VICTIM SERVICES, AS REPORTED BY POLICE**

<i>Nature of collaboration:</i>	Police (N=686)
Victim services have access to police reports or files	18%
Share information	17%
Victim services is part of police service or share office	15%
Victim services updates police after contact with victim	10%
Open communication or close collaboration	7%
Poor communication or limited collaboration	5%
Victim services attends complaints or occurrences	4%
Other	9%
Do not work together or share information	12%
No response	10%
Note: Respondents could provide more than one response; total sums to more than 100%.	

In a separate question, police were asked specifically whether their division or department has a policy for allowing victim services to access victim files. Forty percent of those surveyed reported that such a policy is in place, although close to half did not know whether their organization had such a policy. Of police who reported the existence of a policy allowing victim services to access their files, more than one-quarter said that this access is unlimited. However, it was more common for police to report some limitations. For example, 17% of police who said that an information-sharing policy exists reported that victim services has access only to certain files; 13% said access is possible only with the victim's consent; and 11% said that federal legislation limits the extent to which they share information with victim services.²⁴

Police were also asked about the referrals they make to victim services. More than three-quarters of police surveyed said they generally refer victims to police-based victim services and more than two-thirds generally refer victims to specialized victim services for domestic violence. Over 60% refer victims to specialized services for sexual assault and specialized services for children, and one-third refer victims to court-based victim services.

4.5 Bail Determinations

The 1999 amendments to the *Criminal Code* include several provisions to protect the safety of victims of crime in bail determinations. The provisions direct police officers, judges, and justices of the peace to consider the safety and security of the victim in decisions to release the accused pending the first court appearance; require judges to consider no-contact conditions and any other conditions necessary to ensure the safety and security of the victim; and ensure that the particular concerns of the victim are considered and highlighted in decisions on the imposition of special bail conditions. This section describes police, Crown Attorney, defence counsel, and judicial practices with respect to victim protection in bail determinations, and discusses the extent to which victim services providers and advocacy groups believe that victim safety is considered at bail.

4.5.1 Police, Crown Attorney, Defence Counsel, and Judicial Practices at Bail

Police who were interviewed were unanimous in stating that considering victim safety is an essential responsibility for police immediately following an arrest and at the point of any release proceedings. The larger group of police surveyed in this research reported using a variety of methods to ensure that victims' safety concerns are considered at bail hearings. Over one-third reported preparing a written submission with recommendations for specific bail conditions following a thorough investigation and/or an objective assessment of risk (35%); others simply said that they consult with and pass information on to the Crown Attorney for consideration (21%). Some police attend bail hearings to speak on behalf of the victim or even encourage the victim to attend (15%), while still others said that they consult with the victim and obtain their statement (13%). A small proportion indicated opposing release outright when the victim's safety is at risk.

In interviews, several police cautioned that while it is important to listen to victims' concerns, police must remain objective in their determination of the level of risk to the victim. They

²⁴ Note: Federal privacy legislation is applicable only to RCMP, not to other police forces.



pointed out that emotion could lead victims to make exaggerated claims and overestimate the risk posed by the accused. Police must therefore exercise judgment when reporting or making recommendations to the Crown Attorney. Several police also pointed out that in some cases (particularly domestic violence), victims underestimate the risk posed by the accused and will disagree with police requests for conditions such as no-contact orders. These interviewees noted that these are cases in which they will not necessarily promote the wishes of the victim.

Although Crown Attorneys who completed a self-administered survey were not asked the question, those who were interviewed said that they become aware of victims' safety concerns in bail determinations primarily through the police report. They noted that the police report usually comes to them with the victims' safety concerns identified as well as recommendations for conditions; in some jurisdictions, police complete a standardized bail report for certain types of cases (e.g., domestic violence) in which they must include information about safety concerns and conditions. A few of the Crown Attorneys interviewed mentioned that they speak directly with victims about safety if they believe that the issue is not adequately addressed in the police report.

A large majority of the Crown Attorneys surveyed (89%) reported generally not calling the victim as a witness in bail hearings. Of those Crown Attorneys who do not call the victim as a witness, 43% said that it is usually unnecessary for the witness to testify at this point in the proceedings, and that police and Crown Attorney submissions are usually sufficient to relay the relevant safety issues to the court. More than one-fifth (22%) observed that calling the victim to testify at bail gives defence counsel the opportunity to intimidate the victim at an early stage in the proceedings and to ask questions with a view to later cross-examination. Other reasons for not calling the victim as a witness included high caseloads and insufficient time; the possibility of further trauma to the victim; the potential for inconsistent statements; and unwillingness or lack of availability of the victim. The full list of reasons given by Crown Attorneys for not calling the victim as a witness in bail hearings is shown in Table 57.

TABLE 57: REASONS CROWN ATTORNEYS DO NOT CALL THE VICTIM AS A WITNESS IN BAIL DECISIONS BASE: RESPONDENTS WHO DO NOT USUALLY CALL THE VICTIM AS A WITNESS IN BAIL DECISIONS	
<i>Reason:</i>	Crown Attorneys (n=167)
Usually unnecessary or police reports are sufficient	43%
Creates opportunity for defence cross-examination	22%
High caseload or insufficient time	16%
Creates possibility of further trauma to the victim	15%
Creates potential for inconsistent statements	9%
Victim unavailable or unwilling	7%
Other	2%
No response	19%

Note: Respondents could provide more than one response; total sums to more than 100%.

Virtually all Crown Attorneys surveyed (97%) reported that they generally request specific conditions to address the victim's safety in bail determinations, and almost as many of the defence counsel surveyed (95%) usually agree to such requests. In interviews, defence counsel observed that they have no reason to object to reasonable conditions. They defined conditions as reasonable if there is a nexus between the conditions requested, the victim, and the crime, and if

the conditions are not too restrictive on their client. Examples given of unreasonable conditions included orders not to attend the residence when the accused works out of the home or not to attend the victim's workplace when the accused also works there. Defence counsel also noted that the accused can benefit from properly framed conditions, not only because conditions improve the chance that the accused will be released on bail, but also because conditions can ensure that there is no repeat offence.

In interviews, defence counsel commented extensively on bail determinations in domestic violence cases. In these cases, counsel said that the determination of reasonable conditions is more difficult. Many noted that the application of blanket no contact orders are often detrimental to both their client and the victim. Often the victim wants the accused home because of financial, emotional, or family reasons. Especially if children are involved, defence counsel find that no contact orders harm the family unit and almost ensure that their client will violate the order.

Virtually all Crown Attorneys and defence counsel surveyed in this research (98% and 97%, respectively) reported that judges typically grant requests for conditions to address the victim's safety in bail determinations. In interviews, Crown Attorneys and defence counsel said that judges are almost invariably amenable to requests for bail conditions, provided they are reasonable and designed to address specific concerns. Quantitative results from the survey of judges bore this out: 95% of judges surveyed said that they generally place conditions on the accused for the safety of the victim in bail determinations. In interviews, judges observed that certain conditions, such as no contact, are applied almost as a matter of course.

More than three-quarters of all judges surveyed consider themselves informed of safety issues in most bail hearings. However, in interviews, several judges said they are not as well informed as they could be, particularly in cases of domestic violence (although others said that safety issues were especially well covered in domestic violence cases).

According to judges interviewed, possible ways of ensuring that the judiciary is better informed about safety issues include increased prosecutorial resources to enable Crown Attorneys to devote more time to victims prior to bail hearings; increased number of victim support workers to obtain information from victims about their safety concerns; and the presence of a victim advocate at bail hearings to state the victim's position and safety concerns.

According to judges interviewed, possible ways of ensuring that the judiciary is better informed about safety issues include increased prosecutorial resources to enable Crown Attorneys to devote more time to victims prior to bail hearings; increased number of victim support workers to obtain information from victims about their safety concerns; and the presence of a victim advocate at bail hearings to state the victim's position and safety concerns. More than three-quarters of judges surveyed ask about safety issues if the Crown Attorney has not mentioned them. However, judges observed in interviews that this is rarely necessary because the Crown Attorney is very diligent about bringing these issues to the attention of the court.

4.5.2 Consideration of Victim Safety at Bail

Despite the results from the surveys and interviews with criminal justice professionals, which suggest that these professionals are concerned about protection of the victim at bail, about 30%



of victim services providers and one-quarter of advocacy groups surveyed believe that the victim's safety is generally considered in decisions about bail and conditions of release. Although several victim services providers acknowledged in interviews that there has been substantial evolution in this regard and that police and Crown Attorneys are very sensitive to safety issues, the larger group of those surveyed identified numerous obstacles to the consideration of victim safety, as shown in Table 58.

TABLE 58:
WHAT ARE THE OBSTACLES TO THE CONSIDERATION OF VICTIM SAFETY AT BAIL?
BASE: RESPONDENTS WHO BELIEVE THAT VICTIM SAFETY IS NOT GENERALLY CONSIDERED AT BAIL DETERMINATIONS

<i>Obstacles:</i>	Victim Services (n=163)	Advocacy Groups (n=31)
Victim's concerns not taken seriously by Crown Attorneys or court	24%	--
Rights of accused take precedence over victim's rights	16%	13%
Lack of knowledge or understanding of domestic violence and abuse	15%	23%
Inadequate assessment of risk by court	12%	19%
Breaches of conditions not taken seriously	13%	--
Failure to notify victims about release or conditions on release	9%	--
Victim not adequately consulted or unwilling to participate	8%	16%
Victim has inadequate resources (financial, shelter)	3%	--
Other	12%	16%
No response	14%	19%

Note: Respondents could provide more than one response; totals sum to more than 100%. This question was open-ended.

Although about one-quarter of victim services providers surveyed simply observed that the Crown Attorney and the court do not take the victim's concerns seriously, others identified more specific impediments to the consideration of victim safety. For example, 16% observed that the rights of the accused take precedence over victims' safety concerns at bail determinations. In interviews, they expanded on this idea, explaining that in their view, the presumption of innocence discourages judges from locking up accused persons. A few victim services providers also said in interviews that overcrowding in jails and a lack of resources for keeping people in jail leads judges to release the accused rather than remanding them into custody.

Another frequently mentioned obstacle is an ongoing lack of understanding of domestic violence and the dynamics of partner abuse on the part of the Crown Attorneys and the judiciary (this obstacle was mentioned by 15% of victim services providers). In interviews, several victim services providers said that domestic violence and spousal abuse continue to be perceived as less serious offences. This problem is exacerbated by the fact that in these cases, the victim is often reluctant to come forward with safety concerns due to intimidation from the accused or the family of the accused. Consequently, the court underestimates the actual risk to the victim that could result from the release of the accused. Furthermore, 12% of victim services providers surveyed consider the inadequate assessment of risk to be a more general problem affecting other types of cases.

Finally, a small proportion of victim services providers surveyed (9%) commented on the conditions imposed on the accused and their enforcement. They argued that in many cases, bail

conditions are not respected and there are no repercussions for the accused. According to these victim services providers, there is little or no police protection against breaches of conditions. Please see Table 58 above for other perceived obstacles.

4.5.3 Victim Notification of Bail Decisions

Victim services providers who participated in interviews were asked to comment on difficulties in notifying victims of bail decisions. Common issues include identifying and contacting victims in time for bail hearings, which take place very shortly after the arrest of the accused, and reaching victims who are transient (i.e., those who move frequently and whose addresses and phone numbers change). Other issues include lack of consistency and persistence on the part of the police and the Crown Attorneys in locating victims and informing them about bail decisions, and difficulties that they, as victim services providers, experience in obtaining information about bail from Crown Attorneys and police.²⁵ According to a few victim services providers, other difficulties include a lack of human and financial resources, and federal privacy legislation that restricts the information that can be shared with victim services.²⁶

Victim services providers who believe that there are no difficulties in notifying victims of bail decisions indicated that there is a protocol in place in their communities regarding victim notification of bail decisions, or explained that they always ensure that victims receive information on bail decisions and conditions.

4.6 Provisions to Facilitate Testimony

Recognizing that testifying in court can be especially traumatizing for young victims or those with disabilities or victims of sexual or violent offences, the 1999 amendments to the *Criminal Code* included several provisions to facilitate testimony on the part of such witnesses. Publication bans on the identity of sexual assault victims have been clarified to protect their identity as victims of sexual assault offences as well other offences committed against them by the accused. The new provisions also permit judges to impose publication bans on the identity of a wider range of witnesses, where the witness has established a need and where the judge considers it necessary for the proper administration of justice. Other amendments restrict cross-examination by a self-represented accused of child victims of sexual or violent crime; and permit victims or witnesses with a mental or physical disability to have a support person present while testifying. The following sections describe the use of these provisions and other testimonial aids such as screens, closed-circuit television, and videotape.

²⁵ As previously reported, approximately two-thirds of police surveyed said that they generally inform victims about outcomes of bail decisions. Moreover, most Crown Attorneys and police assessed the information provided to victims about outcomes of bail decisions and conditions of release as "adequate." However, victim services providers and advocacy groups tended to disagree. Please refer to Table 50 for the details.

²⁶ As discussed in a previous footnote, federal privacy legislation is applicable only to the RCMP, not to other police forces.



4.6.1 Publication Bans

The 1999 amendments clarified that publication bans on the identity of sexual assault victims protect their identity as victims of other offences committed against them by the accused. For example, if the victim is robbed and sexually assaulted, her identity as a victim of robbery could not be disclosed. In addition, the amendments provided for a discretionary publication ban for any victim or witness where necessary for the proper administration of justice.

Both Crown Attorneys and defence counsel explained in interviews that while publication bans are essentially automatic at the preliminary hearing, requests for a ban in later stages in non-sexual offences are extremely rare and are only made when there is an extremely compelling reason to do so. In interviews, Crown Attorneys and defence counsel gave several examples of instances where publication bans are most likely to be granted. Crown Attorneys mentioned child abuse cases, robberies, certain homicides, and extortion cases where the facts are sensitive, as well as cases where there are several accused having separate trials, and serious cases being tried before a jury. Defence counsel cited cases involving minors, high profile cases where the ban helps ensure a fair trial (more likely a defence counsel request), or when the requests meet the conditions and requirements of the *Criminal Code*, i.e. to protect the identity of a victim or witness in sexual offence proceedings or in accordance with other provisions of the *Code* requiring publication bans, such as bail, preliminary inquiries, or *voir dire*s.

Among Crown Attorneys surveyed, one-third reported generally requesting publication bans in appropriate cases other than sexual offences. Of the remaining two-thirds who do not, 42% said that such bans are normally not necessary, while another 17% do not often request bans because they believe that court proceedings are, and should remain, open to public scrutiny.

Defence counsel surveyed are evenly split between those who usually agree to requests for publication bans in non-sexual offences and those who object (47% and 48%, respectively). Two-thirds of those who object argued that publication bans violate the principle of an open court system. In interviews, those who generally agree to the requests most often explained that publication bans benefit the accused. A few defence counsel indicated in interviews that they would agree to publication bans in non-sexual offences involving children or in cases with police informants as witnesses.

TABLE 59:
USE OF PUBLICATION BANS ON NON-SEXUAL OFFENCES

	Crown Attorneys (N=188) <i>Do you generally request publication bans in non-sexual offences?</i>	Defence Counsel (N=185) <i>Do you generally agree to publication bans in non-sexual offences?</i>
Yes	32%	47%
No	67%	48%
No response	1%	5%

Despite agreeing that publication bans in non-sexual assault offences are uncommon, Crown Attorneys and defence counsel nevertheless had different perceptions of the judiciary's likelihood of granting these requests. Forty-five percent of Crown Attorneys surveyed said that such

requests are usually granted in the cases where they are made, while about one quarter of the defence counsel surveyed believe they are usually granted. As for judges themselves, about one-quarter of those surveyed reported having granted an application for a publication ban in non-sexual offences. Those who had granted such bans had done so primarily in cases involving child abuse or child welfare, or had granted only partial bans (i.e., on the name of the witness).

Victim services providers and advocacy organizations, for their part, had little to say on the subject of publication bans. Very small proportions of those surveyed (11% and 15%, respectively) said that there are obstacles to their use, including the principle of an open court,

Crown Attorney reluctance to make the requests, and judicial reluctance to grant them.

In interviews, several victim services providers stated that victims are generally not informed of publication bans or else they are not informed sufficiently in advance to make a request, and a few suggested that publication bans do not adequately protect victims.

According to the latter group, publication bans are usually applied to the name of the victim, although many other details of the crime continue to be published and can easily lead to identifying the victim. It was also suggested that more frequent use of publication bans may encourage some victims, particularly victims of spousal abuse, to come forward and report offences.

Victim services providers suggested that more frequent use of publication bans may encourage some victims, particularly victims of spousal abuse, to come forward and report offences.

4.6.2 Exclusion of the Public

Sixty percent of Crown Attorneys surveyed said that they had requested the exclusion of the public from a trial, and 39% of judges surveyed reported having granted such an application. Both Crown Attorneys and judges agreed that exclusion of the public is warranted in only the most exceptional circumstances, since an open court is essential to maintaining public confidence in the criminal justice system. In interviews, they explained that the public should be excluded only if permitting it to be present would interfere with the proper administration of justice and if other testimonial aids and protections would be insufficient to guarantee it; otherwise, the exclusion may give the defence counsel a ground to appeal.

Circumstances that from Crown Attorney and judicial perspectives warrant a request to exclude the public are quite similar. They include cases where the witness is vulnerable, fragile, or sensitive, such as child witnesses testifying in matters such as sexual abuse, as well as mentally challenged witnesses, or witnesses in sexual assault or domestic assault cases. Other circumstances include cases where the testimony of the witness would not otherwise be obtained due to extreme stress, embarrassment, or anxiety; and cases where the evidence, if it were public, would pose a risk to the safety or security of the witness (e.g., cases involving police informers or witnesses in witness protection programs). From the perspective of judges, appropriate circumstances are any where exclusion of the public is necessary to ensure the proper administration of justice.



A large majority of the defence counsel surveyed (70%) does not generally agree to requests to exclude the public from a trial, primarily on the grounds that these requests, like publication bans, violate the principle of open court proceedings. Less than one-quarter of defence counsel generally agree to requests to exclude the public. They noted in interviews that the requests are usually made in cases where the need is clear: serious sexual assaults, especially those involving young children, and young witnesses who are incapable of providing their testimony in open court. Other situations where defence counsel said they would agree are those where the exclusion of the public benefits their client or where it is necessary for the proper administration of justice (e.g., the public is interrupting the proceedings).

Both Crown Attorneys and defence counsel surveyed agreed that requests to exclude the public are extremely rare. However, they differ somewhat in their assessment of the judiciary's willingness to grant such requests. Just over one-quarter of Crown Attorneys, compared to 15% of defence counsel, said that judges generally grant requests to exclude the public.

Just less than one-quarter of victim services providers and advocacy organizations surveyed said that there are obstacles to excluding the public from a trial. Close to half of, victim services providers who perceive obstacles simply explained that judges are very hesitant about granting these requests. Both victim services providers and advocacy groups cited the principle of an open court (25% and 55%, respectively, of those who perceive obstacles). In interviews, several victim services providers suggested that exclusion of the public from trial should occur more often because family members of the accused are often present to intimidate the victim while testifying.

4.6.3 Screens, Closed-circuit Television, and Videotaped Testimony

There are three testimonial aids designed to assist young witnesses or those with a mental or physical disability, namely the use of screens, closed circuit television, or videotape. Of these three aids, screens appear to be the most popular among Crown Attorneys (although only by a slight margin over videotaped testimony), defence counsel, and judges. Crown Attorneys are least likely to favour closed-circuit television, while defence counsel are least likely to agree to videotaped testimony. After screens, judges are about equally as likely to grant the use of closed-circuit television and videotaped testimony. Please refer to Table 60.

TABLE 60: USE OF SCREENS, CLOSED-CIRCUIT TELEVISION, AND VIDEO-TAPED TESTIMONY IN ELIGIBLE CASES			
	Judges (N=110) <i>Do you generally grant the use of...</i>	Defence Counsel (N=185) <i>Do you generally agree to the use of...</i>	Crown Attorneys (N=188) <i>Do you generally request the use of...</i>
<i>Screens</i>			
Yes	83%	57%	61%
No	6%	39%	32%
No response	12%	4%	7%
<i>Closed-circuit television</i>			
Yes	61%	44%	38%
No	20%	50%	51%
No response	19%	7%	11%
<i>Videotaped testimony</i>			
Yes	60%	24%	56%
No	20%	69%	33%
No response	20%	7%	11%
Note: Responses are not inter-related across groups			

Screens

About 60% of Crown Attorneys surveyed generally request the use of a screen, and a similar proportion of defence counsel surveyed usually agree to their use in appropriate cases. In interviews, defence counsel said that they are prepared to accept the use of screens however, several reported no observable differences in the ability of witnesses to testify with or without the screen, which they attributed in part to defence counsel's care when cross-examining young witnesses. Furthermore, the fact that the witness is physically present in the courtroom and visible to defence counsel when screens are used makes screens less objectionable than the other aids for some defence counsel. Nevertheless, about 40% of defence counsel surveyed do object to screens on the grounds that their use undermines the right of the accused to face the victim; presupposes guilt by giving the impression that the witness needs to be protected from the accused; interferes with cross-examination; and makes it difficult to assess the credibility of the witness.

Although many of the Crown Attorneys, victim services providers, and advocacy organizations surveyed did not know whether there are any obstacles to the use of screens, approximately 30% of Crown Attorneys, 20% of victim services providers, and 10% of advocacy groups believe that such obstacles exist. Among this minority of respondents who perceive obstacles, the most frequently mentioned was judicial reluctance to grant the use of screens. In interviews, Crown Attorneys explained that there is a perception within the judiciary that the screen acts as a filter and makes it easier for testimony to be less than truthful. They also noted that judges regard the screen as contrived or unnecessary and find testimony less compelling when a screen is used.

A second perceived obstacle is the requirement that Crown Attorney applications for the use of a screen meet a stringent legal test in order to be granted. In interviews, Crown Attorneys explained that because they are obliged to show evidence or call expert witnesses to demonstrate that the screen is necessary, they only request the screen when it is absolutely necessary. In



interviews, several victim services providers expressed the opinion that Crown Attorneys are reluctant to request the use of screens and to inform eligible victims that this option is available.

Logistical obstacles to the use of screens, including a lack of necessary equipment at small sites, were also identified. In interviews, several Crown Attorneys at small sites reported that there is only one screen for the entire area they cover or that they have to transport a makeshift screen with them when they travel on circuit. Furthermore, courtrooms at small sites are often antiquated and not set up for the use of screens. Crown Attorneys and victim services providers also observed that screens are impractical and cumbersome, and often in poor condition. Furthermore, if courtroom lighting is inadequate, witnesses can see the accused through one-way screens.

Finally, there is a perception among some Crown Attorneys that screens simply are not effective at facilitating testimony and can actually be counter-productive because they cause the witness to have more rather than less concern with what the accused is doing. In interviews, Crown Attorneys explained that witnesses can feel isolated or uneasy when screens are used because they cannot see what is going on in the courtroom. Others reported that the screen can be distracting for child witnesses, whose curiosity often compels them to peek around or underneath the barrier. In fact, among Crown Attorneys surveyed who do not routinely request the use of screens, a common reason is that screens are ineffective at facilitating testimony. Yet other Crown Attorneys had either never or only rarely had a case where the screen might be needed or argued that screens are unnecessary in most instances.

Sixty-two percent of Crown Attorneys and three-quarters of defence counsel surveyed believe that judges usually grant the use of screens, compared to 83% of judges themselves who said that they usually grant these requests. Judges explained in interviews that they have no difficulty granting requests for a screen provided that the necessary legal criteria are met. Others said that screens are seldom used or seldom requested; at some large sites, judges explained that screens are not used because of the existence of "child friendly" courtrooms.

Closed-circuit Television

Of the three testimonial aids, closed-circuit television is the least likely to be requested. Less than 40% of Crown Attorneys surveyed reported generally requesting its use in appropriate cases. Among those who do not usually make the request, the most common reason, cited by almost one-third of these respondents, is a lack of necessary technology and properly equipped courtroom facilities; another 10% said that the appropriate equipment had only recently been installed in their local courtroom. Absent technology and proper facilities are particularly acute problems at small sites. In many instances, the use of closed-circuit television requires either that the trial be moved to a larger centre, that the necessary equipment be brought into the community, or that the equipment be transported with the court when it travels on circuit to remote areas. However, availability of the necessary technology also affects some medium and large sites.

Some Crown Attorneys gave other reasons for not usually requesting closed-circuit television. About one-quarter of those surveyed said that they have never or rarely had a case where closed-

circuit television might be needed, while just less than one-fifth held the view that this aid is not normally necessary.

Over 40% of defence counsel surveyed reported that they generally agree to the use of closed-circuit television. In interviews, defence counsel commented that this testimonial aid has proven useful for very young witnesses (those under 10 years of age); it was even suggested that closed-circuit television is an advantage to the defence counsel because it enables them to gain the young person's trust, making the testimony easier for all involved. Defence counsel surveyed who object to closed-circuit television argued that it interferes with full defence; conflicts with the right of the accused to face the victim; makes it more difficult to assess the credibility of the witness; and erodes the presumption of innocence by creating the impression that the accused is guilty.

About one-third of Crown Attorneys, one-fifth of victim services providers, and one-sixth of advocacy groups surveyed believe that there are obstacles to the use of closed-circuit television, although as was also the case with screens, significant proportions did not know whether any obstacles exist. Of the Crown Attorneys who believe that there are obstacles to the use of this aid, more than half mentioned the lack of necessary technology. Others noted the need to satisfy the court that the aid is necessary, judicial reluctance to grant its use, and difficulties with cross-examination. Victim services providers were less likely to mention availability of closed-circuit television as an obstacle, citing instead Crown Attorney reluctance to request its use and, simply, the fact that it is not often used and is difficult to obtain. Like Crown Attorneys, victim services providers also identified judicial reluctance to grant the use of closed-circuit television and defence counsel objections due to cross-examination difficulties as obstacles.

Forty-five percent of defence counsel surveyed, compared to 38% of Crown Attorneys, believe that judges usually grant requests for closed-circuit television. This compares with 61% of judges surveyed who said that they generally grant these requests. As was also the case with screens, judges said that they grant the use of closed-circuit television as long as the legal criteria for its use are met. However, several explained that the necessary technology is not available or seldom used, or that they have never had an application for its use.

Videotaped Testimony

Fifty-six percent of Crown Attorneys surveyed generally request the use of video taped testimony in appropriate cases. In interviews, some reported having had considerable success with its use. Among those who do not generally request the use of videotaped testimony, one-quarter said that they have never or only rarely had a case where videotape might be needed, while the same proportion said that videotape is normally not necessary. Several said that they prefer it if the witness can testify without the tape and therefore only request it if absolutely necessary.

Videotaped testimony received the least support from defence counsel; less than one-quarter of defence counsel surveyed generally agree to its use. The most common objection, mentioned by almost half of defence counsel who usually object, concerns the difficulties that videotape presents for cross-examination. Defence counsel believe that the effectiveness of cross-



examination is reduced because it does not occur contemporaneously with the direct examination of the witness. Another reason for defence counsel objections is the difficulty that videotaped testimony poses in assessing the credibility of the witness and the evidence, since it is impossible to assess the method used to elicit the videotaped testimony. Defence counsel see this as particularly problematic because this testimonial aid is used for vulnerable witnesses who are more impressionable and can more easily be led, even if that is not the interviewer's intention. Other objections include the inability of the accused to confront his or her accuser when videotape is used and the impression it leaves that the accused is guilty.

More than one-quarter of Crown Attorneys surveyed believe that there are obstacles to the use of video taped testimony. Poor quality interviews were among the identified obstacles; Crown Attorneys explained that police interviewers often ask leading questions or fail to elicit sufficiently detailed responses from witnesses. Furthermore, videotaped testimony does not relieve witnesses of the need to adopt their testimony on the stand and be cross-examined by defence counsel. Several Crown Attorneys said in interviews that videotaped testimony leaves witnesses unprepared for their encounter with defence counsel. They said that they tend to avoid videotaped testimony because they prefer to be the first to address witnesses, as a means of helping them become accustomed to the court process. Other obstacles, from the Crown Attorney perspective, include the requirement to meet a strict legal test in order for videotaped testimony to be allowed and judicial reluctance to grant its use.

Few victim services providers and advocacy organizations commented on the subject of obstacles to the use of video taped testimony; as with the other testimonial aids, large proportions of those surveyed did not know whether any obstacles exist. From their perspective, obstacles include judicial reluctance to grant the use of this aid; the need for victims to adopt their testimony on the stand; the fact that this aid is not often used; Crown Attorney reluctance to request its use; and defence counsel objections.

About half of Crown Attorneys and defence counsel surveyed believe that judges usually grant requests for videotaped testimony. This compares with 60% of judges surveyed who said that they generally grant these requests. Judges are willing to grant the use of videotaped testimony where the Crown Attorney has presented a compelling case that its use is necessary, although several judges said that videotape is seldom used or that they personally have never had a request for its use.

Overall Perceptions

Crown Attorney requests for testimonial aids are quite common in eligible cases, provided that the necessary technology is available. However, in interviews, Crown Attorneys explained that they request these aids only when there is a compelling reason to do so, and several reported having had as much success without using testimonial aids as with them. In their view, the best way to ensure that testifying in court does not traumatize witnesses is to meet with them ahead of time to establish a rapport, prepare them for testifying, and increase their confidence and self-esteem. A few Crown Attorneys were of the opinion that testimonial aids are being improperly used as a substitute for the time investment that is required to properly prepare victims for testimony.

There is also considerable willingness among judges to grant the use of testimonial aids in eligible cases. Nevertheless, judges were careful to emphasize the need for the Crown Attorneys to present compelling evidence that the aids are necessary and the need to ensure that the *Criminal Code* criteria for their use are met. Furthermore in interviews, a few judges wondered how effective the testimonial aids really are. Several said that they initially deny the use of aids in order to determine whether witnesses can testify successfully without them. At some of the large sites equipped with child friendly courtrooms, requests for testimonial aids are rarely brought before a judge.

A majority of judges surveyed (60%) believes that testimonial aids are sufficiently available to meet current needs. Those who disagreed pointed primarily to a lack of necessary equipment (especially closed-circuit television) and funding limitations. There was little support among judges who were interviewed for extending the provisions to other types of witnesses, on the grounds that the aids interfere with the right of the accused to confront the complainant; make it more difficult for defence counsel to cross-examine the witness; and make it more difficult for the judge to assess the credibility of the witness and establish truth.

For similar reasons, many defence counsel expressed serious reservations about the use of testimonial aids. The major concern involved the perception that these aids violate principles of the criminal justice system intended to protect the accused, such as the presumption of innocence and the right of the accused to face his or her accuser. Defence counsel also believe that these aids can make mounting a defence more difficult by undermining counsel's ability to effectively cross-examine the witness, making it more difficult to assess the witness's credibility and lessening the pressure on the witness to be truthful because he or she is not on the witness stand facing the accused.

Most victim services providers and advocacy organizations did not comment extensively on survey questions pertaining to testimonial aids. Nevertheless, it is apparent from those who did offer a response that they believe that victims are not sufficiently aware and informed of these protections, and that they should be used more often and afforded to more victims. It was suggested that the burden should not be on the victim to prove the necessity of these protections, but rather, the criminal justice system should be more accommodating in making witnesses comfortable during their testimony. Several victim services providers were of the view that the aids should be automatic for eligible witnesses.

4.6.4 Support Persons

The 1999 amendments to the *Criminal Code* permit victims or witnesses with a mental or physical disability to have a support person present while testifying. Of the various provisions to facilitate testimony, the use of support persons to accompany a young witness or witnesses with a physical or mental disability appears to be the least controversial and the most widely used. More than three-quarters of Crown Attorneys surveyed generally request that a support person accompany such witnesses, and two-thirds of defence counsel surveyed usually agree to such requests. In interviews, a few defence counsel commented that the use of a support person can be positive for the defence. They noted that when the witness is at ease and not crying, cross-examination goes better because the witness requires fewer breaks. Among judges, 82% of those surveyed reported that they usually grant requests for a support person.



**TABLE 61:
USE OF SUPPORT PERSONS IN ELIGIBLE CASES**

	Crown Attorneys (N=188) <i>Do you generally request the use of a support person?</i>	Defence Counsel (N=185) <i>Do you generally agree to the use of a support person?</i>	Judiciary (N=110) <i>Do you generally grant the use of a support person?</i>
Yes	76%	66%	82%
No	16%	30%	6%
No response	8%	4%	13%

Note: Totals may not sum to 100% due to rounding. Responses are not inter-related across groups

Crown Attorneys surveyed who do not usually request support persons said that support persons are not typically necessary or that they have never or rarely had a case where a support person might be needed. Defence counsel surveyed who usually do not agree to support persons based their objection primarily on the risk that the testimony might be influenced. In interviews, defence counsel explained that they have no problem with a support person as long as the individual remains neutral and does not attempt to influence the witness's testimony, although they disagreed over who are suitable support persons. A few found relatives of the witness acceptable, while others expressed concern about support persons with a close relationship to the witness; the latter group prefers support persons with some awareness of legal issues, such as victim services workers.

Crown Attorneys likewise noted in interviews that great care must be taken in the selection of a support person. In order to maintain the credibility of the witness and avoid raising defence counsel objections, the support person must be a neutral individual who is not too close to the victim and who does not have a vested interest in the outcome of the case. Furthermore, as per the *Criminal Code*, the support person cannot also be a witness in the case.

Very few of the Crown Attorneys, victim services providers, and advocacy organizations surveyed believe that there are obstacles to the use of support persons. Victim services providers and advocacy organizations mentioned judicial reluctance to grant the use of a support person, defence counsel objections, and difficulties finding a suitable person to act in this capacity. Crown Attorneys, for their part, cited the need to locate a neutral individual to act as a support person, judicial reluctance to grant the requests, and the need to demonstrate that the support person is necessary. A few also said that the use of a support person can be damaging to the prosecutor's case. The presence of a support person can, for example, signal a vulnerable witness to the defence. Furthermore, if the witness looks at the support person before responding to questions, the impression can be created that the witness is unsure about his or her answers, thus damaging the credibility of the testimony.

There is considerable agreement among Crown Attorneys and defence counsel regarding judges' propensity to grant the use of support persons; just over two-thirds of respondents surveyed in both groups said that such requests are generally granted. This compares with more than 80% of judges surveyed who reported usually granting these requests. Judges are evidently quite prepared to grant the use of support persons in eligible cases, provided they do not interfere with testimony by attempting to influence or coach the witness, and provided they are not also witnesses in the case. However, several judges said in interviews that it can occasionally be difficult to locate a neutral party to act as a support person in small communities. Furthermore,

small sites do not always have facilities (such as separate waiting areas and entrances) to accommodate young witnesses and support persons.

4.6.5 Section 486 (2.3)

The 1999 amendments to the *Criminal Code* include the provisions in section 486 (2.3), which restrict cross-examination by a self-represented accused of child victims of sexual or violent crime. This section reports on the use of this provision by criminal justice professionals and the extent to which they support expanding the section to other types of witnesses or other types of offences.

Use of Section 486 (2.3)

Just over one-quarter of Crown Attorneys and close to one-fifth of judges surveyed reported having had a case where section 486 (2.3) applied. Of these Crown Attorneys, a large majority (86%) had requested that counsel be appointed to cross-examine the victim. Among judges who had been involved in cases where the section applied, a similarly large proportion (84%) said that they would generally appoint counsel for the purpose of cross-examination in those cases. Seven judges in total reported having presided over any cases where they allowed the accused to cross-examine a young victim since section 486 (2.3) was adopted. Among defence counsel surveyed, 6% reported having been appointed to act for the accused pursuant to the section.

Expansion of Section 486 (2.3)

As Table 62 shows, support for expanding section 486 (2.3) was highest among advocacy groups and victim services providers. About three-quarters of respondents in those categories, compared to half of Crown Attorneys and one-quarter of defence counsel, favour expansion of section 486 (2.3) to other offences and/or other victims or witnesses.

TABLE 62: SHOULD S. 486 (2.3) OF THE <i>CRIMINAL CODE</i> BE EXPANDED TO OTHER VICTIMS OR WITNESSES OR OTHER OFFENCES? (NOTE: S. 486 [2.3] PLACES RESTRICTIONS ON CROSS-EXAMINATION BY A SELF-REPRESENTED ACCUSED OF CHILD VICTIMS OF SEXUAL OR VIOLENT CRIME.)				
	Victim Services (N=318)	Crown Attorneys (N=188)	Defence Counsel (N=185)	Advocacy Groups (N=47)
Yes	73%	52%	27%	77%
No	14%	15%	70%	19%
Don't know	--	25%	--	--
No response	13%	9%	3%	4%
Note: Totals may not sum to 100% due to rounding.				

Table 63 shows respondents' opinions on how section 486 (2.3) should be expanded. Across all respondent groups, support was most widespread for expanding the section to adult witnesses in the category of offences to which it currently applies. There was also considerable support for expanding the section to domestic violence cases in particular, to all crimes of violence, and to any case where the witness is vulnerable or intimidated by the accused or where there is a power imbalance between victim and accused. In interviews, many defence counsel, as well as some



Crown Attorneys and victim services providers, argued simply that the protection should be available any time the proper administration of justice requires it and that this determination should be left to judicial discretion.

TABLE 63:
HOW SHOULD S. 486 (2.3) BE EXPANDED?
BASE: RESPONDENTS WHO BELIEVE S. 486 (2.3) SHOULD BE EXPANDED

	Victim Services (n=233)	Crown Attorneys (n=97)	Defence Counsel (n=49)	Advocacy Groups (n=36)
Expand to adults	28%	40%	45%	31%
Domestic violence	21%	33%	10%	17%
All crimes of violence	19%	33%	10%	28%
Vulnerable or intimidated witnesses	12%	23%	22%	17%
Criminal harassment	6%	14%	8%	--
All child witnesses regardless of offence	8%	11%	--	--
Whenever accused is self-represented	25%	9%	--	19%
Certain property crimes	2%	5%	--	--
Other	6%	10%	6%	17%
No response	11%	7%	12%	8%

Note: Respondents could provide more than one response; totals sum to more than 100%.

Among defence counsel surveyed, those who advised against expansion of the section were primarily concerned about protecting the right of the accused to self-represent and the right of the accused to face the complainant (mentioned by 47% and 9%, respectively). According to these respondents, the current section already represents a significant deviation from the accused's right of confrontation, which is a basic tenet of criminal law. Several others argued that judges can and do intervene to protect the victim and prevent the accused from engaging in abusive or excessive cross-examination. A few simply said that a change in law is not needed, and a few pointed to the growing number of self-represented accused as a reason for not expanding the section. In interviews, several defence counsel (both those who support expansion and those who do not) noted that any expansion would put resource strains on the system. They believe that many accused have no choice but to self-represent, because they fail to qualify for legal aid. Providing these accused with counsel would require significant additional funding to expand legal aid. A few defence counsel were of the view that self-representation in general should be eliminated entirely or at least reduced.

4.7 Preparation for Court

Victim services providers who participated in interviews were asked to describe victims' experiences of testifying. They reported that the experience varies greatly and depends on several factors such as the type of offence, the individual victim, and the approach taken by Crown Attorneys and defence counsel. Overall, respondents said that testifying in court is a difficult, anxiety-producing, and often terrifying experience for victims. Cross-examination is particularly difficult, especially for child and other vulnerable witnesses; according to victim services providers, some victims feel as though they are the ones on trial. Furthermore, simply seeing the accused again can be extremely stressful for some victims, and many victims are reluctant to discuss their personal experiences in public for fear of being judged. A few victim services providers said that victims do not generally feel supported by the Crown Attorneys and police, which makes their experience testifying all the more difficult.

Overall, respondents said that testifying in court is a difficult, anxiety-producing, and often terrifying experience for victims. Cross-examination is particularly difficult, especially for child and other vulnerable witnesses; according to victim services providers, some victims feel as though they are the ones on trial. Furthermore, simply seeing the accused again can be extremely stressful for some victims, and many victims are reluctant to discuss their personal experiences in public for fear of being judged.

Nevertheless, several victim services providers said that while giving testimony in court is certainly an unpleasant experience for victims, overcoming the challenge of testifying can be empowering and can help victims to feel more secure. For some witnesses, recounting their story is a therapeutic exercise and makes them feel as though they have contributed to the system.

Adequate preparation prior to testifying is regarded as essential by victim services providers, since it helps to minimize victims' fears by demystifying the criminal justice system. Almost three-quarters of victim services providers surveyed reported their organization helps victims prepare to testify in court.²⁷

Adequate preparation prior to testifying is regarded as essential by victim services providers, since it helps to minimize victims' fears by demystifying the criminal justice system.

From the interviews, it was evident that the most common types of assistance included giving courtroom tours or showing victims drawings of the courtroom set-up; explaining the roles of the various actors in the system (judge, Crown Attorney, defence counsel, clerk); and explaining the court process and rules.

Other types of assistance include provision of informational videos and written materials; role-playing; and use of age-appropriate materials such as games, books, and videos to prepare child witnesses. A few respondents indicated that they give victims guidelines on appropriate courtroom behaviour and tips to facilitate their time on the witness stand and make them feel

²⁷ Some victim services providers at large sites reported providing group sessions on court preparation.



more at ease. Although they acknowledged that it is not always possible, a few reported that they also attempt to introduce witnesses to Crown Attorneys beforehand; this helps make witnesses feel more comfortable.

Finally, a few victim services providers specifically noted that they do not discuss any facts or evidence related to the case, since some criminal justice professionals may perceive this as a form of coaching. In any case, they believe that the focus of court preparation should be on providing victims with information about the court system and helping witnesses prepare emotionally for testifying.

In interviews, victim services providers offered various suggestions for additional ways to help victims with testifying. One common suggestion was meetings with Crown Attorneys prior to testifying and follow-up or debriefing sessions with Crown Attorney after testimony is completed. A few suggested that it would be helpful if just one Crown Attorney followed the whole case through; this would establish a rapport between the victim and the Crown Attorney and would contribute to making the victim feel more at ease while testifying, and a few suggested modifying the courthouse and courtroom environment to further facilitate victims' participation in the court process. Separate waiting rooms for victims and witnesses, separate entrances to the courtroom, child-friendly courtrooms, and seating the accused out of view of the witness were among the ideas proposed.

A few victim services providers advocated increased use of testimonial aids; they believe that these protections are not used frequently enough, particularly in cases of domestic violence and cases involving children. Finally, a few victim services providers indicated that providing increased financial support to victims and witnesses who are required to testify would greatly facilitate their participation in the criminal justice system. According to these respondents, many victims absorb with great difficulty the costs associated with transportation, childcare, and unpaid work days.

4.8 Victim Impact Statements

Victim impact statements (VIS) are written statements in which victims can describe the effect of the crime on them and any harm or loss suffered as a result of the crime. The 1999 amendments to the *Criminal Code* allow victims to read their statements aloud during sentencing; require the judge to ask before sentencing whether the victim has been informed of the opportunity to complete a VIS; and permit the judge to adjourn the sentencing, to give the victim time to prepare the statement.

Victims of crime can submit victim impact statements at sentencing and at parole. At parole, the victim can rely on the victim impact statement from sentencing and/or provide another statement to the parole board. The following discussion considers victim impact statements at sentencing and at parole separately.

4.8.1 At Sentencing

Frequency of Submission

Survey respondents were asked whether, based on their experience, victims generally submit victim impact statements to the court. About one-third of victim services providers did not comment on the frequency of victim impact statement submissions. This rather large proportion is largely explained by the fact that about one-third of those surveyed do not assist victims with impact statements; these providers are, therefore, likely to have limited knowledge of victim impact statements.

Criminal justice professionals were divided about the frequency with which victim impact statements are submitted. In most respondent categories (Crown Attorneys, defence counsel, judiciary, police, and probation), a plurality of respondents (ranging from about 40-50%) believe that victims generally submit victim impact statements only in serious cases, such as sexual assault, other violent offences, and certain property crimes. In these respondent categories, about one-third think that victim impact statements are submitted in most cases, and about one-fifth reported that in their experience, victims usually do not submit victim impact statements, regardless of the severity of the offence.

Among victim services providers and advocacy groups who responded to the survey, more believe that victims submit victim impact statements in most cases, than those who think that victims submit the statements only in serious cases. This different perception may be because Crown Attorneys, judges, police, and defence counsel experience a wider range of cases, while victim services providers and advocacy groups tend to be involved in the more serious cases.

The results for frequency of submission of victim impact statements are provided in Table 64. These results include only those respondents who provided an answer to this question.²⁸

TABLE 64: DO VICTIMS USUALLY SUBMIT VICTIM IMPACT STATEMENTS AT SENTENCING?							
BASE: RESPONDENTS WHO PROVIDED A RESPONSE (DON'T KNOW AND NO RESPONSE EXCLUDED).							
	Victim Services (n=195)	Crown Attorneys (n=183)	Defence Counsel (n=174)	Judiciary (n=101)	Police (n=547)	Advocacy Groups (n=38)	Probation (n=88)
Yes, in most cases	48%	32%	38%	33%	34%	42%	34%
Yes, only in serious cases	32%	50%	45%	52%	46%	37%	41%
No	20%	18%	17%	16%	20%	21%	25%
Note: One column does not sum to 100% due to rounding.							

Providing information on impact statements

Related to the issue of whether victims submit victim impact statements is the provision of information to victims about the statements. If awareness is low, submission rates will be correspondingly low. In interviews, a few Crown Attorneys, defence counsel, and victim services

²⁸ Victims' responses are discussed in Section 3.6.



providers questioned whether criminal justice professionals are completely fulfilling their roles concerning victim impact statements when discussing the frequency of submission of these statements. A few Crown Attorneys expressed their belief that victims may not be adequately informed of victim impact statements. Some noted that it is the responsibility of police to inform victims of the opportunity to submit victim impact statements and questioned whether they are routinely doing so.²⁹

In contrast, a few defence counsel who were interviewed ascribe the submission rate to lack of Crown Attorney diligence. According to these defence counsel, Crown Attorneys either do not pursue getting victim impact statements or they receive the statements but do not submit them to the court. The perception among these defence counsel is that Crown Attorneys believe they can more effectively present the victim's interest in sentencing or that they view the victim impact statement as redundant because the judge has already heard the victim's testimony. Statements made by Crown Attorneys at one site support this perception; they reported not always submitting the victim impact statement to the court and, instead, simply telling the court what the victim has experienced.³⁰

Victim services providers were asked if they thought that most victims were made aware of victim impact statements and, if not, what might be done to inform victims of their opportunity to give a statement. While about half (53%) of victim services providers surveyed believe that most victims are made aware of victim impact statements, one-fifth do not. The remaining respondents did not respond (26%).

Victim services providers made several suggestions for how to better inform victims. Most often they believe that victim services should take the primary role in providing information to victims (n=20). Suggestions included: mailing an information package or a fact sheet along with the victim impact statement to all victims (n=16); having all agencies and criminal justice professionals provide information at various stages of the process (n=12); and simply providing more communication and better follow-up with victims (n=13).

In interviews, several victim services providers stressed the importance of using a variety of methods for informing victims (e.g., personal letter, brochure, telephone call, in person visit) and providing follow-up that includes explanations, assistance, and support. A few victim services providers believe that verbal communication facilitates understanding and is therefore the most effective means of informing victims.

When asked what would be the best time to inform victims about victim impact statements, victim services providers who were surveyed suggested many different points during the process, including as soon as possible after the offence (52%), after someone is arrested and charged (46%), and just before the trial is scheduled (26%). However, among victim services providers interviewed, depending on the nature of the offence, there was general agreement that victims may be too traumatized to absorb information if it is provided too soon after the crime. For this

²⁹ In some provinces, the police provide the victim with the form for completing a victim impact statement and advise them of where to send it. However, the procedure varies from province to province.

³⁰ The procedure for victim impact statements is governed by a provincially designated program, and there are some variations in the procedure among provinces.

reason, they said that while the information should be provided as soon as possible, several reminders should be given throughout the victims' involvement with the criminal justice system. Table 65 provides respondents' opinions on best times to inform victims about victim impact statements for use at sentencing.

TABLE 65: BEST TIMES TO INFORM VICTIMS ABOUT VICTIM IMPACT STATEMENTS FOR USE AT SENTENCING	
	Victim services (N=318)
As soon as possible after the crime	52%
After someone is arrested and charged	46%
Just before the trial is scheduled	26%
Reminders throughout the process	6%
After a finding of guilt	6%
When victim is ready	6%
Other	4%
Don't know	2%
No response	2%

Note: Respondents could provide more than one response; total sums to more than 100%.

Assistance in Preparation

Victim services providers were asked if they assist victims with victim impact statements and, if so, what types of assistance they provide. Over 90% of those surveyed said that they explain the kinds of information that can be included in victim impact statements and give general instructions on how to complete them. Over half of the victim services providers said that they assist in preparation of statements by helping victims formulate their thoughts. Around two-thirds help victims complete the statement by taking notes as the victim speaks about the crime or by reviewing the statement completed by the victim. In interviews, several victim services providers further explained that assisting victims with their statements is often done to address literacy or other special needs.

Several victim services providers who were interviewed reiterated that they give advice on what to include in the statement and also explain to victims how the impact of crime may be manifested. A few mentioned that victims often do not recognize the effects of the trauma they have experienced. Several victim services providers explained that although they assist victims with expressing their feelings, they try to keep the victim impact statement in the victim's own words. A few, however, indicated that they do not provide any suggestions of what to include, nor do they help victims formulate their thoughts; they will only write down word-for-word what the victim says so as to prevent influencing the statement. Table 66 presents the types of assistance victim services providers offer for victim impact statements.



TABLE 66:
WHAT TYPES OF ASSISTANCE DO YOU PROVIDE FOR VICTIM IMPACT STATEMENTS AT SENTENCING?
BASE: RESPONDENTS WHO ASSIST VICTIMS WITH VICTIM IMPACT STATEMENTS

	Victim services (n=184)
Explaining kinds of information that can be included in statements	92%
Explaining instructions on how to complete victim impact statements	91%
Providing forms for victim impact statements	82%
Informing victims where to send completed statements	80%
Informing where forms can be obtained	76%
Helping complete the statement (write down what victim says)	65%
Reviewing completed statements	63%
Helping draft statement (assist victim with formulating his or her thoughts)	56%
Collecting completed statements	51%
Submitting completed statements to Crown Attorneys	50%
Other	11%

Note: Respondents could provide more than one response; total sums to more than 100%.
 Respondents who gave no response are not included in this table.

Method of Submission

Many victim services providers surveyed are not directly involved in the submission of victim impact statements and could not respond to the survey question about the most common method of submission. However, 194 were able to respond and were generally in agreement with the other professions that answered.

Of the 666 respondents with sufficient experience to respond, close to 80% or more of Crown Attorneys, defence counsel, judges, and victim services providers agreed that victim impact statements are usually submitted in writing only. About one-fifth of survey respondents reported that Crown Attorneys read the statement. More victim services providers perceive that victims most commonly read their statement in court than do Crown Attorneys, judges, and defence counsel (18% compared to 5%, 7%, and 2%, respectively).³¹ Table 67 provides the survey results of those respondents who were able to answer this question.

TABLE 67:
WHAT ARE THE MOST COMMON METHODS OF SUBMITTING A VICTIM IMPACT STATEMENT AT SENTENCING?
BASE: RESPONDENTS WHO PROVIDED A RESPONSE (DON'T KNOW AND NO RESPONSE EXCLUDED)

	Victim Services (n=194)	Crown Attorneys (n=184)	Defence Counsel (n=180)	Judiciary (n=108)
Written statement only	82%	90%	79%	87%
Victim reads statement	18%	5%	2%	7%
Crown Attorney reads statement	16%	21%	18%	16%
Other	2%	3%	4%	--

Note: Respondents could provide more than one response; totals sum to more than 100%.

³¹ A few victim services providers in one large site did not think that victims had the option of reading the victim impact statement in court.

According to those interviewed, it is more common for the Crown Attorney or the judge to reference the victim impact statement than for the statement to be read in court. With only one exception, all Crown Attorneys said that victims rarely express a desire to read their statements in court; the victim reading his or her statement is apparently more common in very serious cases involving violence against the person. However, while few victims choose to read their statements, victim services providers commented that many of these victims believe that this is the only way for them to be heard.

Timing of Submission

When to submit victim impact statements produced conflicting views among Crown Attorneys. Early receipt of the statement ensures that it is considered during plea negotiations; however, the requirement of disclosing the victim impact statement to the defence counsel before trial puts the victim at risk of being cross-examined on the statement. Because of these competing concerns, Crown Attorneys were divided when asked about the best time for them to receive victim impact statements. Half (50%) of those surveyed prefer to receive victim impact statements as soon as possible (i.e., as soon as they receive the file or before beginning plea negotiations), and 44% think that it is better to receive them only after a finding of guilt.

Crown Attorneys who hold the former view said in interviews that victim impact statements assist them in preparing cases and negotiating pleas. These Crown Attorneys do not regard as problematic the obligation to disclose victim impact statements to defence counsel; on the contrary, they are of the view that such disclosure assists in the negotiation of a plea. Several of these Crown Attorneys also pointed out that having the victim impact statement early in the case helps to ensure that the contents of the statement will not damage the case. These Crown Attorneys disagree with the current *Criminal Code* provision stating that victim impact statements shall be submitted after a finding of guilt. They argued that this provision obliges Crown Attorneys and defence counsel to make decisions on possible plea agreements without full knowledge and creates the potential for victim impact statements to contain information that differs from or contradicts the evidence presented at trial. If the information contained in the victim impact statement supports a lesser or a more serious charge after a conviction or guilty plea has already been entered, the court faces a dilemma.

While they were not asked directly about this issue in their interviews, several victim services providers also commented on a problem encountered by victims if they wait too long before submitting a victim impact statement. According to these interviewees, there are times when the conviction and sentencing happen too quickly for victims to submit a victim impact statement to the court. However, several Crown Attorneys noted in interviews that there is no point in receiving the statement early because it may not be necessary (e.g., in the event that there is a stay or an acquittal). A few Crown Attorneys made the point that submitting the statement after a finding of guilt helps to ensure that it will be relevant and up to date at the time of sentencing and will not need to be revised. In addition, taking more time allows for a more complete statement.

While these timing issues raise important concerns, the submission of victim impact statements is not treated uniformly across the sites, and victims often receive little information about the pros and cons of early submission. In some sites, the victim either submits his or her statement



directly to the court registry or to victim services who, in turn, provides it to the court. With these methods, the Crown Attorney, defence counsel, and the judge all receive the victim impact statement after the finding of guilt. In other sites, the Crown Attorney receives the victim impact statement earlier because the instructions to victims included with the victim impact statement form advise them to submit the statement right away and/or the forms are sent with a return envelope addressed to the Crown Attorney. In these jurisdictions, unless victims seek assistance, they will not receive full information on the best time to submit a victim impact statement.

Cross-examination of Victim

Defence counsel can cross-examine victims on their victim impact statements both at trial (if the statement is received before a finding of guilt) and at sentencing. The survey results in Table 68 show that about one-quarter of Crown Attorneys, one-fifth of defence counsel, and one-tenth of judges have been involved in a case where the victim was cross-examined on his or her impact statement at trial or at sentencing. In some sites, the possibility of cross-examining the victim on the victim impact statement at trial is forestalled because the Crown Attorney, court, and defence counsel only receive the statement after a finding of guilt.

TABLE 68: HAVE YOU EVER HAD A CASE WHERE THE DEFENCE COUNSEL OR THE ACCUSED CROSS-EXAMINED THE VICTIM ON THEIR VICTIM IMPACT STATEMENT?			
	Crown Attorneys (N=188)	Defence Counsel (N=185)	Judiciary (N=110)
<i>At trial</i>			
Yes	24%	20%	12%
No	71%	71%	80%
Don't know	3%	4%	3%
No response	3%	5%	6%
<i>At sentencing</i>			
Yes	26%	23%	10%
No	65%	70%	80%
Don't know	6%	3%	5%
No response	3%	5%	6%
Note: Respondents could provide only one response. Some totals sum to more than 100% due to rounding.			

In interviews, Crown Attorneys commented that cross-examination on victim impact statements is quite rare. It occurs because the contents of the statement differ from the evidence presented at trial or because the defence counsel is sceptical about a victim's claims of ongoing effects or injuries. Surveyed defence counsel and judges concurred. The few defence counsel who reported cross-examining the victim said that they did so either to contest inappropriate or irrelevant material (e.g., prior, unrelated history with the accused) or to test the victim's credibility, in part because of inconsistencies between the victim impact statement and the victim's earlier statements. Judges also cited the inclusion of contradictory facts or facts not in evidence as some of the few instances where they would allow cross-examination on a victim impact statement.

In interviews, defence counsel and Crown Attorneys said that cross-examination of the victim is so infrequent because they usually can agree to excise prejudicial information or other inadmissible material before submitting the victim impact statement to the court. Several defence counsel also said that they rely on the judge either to intervene and refuse the victim impact

statement or to disregard the irrelevant portions. A few defence counsel mentioned that while they had not cross-examined the victim on the impact statement, they did argue the impact statement during sentencing and question its claims.

Judicial Use of Victim Impact Statements

As mentioned above, under the 1999 amendments to the *Criminal Code*, judges must inquire before sentencing whether the victim has been advised of the opportunity to prepare a victim impact statement and can adjourn the sentencing hearing to allow a victim to be informed and prepare an impact statement. Among the judges surveyed, in cases where no victim impact statement is submitted, one-third (32%) always make this inquiry, and one-fifth (19%) usually do. However, the remaining half said that they sometimes (17%), rarely (16%), or never (14%) ask whether the victim has been informed. Over one-third (36%) of judges reported that they have adjourned a sentencing hearing to permit the victim to be informed.³²

The Crown Attorney survey corresponds to these results with one-third (30%) of Crown Attorneys reporting that in cases where no victim impact statement is submitted, judges generally ask whether the victim has been informed about impact statements. However, Crown Attorneys also reported that, when no victim impact statement is submitted, they often do not contact the victim about whether he or she wants to submit a victim impact statement. Less than one-tenth (7%) reported that they always contact the victim and one-fifth (19%) said that they usually do.

When victim impact statements are submitted, judges have discretion to disallow parts of the statements. When asked if they have had to disallow parts of victim impact statements, close to half (44%) of judges surveyed said that they have. The most common reasons given for disallowing part of an impact statement included: the statement contained irrelevant or inappropriate content; the statement contained the victim's views on sentencing; and the statement gave a different version of the offence. In interviews, judges said that rather than disallow portions of the impact statement, they usually just disregard the inappropriate sections.

Under the *Criminal Code*, judges must consider victim impact statements at the time of sentencing. Eighty-six percent of Crown Attorneys surveyed reported that they remind judges to consider victim impact statements in cases where a statement is submitted. Similarly, 82% of judges reported that they use victim impact statements in determining the sentence. About two-thirds of surveyed judges provided further comments about their use of victim impact statements. The most common reflections were that victim impact statements are considered like all other relevant information and that judges use them to help determine the length of sentence and the severity of the offence. However, judges also noted in interviews that the use of victim impact statements is carefully circumscribed; while victim impact statements can provide relevant

³² In interviews, one or two judges said that rather than adjourning, they will sometimes ask victims who are in court at the sentencing hearing if they wish to say anything about the impact of the crime at that time. If the victim is prepared to speak to the court, these judges prefer to solicit the victim's input in this way, rather than delaying the process by adjourning.



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*.

In interviews, Crown Attorneys expressed the belief that victim impact statements have a limited impact on sentencing. Although they believe that judges consider the statements, they also think that judges do not and should not base their sentencing decisions on them (the few Crown Attorneys who argued that victim impact statements should play a more prominent role in sentencing decisions were a distinct minority). Crown Attorneys pointed out that the victim impact statement is one of numerous factors that judges must consider when determining a sentence. Furthermore, judges must remain objective and fair and must impose sentences that are consistent with the *Criminal Code* and case law.

Obstacles to the Use of Victim Impact Statements

The different categories of criminal justice professionals had very different survey responses to whether there are obstacles or problems with victim impact statements. (Please note that the question asked of defence counsel was slightly different, but similar, to the question asked of Crown Attorneys and victim services: "Are there any problems with the use of victim impact statements?" for defence counsel compared to "Are there any obstacles to the use of victim impact statements?") Defence counsel perceived the most difficulties, with 80% of defence counsel surveyed reporting problems with victim impact statements. As shown in Table 69 below, about half of Crown Attorneys (48%), one-third (30%) of victim services providers, and one-fifth (19%) of police also believe that there are obstacles to the use of victim impact statements. Over a third of victim services providers and police could not provide an answer.

TABLE 69: ARE THERE OBSTACLES OR PROBLEMS WITH THE USE OF VICTIM IMPACT STATEMENTS?				
	Victim services (N=318)	Crown Attorneys (N=188)	Defence Counsel (N=185)	Police (N=686)
Yes	30%	48%	80%	19%
No	22%	43%	14%	45%
Don't know	43%	6%	6%	36%
No response	5%	3%	1%	1%

Note: Respondents could provide more than one response; totals sum to more than 100%.

Crown Attorneys, defence counsel, victim services providers, and police were asked to explain why they believe there are obstacles to or problems with the use of victim impact statements. Table 70 shows the main reasons cited; and the results are discussed in more detail below.

TABLE 70:
OBSTACLES OR PROBLEMS WITH VICTIM IMPACT STATEMENTS
BASE: RESPONDENTS WHO BELIEVE THERE ARE OBSTACLES OR PROBLEMS WITH VICTIM IMPACT STATEMENTS

Main Reasons Cited:	Victim Services (n=105)	Crown Attorneys (n=90)	Defence Counsel (n=147)	Police (n=128)
Inappropriate or irrelevant material	--	43%	31%	--
Contain inflammatory or prejudicial claims	--	--	18%	--
Inject emotion into the process	--	--	13%	--
Difficulties preparing statement or insufficient assistance	32%	--	--	--
Lack of awareness or information	17%	--	--	2%
Defence counsel objections or cross-examination	16%	18%	--	21%
Difficult to challenge	--	--	10%	--
Contradict previous statement	--	--	8%	--
Delays in court proceedings	--	11%	3%	--
Literacy or language barriers	30%	10%	--	16%
Victim disinterest or fear or reluctance on part of victim	5%	6%	--	13%
Time constraints	16%	7%	--	21%
Detracts from sentencing guidelines	--	--	14%	--
Victims are coached	--	--	5%	--
Are given too much weight in sentencing	--	--	3%	--
Perception that is not considered	8%	--	--	12%
Crown Attorney or judicial reluctance	10%	--	--	8%
Lack of awareness by criminal justice professionals	--	--	--	4%
Other	12%	13%	13%	6%
No response	--	4%	5%	9%

While respondents to the victim services and police surveys did not mention this issue, for Crown Attorneys and defence counsel (43% and 31 %, respectively), the biggest obstacle or problem is the inclusion of inappropriate or irrelevant material. In interviews, several Crown Attorneys and defence counsel observed that rather than restricting themselves to a description of the impact of the crime, victims frequently include a recitation of the facts of the case; refer to the offender's alleged involvement in other criminal activities; or offer their views on sentencing. In their survey responses, defence counsel also mentioned several other concerns involving the information contained in victim impact statements. According to one-fifth of defence counsel, victim impact statements can contain inflammatory claims that introduce bias into the process (18%). One-tenth of defence counsel also noted that victim impact statements sometimes contain new information or information that contradicts the evidence presented in court.

An issue related to the inclusion of inappropriate information is the need to disclose the victim impact statement to defence counsel. This creates the possibility of defence counsel objections to the victim impact statement or cross-examination on the statement either at trial or sentencing. For Crown Attorneys (18%), victim services providers (16%), and police (21 %) this was an important obstacle, leading to victims or Crown Attorneys not submitting victim impact statements. In interviews, 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. Several Crown Attorneys said that they do not use the victim impact statement if the claims contained in it are improbable or the victim is not credible.

Victim services providers felt that the disclosure of the victim impact statement to the defence counsel may prevent victims from submitting a statement for fear of being questioned on its content. For defence counsel, the issue is not their objections to victim impact statements; rather, they reported feeling limited in the action they can take because challenging victim impact statements is viewed so negatively.

To victim services providers, the biggest obstacles to victim impact statements are difficulties with preparing the statement (32%) and literacy or language barriers (30%). In interviews, victim services providers commented on the lack of guidance and information on victim impact statements to both victims and criminal justice professionals as an important obstacle. This lack of guidance includes the applicable *Criminal Code* provisions, which victim services providers believe do not clearly describe and, in fact, overly restrict the information victims can include in their victim impact statements. For example, in cases where the charges are reduced or in cases of domestic violence, victims find it challenging not to speak of incidents beyond the offence for which the accused is being sentenced. Rather than seeing the legislation as unclear or overly restrictive, a few Crown Attorneys and defence counsel commented in their interviews that some victims do not appear to understand the purpose of the victim impact statements. They attribute this either to possible literacy or language issues (Crown Attorneys) or to the lack of assistance in explaining and reviewing the statements (Crown Attorneys and defence counsel).

With respect to literacy issues, victim services providers indicated in interviews that many victims have difficulties reading and writing, and these problems are not easily detected because many victims are too embarrassed to mention problems with literacy.

A few suggested that victim service providers be more proactive in giving victims options that could address any literacy issues, such as videotaped impact statements.

A few Crown Attorneys also mentioned literacy and language barriers in both the survey and interviews.

Other obstacles to the use of victim impact statements mentioned by respondents to the victim services survey included: the lack of awareness of victim impact statements (17%); time constraints such that victims do not always have enough time to complete the statement (this occurs most often in cases where a plea is quickly agreed to) (16%); Crown Attorney or judicial reluctance to consider victim impact statements (10%); the perception of victims that the statements are not considered (8%); and victim fear or reluctance (5%). A smaller number of Crown Attorneys surveyed mentioned time constraints as an obstacle (7%). Instead, other obstacles receiving more mention by Crown Attorneys are delays in the court proceedings caused by adjournments needed to inform victims about victim impact statements (11 %) and victim disinterest in submitting a statement (6%). For defence counsel, other difficulties are that victim impact statements may cause judges to deviate from sentencing guidelines (14%), that the impact statements inappropriately inject emotions into the criminal justice process (13%), and that they are difficult to challenge (10%).

Benefits

In interviews, victim services providers were asked to comment on the benefits of victim impact statements. The most cited benefit was that victim impact statements allow victims to express themselves. Through the statement, they can make both the judge and offender aware of the crime's effect on them. Several victim services providers mentioned the importance of the victim having the opportunity to address the judge because the victim impact statement renders victims' experiences more real for judges. Several victim services providers also stated that victims feel acknowledged and considered after having submitted the victim impact statement.

Another benefit to submitting a victim impact statement cited by several of the victim services providers interviewed is that it provides victims with a sense of closure; it is therapeutic for victims to write down their feelings and thoughts on the crime and its impacts. A few believe that submitting the victim impact statement allows victims to regain power and control. In addition, they indicated that submitting a victim impact statement makes many victims feel as though they contributed and provided input into the criminal justice system.

Several victim services providers believe that reading the victim impact statement in court has unique benefits for victims. Most commonly, respondents indicated that this method of submission has a greater impact on the court and the offender. Reading the victim impact statement makes it more powerful by publicly acknowledging the victimization. A few victim services providers believe that when a victim reads his or her statement, he or she is further empowered and gains increased control.

The decision to read a victim impact statement in court is very personal; respondents said that many victims are incapable of reading their statement because the court process intimidates them. For other victims, having their emotions exposed publicly leads to feelings of increased vulnerability. A few victim services providers expressed the concern that victims who are able to read their statements receive more attention and are given more of a voice in the system than those who do not desire to read them.

Finally, a few victim services providers believe that most children have not recovered enough to prepare a victim impact statement. According to these providers, many children feel that their privacy is violated because the contents of their statement are available to the accused, the defence counsel, and the public.

4.8.2 At Parole

Frequency of Submission

Very few of the victim services providers or advocacy groups surveyed could comment on the frequency of victim impact statement submission at parole hearings; 76% of victim services providers and 57% of advocacy groups surveyed did not provide an answer. Opinion was split among those who did respond, particularly among victim services providers who were evenly divided among those who believe that impact statements are usually submitted only in serious cases (8%), in most cases (9%), or not at all (8%). Most advocacy group respondents (26%)



believe that victims submit statements only in serious cases; 15% said that victims usually do not submit statements; and 2% said that they do in most cases.

As mentioned earlier, at parole, the victim can rely on the victim impact statement from sentencing and/or provide another statement to the parole board. Provincial parole board and NPB respondents were asked whether victim impact statements submitted at trial are always provided to the parole board. Less than one-quarter of national (24%) and provincial (18%) parole board respondents reported that they are. National and provincial parole board respondents were asked who provides the parole board with victim impact statements. They reported receiving the impact statements from a variety of sources: most often the victim (39% of NPB and 18% of provincial respondents); the court (33% of NPB and 18% of provincial respondents); the Crown Attorney (33% of NPB and 9% of provincial respondents); or CSC or parole officers (37% of NPB and 23% of provincial respondents).

Assistance with Victim Impact Statements

One way to assist victims with impact statements is to ensure that they know of their opportunity to submit one. Most victim services providers did not know whether victims are made aware of victim impact statements at the parole stage (57%). Of those who could provide an answer, two-thirds (63%) believe that victims are not aware.

As discussed above in Section 4.3 (Services for victims), about one-quarter (27%) of provincial parole board and half (44%) of NPB respondents assist victims in preparing victim statements at parole. In addition, just over one-tenth (13%) of victim services providers surveyed assist victims with statements at parole. These victim services providers offer all types of assistance, as shown in Table 71.

TABLE 71: WHAT TYPES OF ASSISTANCE DO YOU PROVIDE FOR VICTIM IMPACT STATEMENTS AT PAROLE? BASE: RESPONDENTS WHO ASSIST VICTIMS WITH VICTIM IMPACT STATEMENTS	
	Victim services (n=185)
Explaining kinds of information that can be included in statements	12%
Informing where forms can be obtained	12%
Helping draft statement (assist victim with formulating his or her thoughts)	12%
Explaining instructions on how to complete victim impact statements	11%
Informing victims where to send completed statements	11%
Helping complete the statement (write down what victim says)	11%
Reviewing completed statements	11%
Provide forms for victim impact statements	10%
Collecting completed statements	8%
Submitting completed statements	6%
Other	2%
Note: Respondents could provide more than one response; total sums to more than 100%. Respondents who gave no response are not included in this table.	

Method of Submission

As with victim impact statements at sentencing, most victims provide a written statement at parole. Videotape or audiotape statements appear to be used more by provincial parole boards than by the NPB. Table 72 gives the complete results.

TABLE 72: MOST COMMON METHODS OF SUBMITTING A VICTIM IMPACT STATEMENT AT PAROLE BASE: RESPONDENTS WHO PROVIDED A RESPONSE (DON'T KNOW AND NO RESPONSE EXCLUDED)			
	Victim services (n=67)	NPB (n=84)	Provincial parole board (n=22)
Written statement only	69%	87%	86%
Victim reads statement	25%	11%	5%
Videotape or audiotape	13%	1%	18%
Other	8%	--	18%

Note: Respondents could provide more than one response; totals sum to more than 100%.

Parole Board Use of Victim Statements

As shown in Table 73, most national and provincial parole board respondents reported that they consider the following in their conditional release decisions: victim impact statements at sentencing, formal victim statements submitted to the parole board, and any other new or additional information provided by the victim in their conditional release decisions.

TABLE 73: DOES THE PAROLE BOARD USE THE FOLLOWING INFORMATION IN MAKING CONDITIONAL RELEASE DECISIONS?		
<i>Percentage who use the following information:</i>	NPB (N=85)	Provincial parole board (N=22)
Victim impact statements used at trial	89%	73%
Formal victim statements to parole board	93%	82%
New or additional information provided by the victim	92%	86%

Note: Respondents who gave no response are not included in this table.

When asked to explain how they use this information, NPB respondents reported using it in a variety of ways, most commonly: in risk assessment and evaluation (47%); in determining conditions (28%); in measuring the impact of the crime on the victim (24%); and in assessing the offender's progress (15%). The majority (55%) of provincial parole board respondents stated that the victim information is just one factor they consider.

4.9 Restitution

Restitution requires the offender to compensate the victim for any monetary loss or any quantifiable damage to, or loss, of property. The court can order restitution as a condition of probation, where probation is the appropriate sentence; or as an additional sentence (a stand-alone restitution order), which allows the victim to file the order in civil court and enforce it civilly if not paid. The following discussion of restitution considers the current use of restitution



from the perspective of Crown Attorneys, defence counsel, and judges, difficulties with enforcement, and obstacles to requesting restitution.

4.9.1 Use of Restitution

When asked if they generally request that restitution be paid to a victim, when appropriate, most Crown Attorneys (89%) reported that they do, and a majority (59%) of judges surveyed concurred.³³ In interviews, judges who reported that Crown Attorneys do not usually request restitution in appropriate cases suggested that the time available to follow up with the victim to obtain the necessary information is often insufficient, particularly if there is an early guilty plea. In addition, several judges observed that it is often difficult to ascertain the monetary value of the loss suffered by the victim.

To determine views on when restitution should be requested, Crown Attorneys were asked what considerations motivate their decision to request restitution, and judges were asked when, in their view, restitution is appropriate. According to results from the survey of Crown Attorneys, the Crown Attorney's decision to request restitution is motivated primarily by the ability to quantify the losses (86%), but also by the victim's desire for restitution (64%) and by the offender's ability to pay (55%). In interviews, several Crown Attorneys observed that there is little point in requesting restitution if the offender has no income or is going to be incarcerated; although several said that they do not always know the offender's financial situation and therefore request restitution in all cases where the losses are quantifiable. Surveyed judges take a slightly different view from the Crown Attorney of when restitution is appropriate. While roughly the same proportion agree that damages must be quantifiable (87%), and the offender must be able to pay (61%), judges place less emphasis on the victim's desire for restitution (32%).

In interviews, defence counsel said that requests for restitution are rarely contentious when they are reasonable (i.e., the amount of loss is determinable, and the offender caused the loss and has the means to pay). Over three-quarters of defence counsel surveyed reported that they agree to reasonable requests for restitution (78%) and that judges also generally grant them (80%). In interviews, those defence counsel who generally object to requests for restitution listed the following reasons: the role of the criminal justice system is not to compensate victims; restitution is easily abused; offenders often do not have the ability to pay; and it is difficult to assess the value of claimed damages. When asked if they generally offer restitution to mitigate the sentence, three-quarters (76%) of defence counsel surveyed said that they do, with 15% reporting that they do not usually make this offer.

The use of restitution among Crown Attorneys and defence counsel is shown in Table 74.

³³ Judges were asked, "Does the Crown usually request restitution as part of the sentence, when appropriate?"

TABLE 74: USE OF RESTITUTION		
	Crown Attorneys (N=188) <i>Do you generally request, when appropriate, that restitution be paid?</i>	Defence Counsel (N=185) <i>Do you generally agree to requests for restitution?</i>
Yes	89%	78%
No	9%	20%
No response	2%	2%

Two-thirds (68%) of Crown Attorneys reported that judges usually grant requests for restitution. In interviews, they prefaced this response with the proviso that judges usually grant restitution when the offender has the ability to pay, although the judge sometimes reduces the amount in consideration of the offender's circumstances. A majority (59%) of probation officers also reported that restitution is usually ordered as a condition of probation in appropriate cases.

4.9.2 Problems with Enforcement

When asked if they think that restitution enforcement is a concern or a problem, two-thirds (62%) of probation officers and half of Crown Attorneys (53%) reported that they do; compared to one-third (34%) of defence counsel. A sizeable proportion of defence counsel (30%) could not comment because they are not involved in enforcement of restitution orders.

The survey asked these respondents to explain why they consider restitution enforcement to be a concern or a problem. The results are presented in Table 75 below. Crown Attorneys, defence counsel, and probation officers gave several reasons for the difficulties with enforcement. The most common reason given by all three groups (one-fifth of Crown Attorneys, one-half of defence counsel, and one-third of probation officers) is that restitution orders are made in cases where the accused is not able to pay.

About one-fifth of Crown Attorneys (20%) and defence counsel (16%) also pointed to insufficient resources for enforcement, although no probation officers noted a lack of resources. This was further commented on in interviews. Defence counsel said that when restitution is part of probation orders, enforcement is not given priority because it is simply not worth it; enforcement requires a significant expenditure of resources to collect relatively small amounts of money. Likewise, Crown Attorneys intimated that not much effort is made, stating that payment does not often occur because the criminal justice system is not a collection agency. In their survey responses, Crown Attorneys and probation officers also pointed to the difficulty of convicting an offender on a breach of probation as an obstacle to enforcement (13% and 18%, respectively). While in theory, offenders can be charged with a breach of probation for failing to abide by their restitution order, such charges are rare because the Crown Attorney must prove that the offender wilfully broke the order. Even if the offender is charged with a breach, the typical consequence is a small fine much lower in value than the restitution order itself.

The other option is a stand-alone restitution order, where the victim has recourse to the civil courts to enforce payment. A small number of Crown Attorneys (19%), defence counsel (8%), and probation officers (4%) all noted that the problem with this method of enforcement is that it



requires the victim to engage in a difficult legal process and bear all the costs of enforcement. In interviews, Crown Attorneys pointed out that this is not a realistic option for many victims of crime. Table 75 provides the complete results.

TABLE 75: WHY IS RESTITUTION ENFORCEMENT A CONCERN OR A PROBLEM? BASE: RESPONDENTS WHO BELIEVE THAT RESTITUTION ENFORCEMENT IS A PROBLEM			
Reasons:	Crown Attorneys (n=100)	Defence Counsel (n=62)	Probation (n=128)
Accused are unable to pay	22%	47%	30%
Insufficient resources for enforcement	20%	16%	--
Civil enforcement difficult or victim responsibility	19%	8%	4%
Difficult to convict on breach of order	13%	--	18%
No penalty for failure to pay	6%	--	9%
Restitution usually not made unless paid at sentencing	--	13%	--
Probation is not involved	--	--	26%
Other	6%	11%	7%
No response	22%	10%	--

Note: Respondents could provide more than one response; totals sum to more than 100%.

4.9.3 Obstacles to Requesting Restitution

Victim services providers surveyed were split on the issue of whether victims usually request restitution. One-fifth believe that eligible victims usually request restitution (20%), and one-third disagree (33%). The remaining respondents did not have enough direct experience to comment (47%). In interviews, victim services providers stated that it depended on the offence. Several victim services providers indicated that restitution was not applicable to certain cases such as domestic violence and was more often requested in cases involving property crimes.

About one-third (30%) of victim services providers and 40% of advocacy groups surveyed said that obstacles exist to the use of restitution. As shown in Table 76, the most common obstacle mentioned by these victim services providers and advocacy groups was the offender's inability to pay (34% and 32%, respectively). However, unlike Crown Attorneys or defence counsel (discussed above), victim services providers mentioned lack of awareness and knowledge of restitution as an important obstacle (31%). In interviews, victim services providers noted that if victims do not request restitution, Crown Attorneys and judges do not take the initiative and raise the possibility of restitution.

In addition, 16% of victim service providers surveyed believe that the process is too complex and costly for the victim. Both victim services providers (14%) and advocacy groups (21%) noted that the onus of collecting the payment is on the victims who must enter into civil proceedings to have the order enforced. One-tenth of victim services respondents indicated that the complexity of collecting payment from a restitution order results in many victims giving up or not even requesting restitution.

As well, about one-tenth of victim services providers surveyed believe that Crown Attorney or court reluctance creates an obstacle to the use of restitution. In interviews, a few reported that

Crown Attorneys do not recommend restitution in cases of sexual assault,³⁴ and indicated the need to educate criminal justice professionals on restitution and the financial consequences to victims of all types of crimes. Table 76 lists the obstacles to restitution described by respondents.

TABLE 76: WHAT ARE THE OBSTACLES TO THE USE OF RESTITUTION? BASE: RESPONDENTS WHO BELIEVE THAT THERE ARE OBSTACLES TO THE USE OF RESTITUTION		
Obstacles:	Victim Services (n=94)	Advocacy Groups (n=19)
Accused usually poor or unable to pay	34%	32%
Victims lack information about restitution or unaware of option	31%	--
Victim must pay the cost of enforcement	16%	--
No enforcement	14%	21%
Cumbersome application process	10%	--
Judicial or Crown Attorney reluctance to order or request	9%	--
Eligibility criteria too restrictive	7%	11%
Does not compensate victim adequately	--	21%
Other	11%	26%

Note: Respondents could provide more than one response; totals sum to more than 100%.

In interviews, when asked how to address the obstacles to requesting restitution, several victim services providers offered suggestions. Most commonly, they suggested measures such as garnishing offenders' wages or removing certain privileges as a means of enforcement. Several others suggested that victims should receive support from the criminal courts for enforcing the orders, and a few believe that restitution should not be used as a stand-alone order but that it should be part of a probation order that allows the criminal court to maintain jurisdiction over its enforcement.

4.10 Victim Surcharge

The victim surcharge is a penalty 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. It is imposed on the offender at sentencing and used by provincial and territorial governments to fund services for victims of crime. The 1999 amendments to the *Criminal Code* made the surcharge automatic in all cases except where the offender has requested a waiver and demonstrated that paying the surcharge would cause undue hardship.

The following discussion considers the issue of waiving the surcharge - both the frequency of waiver and whether waivers generally occur without an application by the defence.

4.10.1 Frequency of Waiver

While over half (58%) of judges surveyed reported that they generally apply the victim surcharge, over a third do not (37%).³⁵ When those who do not generally apply the surcharge were asked to explain, they reported that they do not apply the surcharge largely because the offender does not have the ability to pay (62%), although a few judges viewed the surcharge as

³⁴ Restitution is only applicable for damages that are easily quantifiable by the criminal court.

³⁵ The remaining 5% of judges did not respond to the question.



inappropriate (6%) or questioned whether the funds are used to assist victims (5%). A third (31%) of judges reported varying from the minimum surcharge. Of those, a few (3%) reported that they raised the surcharge; however most of the variances were to waive or lower it.

Victim services providers who were surveyed have a wide range of experience, but many could not answer the question on the victim surcharge. Those who did not respond are excluded from the results in order to give a more accurate depiction of whether victim services providers think that the surcharge is waived too often. Crown Attorneys, defence counsel, and advocacy group respondents who did not answer were also excluded from the results for reasons of consistency in handling the data. Of those who provided an answer, approximately two-thirds of victim services providers and Crown Attorneys agreed that the victim surcharge is waived more often than it should be. In contrast, 11% of defence counsel believe that the surcharge is waived too often. Table 77 provides the results for those who could respond to this issue.

TABLE 77:
IS THE VICTIM SURCHARGE WAIVED MORE OFTEN THAN IT SHOULD BE?
BASE: RESPONDENTS WHO PROVIDED A RESPONSE (DON'T KNOW AND NO RESPONSE EXCLUDED)

	Victim Services (n=82)	Crown Attorneys (n=161)	Defence Counsel (n=170)	Advocacy Groups (n=15)
Yes	66%	70%	11%	47%
No	34%	30%	89%	53%

Those interviewed (Crown Attorneys, victim services providers, and defence counsel) attributed the frequent waiver of the surcharge to judicial attitudes. According to several Crown Attorneys interviewed, the surcharge is not seen as an integral part of the criminal justice system, and, therefore, judges are quite prepared to waive it.³⁶ Crown Attorneys and victim services providers believe that virtually any reason appears to constitute a sufficient ground to waive the surcharge, even though the surcharge amount is so small that only in extraordinary circumstances should the offender be considered unable to pay it. Several victim services providers said that judges often accept defence counsel requests to waive the surcharge without requiring evidence of the offender's financial situation. They believe that judges do not understand the importance and usefulness of the surcharge. In addition, they found that the surcharge is rarely imposed in certain kinds of cases, such as sexual assault and domestic violence. Defence counsel who believe that the surcharge is waived too often said that they found a judicial reluctance to place too high a monetary penalty on offenders.³⁷

In contrast, those interviewed who believe that judges waive the surcharge appropriately said that waivers occur when its imposition would cause the offender undue hardship, such as when the offender has no independent means of financial support, when the victim and the offender are in the same family unit, or when the offender is going to be incarcerated. They believe that judges appropriately consider the circumstances of the offender in their decision to waive the surcharge, and they do not see judicial attitudes or judicial dislike of the surcharge as an issue.

³⁶ Crown Attorneys at one large site, where the surcharge is reportedly never applied, said that judges are offended if the Crown even mentions it.

³⁷ A few noted that when a fine is imposed, the victim surcharge is more likely to be waived.

4.10.2 Application for Waiver

Section 737 (5) of the *Criminal Code* requires an application from the offender to waive the surcharge. Most defence counsel surveyed (59%) reported that they do not generally request a waiver, while about one-third (35%) said that they do. In interviews, those who request waivers said that they do so when the offender has no ability to pay (e.g., does not have a job, is on social assistance, is being incarcerated for a long period of time). A majority of defence counsel surveyed (59%) reported that most of the time judges grant their requests for a waiver.

Six percent of surveyed Crown Attorneys generally challenge defence counsel applications to waive the surcharge. In interviews, Crown Attorneys explained that contesting defence counsel applications is very difficult. There is usually no time to challenge the application because things move very quickly at that stage of the proceedings. More importantly, Crown Attorneys said that they rarely have any information or proof to contest the reasons presented by defence counsel as grounds for the waiver.

In addition, Crown Attorneys who were interviewed noted that there is frequently no application to challenge because the judge has waived the surcharge on his or her own initiative. Survey results support this, with a majority of Crown Attorneys (54%) reporting that judges generally waive the surcharge without a defence counsel request. However, only one-quarter of defence counsel (24%) believe that judges waive the surcharge without a request. In interviews, they commented that judges diligently inquire about whether the surcharge should be imposed and generally impose the surcharge automatically unless there is a legitimate request to waive it. A few did note that when judicial waivers occur without explicit defence counsel requests, the judge has already received information about the accused's financial situation and other relevant personal circumstances.

Table 78 provides the Crown Attorney and defence counsel survey results on whether judges generally waive the surcharge without a defence counsel request.

TABLE 78: DO JUDGES GENERALLY WAIVE THE SURCHARGE WITHOUT A DEFENCE COUNSEL REQUEST?		
	Crown Attorneys (N=188)	Defence Counsel (N=185)
Yes	54%	24%
No	33%	64%
Don't know	4%	8%
No response	10%	4%
Note: One column does not sum to 100% due to rounding.		

4.11 Conditional Sentences

The *Criminal Code* permits judges to order that sentences of less than two years' imprisonment be served in the community instead of in jail. Conditional sentences may be imposed only when the court is convinced that the offender poses no threat to public safety. They are accompanied by restrictive conditions that govern the behaviour of the offender and strictly curtail his or her



freedom. The following sections describe the perspectives of criminal justice professionals on the appropriateness and use of conditional sentences.

4.11.1 Cases appropriate for conditional sentences

Across all respondent categories, there is widespread agreement that conditional sentences are appropriate in non-violent offences. Defence counsel are much more likely than the other respondent groups to think that conditional sentences are appropriate in all offences, in family violence offences, and in offences against the person. See Table 79 for the details.

TABLE 79: IN WHAT CIRCUMSTANCES IS A CONDITIONAL SENTENCE APPROPRIATE?				
	Victim Services (N=318)	Crown Attorneys (N=188)	Defence Counsel (N=185)	Advocacy Groups (N=47)
All offences	6%	4%	29%	--
Non-violent offences	65%	62%	44%	72%
Family violence offences	5%	16%	32%	17%
Offences against the person	6%	15%	34%	15%
Where offender is eligible	--	11%	12%	--
Depends on case or circumstances	3%	11%	13%	9%
Minor offences	4%	6%	--	6%
No prior record or good rehabilitation prospects	6%	6%	4%	--
All offences except most serious	--	--	11%	--
Less serious violent offences	--	--	2%	--
If victim is comfortable with sentence	3%	--	--	--
Never or rarely	2%	7%	--	6%
Other	3%	3%	3%	11%
No response	12%	3%	1%	9%

Note: Respondents could provide more than one response; totals sum to more than 100%.

Crown Attorneys and defence counsel explained in interviews that conditional sentences are appropriate in eligible cases, that is, in all cases except those where the minimum sentence is more than two years, and where it has been established that the offender is not a threat to public safety. However, several Crown Attorneys as well as victim services personnel believe that conditional sentences are not appropriate for violent or repeat offences, since these do not meet the basic criterion of no danger to the public. Moreover, a few Crown Attorneys believe that this criterion should be interpreted more broadly to encompass certain white-collar crimes (such as breach of trust thefts where the offender has stolen a substantial amount of money) and crimes where the safety of a single individual, namely, the victim of the original crime, might be at risk if a conditional sentence were imposed. It was also suggested by several Crown Attorneys, defence counsel, and victim services providers that conditional sentences are appropriate where the risk of recidivism is zero and where there is good reason to believe that the offender is able and motivated to rehabilitate.

Several victim services providers stated in interviews that in order for a conditional sentence to be appropriate, the accused must take full responsibility for the offence, demonstrate remorse, and show that he or she can respect the conditions imposed. A few victim services providers believe that the decision to impose a conditional sentence should take into account the

consequences of the crime on the victim, and emphasized that the victim should have input into the decision.

4.11.2 Consideration of Victim Safety in Conditional Sentences

As Table 80 shows, the vast majority (93%) of Crown Attorneys surveyed usually request conditions for the victim's safety in conditional sentences. Similar proportions of defence counsel and judges surveyed usually agree to and grant such requests. Almost all defence counsel explained that they agree to conditions because the protection of victim safety is a valid sentencing principle. In interviews, they expanded on this idea, citing the legal requirement to consider the public safety and the fact that the presumption of innocence no longer applies. However, several defence counsel reported that they usually agree to conditions because they will not receive a conditional sentence without them. Several defence counsel said that they agree to conditions if they are requested by or are in the best interests of the client, do not unduly restrict the offender (e.g., from access to his belongings or home), and are legitimately connected to the offence and the victim.

TABLE 80: USE OF CONDITIONS FOR VICTIM'S SAFETY IN CONDITIONAL SENTENCES			
	Crown Attorneys (N=188) <i>Do you generally request conditions for the victim's safety?</i>	Defence Counsel (N=185) <i>Do you generally agree to conditions for the victim's safety?</i>	Judiciary (N=110) <i>Do you generally grant conditions for the victim's safety?</i>
Yes	93%	94%	94%
No	1%	2%	4%
Don't know	2%	3%	2%
No response	4%	1%	1%

Note: Totals may not sum to 100% due to rounding.

Nevertheless, just over one-quarter of victim services providers and advocacy organizations surveyed (29% and 26%, respectively) believe that the victim's safety is generally considered in the decision to impose a conditional sentence. Perceived obstacles to the consideration of victim safety in conditional sentences are shown in Table 81 below. Many of these obstacles are similar to those identified as prevailing at bail decisions, including inadequate consultation with victims; difficulties assessing risk; the protection of the rights of the accused; and lack of knowledge about domestic violence and the dynamics of abuse on the part of prosecutors and judges.



TABLE 81:
WHAT ARE THE OBSTACLES TO THE CONSIDERATION OF VICTIM SAFETY IN CONDITIONAL SENTENCES?
BASE: RESPONDENTS WHO BELIEVE THAT VICTIMS' SAFETY IS NOT GENERALLY CONSIDERED IN CONDITIONAL SENTENCES

Reason:	Victim Services (n=117)	Advocacy Groups (n=29)
Victim not adequately consulted	19%	7%
Difficulties assessing risk	16%	--
Rights of accused take precedence over victim's rights	13%	17%
Lack of knowledge about domestic violence and dynamics of abuse	12%	35%
Poor enforcement or conditions breached	8%	--
Proximity of accused and victim not considered	6%	--
Judge or Crown Attorney attitudes	4%	--
Other factors given more weight in sentencing	4%	3%
Other	7%	17%
No response	24%	31%

Note: Respondents could provide more than one response; totals sum to more than 100%.

In interviews, several victim services providers as well as Crown Attorneys remarked that there is a lack of resources for supervision and enforcement of conditional sentences and that, consequently, offenders are not being adequately punished for breaches. Concern was expressed by both groups of respondents that unless conditional sentences are accompanied by rigorously enforced restrictions on freedom, they do not serve as a deterrent, but rather as positive reinforcement for criminal behaviour. Thus, although most Crown Attorneys and victim services providers acknowledged that there is a place for conditional sentences, they think that they should be used with caution, and a few think that they should be eliminated altogether.

In interviews, several Crown Attorneys and victim services providers also suggested that the conditions imposed on offenders serving a conditional sentence are generally too lenient and do not sufficiently restrict offenders' freedom. Crown Attorneys and victim services providers believe that conditional sentences need to be accompanied by significant restrictions on the offender's liberty. A few Crown Attorneys argued, for example, that rather than simply being required to abide by a curfew, offenders should be under house arrest 24 hours a day, seven days a week, except to go to work. It was also suggested that it should be mandatory for offenders serving conditional sentences to have a landline and not just a cellular telephone, to facilitate monitoring of their whereabouts and enforcement of conditions.

In general, Crown Attorneys and victim services providers who were interviewed believe that conditional sentences should involve maximum confinement and supervision. A few victim services providers believe that conditional sentences are misunderstood by the public and by victims and thereby contribute to the erosion of public confidence in the criminal justice system. According to these respondents, too many offenders receive conditional sentences and, as a result, many victims feel as though the criminal justice system does not take them seriously.

4.12 Restorative Justice

In recent years, restorative justice approaches have become more widely used at all stages of criminal proceedings. Restorative justice considers the wrong done to the person as well as the wrong done to the community. Restorative justice programs involve the victim(s) or a representative, the offender(s), and community representatives. The offender is required to accept responsibility for the crime and take steps to repair the harm he or she has caused. In this way restorative approaches can restore peace and equilibrium within a community and can afford victims of crime greater opportunities to participate actively in decision-making. However, concerns have been raised about victim participation and voluntary consent, and support to victims in a restorative process. This study included several exploratory questions to discover the extent to which criminal justice professionals have participated in restorative justice approaches and their views on the appropriateness and effectiveness of these approaches.

4.12.1 Participation in Restorative Justice Approaches

Of the various respondent groups, defence counsel are most likely to have participated in a restorative justice approach; close to 60% of defence counsel surveyed, compared to 43% of Crown Attorneys and one-quarter of judges, indicated having ever participated in a restorative justice process. Please refer to Table 82.

	Victim Services (N=318)	Crown Attorney (N=188)	Defence Counsel (N=185)	Judiciary (N=110)	Police (N=686)	Advocacy Groups (N=47)	Probation (N=206)
Yes	12%	43%	58%	26%	17%	36%	15%
No	80%	52%	34%	74%	80%	64%	84%
Don't know	5%	4%	5%	--	2%	--	1%
No response	3%	1%	3%	--	1%	--	1%

Note: One column does not sum to 100% due to rounding.

Respondents reported having been involved in various restorative approaches, including sentencing and healing circles, diversion, mediation, and community and youth justice forums. As Table 83 below shows, defence counsel and Crown Attorneys are slightly more likely to have participated at the sentencing stage, while police as well as victim services providers and advocacy groups are more likely to have participated prior to charges being laid. A significant proportion of Crown Attorneys and defence counsel who have participated also indicated having taken part in restorative processes after charges had been laid, but before sentencing.



TABLE 83:
AT WHAT STAGE IN THE PROCESS HAVE YOU PARTICIPATED IN RESTORATIVE JUSTICE?
BASE: RESPONDENTS WHO HAVE PARTICIPATED IN RESTORATIVE JUSTICE PROCESSES

	Victim Services (n=38)	Crown Attorneys (n=81)	Defence Counsel (n=107)	Police (n=118)	Advocacy Groups (n=17)
Pre-charge	42%	52%	64%	74%	47%
Sentencing	37%	61%	66%	25%	29%
Post-charge, pre-sentencing	8%	32%	19%	--	24%
Other	18%	6%	8%	20%	29%
No response	16%	6%	2%	1%	--

Note: Respondents could provide more than one response; totals sum to more than 100%.

Table 84 below shows the most common explanations for respondents' lack of involvement in restorative justice. Across all respondent groups except victim services, the most common reason is that restorative approaches are not available or not yet widely used in their province. Several Crown Attorneys, defence counsel, and judges pointed out in interviews that restorative justice tends to be used primarily in rural, northern, or remote Aboriginal communities. It was even suggested that there may be a perception among some members of the police, the Crown Attorney, and the bench that restorative justice is only to be applied in cases involving Aboriginal people. A few respondents said that restorative justice is only used for young offenders.

A sizeable proportion of respondents in all groups explained that restorative justice had never come up as an option or that they had never had a case suitable for restorative justice. Other common explanations for respondents' non-participation in restorative justice were that such approaches do not protect the victim adequately (a particular concern for advocacy organizations and Crown Attorneys) and that such approaches do not act as a deterrent.

Certain respondent groups gave other reasons for their non-participation in restorative justice, which do not appear in the table below. For example, 13% of both victim services providers and advocacy group respondents reported that restorative justice is not part of their agency's mandate, while 11% of victim services, 6% of police, and 5% of probation officers reported that it is not part of their job responsibility to become involved in restorative processes. Ten percent of victim services providers, 5% of police, and 2% of probation officers said that restorative justice is not an appropriate or viable option in the cases they deal with. Eight percent of police attributed their non-participation in restorative justice to their lack of knowledge about it.

Among defence counsel, 5% expressed concern that restorative justice approaches do not adequately protect the accused, and the same proportion reported that such options are only available for youth. Twenty percent of judges explained that restorative justice had never been presented to them as an option by the Crown Attorney or by defence counsel.

TABLE 84: WHY HAVE YOU NOT USED OR PARTICIPATED IN A RESTORATIVE JUSTICE APPROACH? BASE: RESPONDENTS WHO HAVE NOT PARTICIPATED IN RESTORATIVE JUSTICE PROCESSES							
	Victim Services (n=253)	Crown Attorneys (n=98)	Defence Counsel (n=62)	Judiciary (n=81)	Police (n=549)	Advocacy Groups (n=30)	Probation (n=172)
Not available	19%	57%	61%	43%	29%	40%	59%
No opportunity or no suitable case	21%	10%	15%	26%	24%	20%	22%
Do not adequately protect victim	10%	18%	--	5%	11%	23%	4%
Do not act as a deterrent	5%	10%	--	6%	13%	13%	3%
Don't know or No response	20%	14%	18%	6%	14%	10%	4%
Notes: Respondents could provide more than one response, but not all responses have been included in this table; totals sum to more than 100%.							

In interviews, judges commented extensively on the use of restorative justice. Several suggested that the logistics involved in these approaches are a significant obstacle to their more frequent application. Restorative justice processes are more time-consuming than court processes and demand from community members a significant commitment of time and effort in order to succeed. It is often difficult to identify a group of individuals who are prepared to participate, particularly since these individuals are usually volunteers. In rural areas where participants may be required to travel considerable distances in order to attend restorative processes, the fact that they are not paid for their time or transportation is especially an issue. As a potential remedy to this situation, a few judges suggested promoting less elaborate restorative approaches (e.g., mediation as opposed to community conferencing or sentencing circles).

Other logistical issues include the potential for conflict of interest in Aboriginal communities where many community members are related; and, in large and medium sites, the lack of an identifiable community of individuals who could participate.

4.12.2 Victim Involvement in Restorative Justice

There was disagreement both within and across the survey respondent categories on the extent to which victims are involved in the decision to use restorative justice approaches, as Table 85 demonstrates. Victim services providers more often believe that the victim is only sometimes consulted, while police, advocacy groups, and Crown Attorneys more often think that consultation with the victim does indeed always take place. Defence counsel are evenly split between those who think that victims are always involved and those who believe that they are only sometimes involved.



TABLE 85:
WHAT BEST DESCRIBES THE VICTIM'S INVOLVEMENT IN THE DECISION TO USE RESTORATIVE JUSTICE?
BASE: RESPONDENTS WHO HAVE PARTICIPATED IN RESTORATIVE JUSTICE PROCESSES

	Victim Services (n=38)	Crown Attorneys (n=81)	Defence Counsel (n=107)	Police (n=118)	Advocacy Groups (n=17)
Victim is always involved	32%	52%	44%	80%	59%
Victim is sometimes involved	45%	38%	43%	14%	24%
Victim is seldom involved	8%	5%	9%	6%	12%
No response	16%	5%	4%	--	6%

Note: Some columns do not sum to 100% due to rounding.

Similar disagreement was evident among interviewees. For example, a few Crown Attorneys who were interviewed reported that cases do not proceed through restorative justice unless the victim approves it. Others said that restorative approaches are sometimes used even without the victim's consent simply because these cases are not worth going to court (in these instances, however, the victim is always informed of the decisions). A few Crown Attorneys added that victims always have the opportunity to participate in restorative justice beyond the initial decision to use the approach, but that many victims do not wish to participate. Small numbers of defence counsel and victim services providers made similar comments.

4.12.3 Cases Where Restorative Justice Would be Most Effective

Crown Attorneys, victim services providers, and judges were asked to comment in interviews on when they believe that restorative justice approaches would be most effective. There was substantial agreement that such processes would be particularly effective in cases involving young offenders, first offenders, and minor property offences. However, the effectiveness of restorative approaches in dealing with crimes of violence was much debated by interviewees. Generally speaking, although respondents agreed that restorative approaches should not be used for sexual assaults, child abuse, and other violent offences; several respondents in each group think that some minor assault cases could potentially qualify. In addition, interviewees disagreed over whether restorative justice is a suitable way of dealing with spousal violence, given the family and power dynamics involved in these cases.

Several interviewees said that they would not close off any offences to restorative justice, but would rather make a case-by-case assessment by considering the facts of the case and the personalities and communities involved. From the perspective of these respondents, factors other than the nature of the offence should determine whether restorative processes are used. They believe that restorative approaches would be particularly effective, for example, in cases where there is a relationship between the offender and the victim; where all parties agree that the approach is appropriate; where the victim consents to the process; and where the offender is willing and motivated to participate.

Interviewees also suggested that restorative justice would be most effective where an offence affects an entire community or parts of it (e.g., disputes between neighbours or friends) and where the community takes a direct interest in the process and is prepared to participate. As an example, a few judges said that restorative approaches would be particularly effective in Aboriginal communities or other small, tightly knit communities.

Several judges expressed a wish to see restorative justice approaches used more often and more effectively in the future, and some added that this will only be possible if resources are committed to creating the necessary infrastructure. Although defence counsel did not comment extensively on restorative justice, a few offered some general remarks in favour of such approaches. They commented that restorative justice can provide an economical option for keeping cases out of court and that they work well if there is a desire to repair personal or community relationships.

4.12.4 Protection of Victim Safety

Crown Attorneys, judges, and victim services providers were asked in interviews about the importance of consulting the victim in the use of a restorative justice approach. Almost all respondents in all three categories believe that such consultation is indeed important. There was widespread agreement that in order for restorative justice to adequately address victims' needs, victims should consent to and participate in the process, and that there is less chance of success if such consultation does not occur. However, several interviewees reiterated that the decision to proceed with a restorative approach is not the victim's alone to make and does not require the victim's permission, since the offence and the restorative process do not affect only the victim, but rather the whole community.³⁸

At the same time, Crown Attorneys and victim services providers expressed concern in interviews that restorative justice may not always adequately protect victims and address their interests. This concern, as already noted in Table 84 above, was also evident from the quantitative data, which showed that 18% of Crown Attorneys and 10% of victim services gave inadequate protection of the victim as the reason they had not participated in a restorative approach. In interviews, Crown Attorneys, judges, and victim services providers reiterated that restorative justice should not be used for violent offences where there are real safety concerns or power imbalances between victim and accused because of the potential for victims in such cases to be pressured or intimidated into participating. From the perspective of these interviewees, the ability of restorative approaches to adequately protect victims depends on the structure of individual programs; on the existence of a proper support structure to guarantee victim safety; and on the facilitator's training.

4.13 Victim Safety Post-sentencing

Victim safety is an important consideration at all stages of the criminal justice process, including probation. Respondents to the probation survey were asked several questions about victim safety at this stage. More than two-thirds of probation officers (68%) reported that they generally recommend in pre-sentence reports that conditions for the victim's safety be placed on the offender. Approximately one-third said that they usually speak to victims who know the offender when preparing pre-sentence reports, and a similar proportion said that they speak to all victims.

To ensure that conditions of probation are followed, at least half of respondents reported that they conduct collateral checks or monitor the offender directly; one-quarter said that they consult

³⁸ Restorative justice does, in principle, require voluntary agreement of the victim, the accused and the community.



the victim about any breaches of conditions; and about one-tenth monitor criminal justice information system and databases. Twenty-eight percent simply said that they verify compliance with probation conditions but did not explain specifically how this is done. Table 86 provides complete results.

TABLE 86: HOW DO PROBATION OFFICERS ENSURE THAT CONDITIONS OF PROBATION ARE FOLLOWED?	
<i>Ways of ensuring conditions are followed:</i>	Probation (N=206)
Collateral contacts or checks	58%
Direct monitoring of offender	50%
Verify compliance with probation conditions	28%
Consult with victim about any breach of conditions	25%
Monitor criminal justice system information or databases	11%
Passive monitoring	2%
No response	8%
Note: Respondents could provide more than one response; total sums to more than 100%.	

4.14 Victim Participation at Parole

When asked whether most victims participate in various aspects of the correctional process, overall the main finding is that victims either do not participate or participate only in serious cases. NPB respondents reported the highest level of victim participation in the area of requesting information about the offender’s parole eligibility and hearing; almost half said that most victims request this information in either most cases (27%) or only in serious cases (22%). For the remaining types of participation (providing new or additional information for use in conditional release, attending parole board hearings as observers, or presenting the statement in person or via audio or videotape) about one-third of NPB respondents reported that most victims participate only in serious cases. Few reported that most victims participate in most cases. CSC respondents perceive an even lower level of participation than NPB respondents in these areas.

Few provincial parole board respondents believe that victims generally participate. Even in serious cases, less than one-third reported that most victims participate. Table 87 below provides the complete results.

TABLE 87: VICTIM PARTICIPATION IN PAROLE OR CORRECTIONAL PROCESSES			
<i>Percentage of respondents who indicated that most victims participate by...</i>	National Parole Board (N=85)	Correctional Service Canada (N=29)	Provincial parole board (N=22)
<i>Requesting information about the offender's parole eligibility and hearing</i>			
Yes, in most cases	27%	N/A	5%
Yes, only in serious cases	22%	N/A	27%
No	31%	N/A	27%
Don't know or No response	20%	N/A	41%
<i>Requesting information about the offender</i>			
Yes, in most cases	N/A	14%	N/A
Yes, only in serious cases	N/A	21%	N/A
No	N/A	48%	N/A
Don't know or No response	N/A	17%	N/A
<i>Providing new or additional information for use in conditional release decisions</i>			
Yes, in most cases	12%	--	5%
Yes, only in serious cases	29%	35%	32%
No	42%	48%	32%
Don't know or No response	17%	17%	32%
<i>Attending parole board hearings as observers</i>			
Yes, in most cases	4%	7%	--
Yes, only in serious cases	31%	17%	9%
No	53%	59%	73%
Don't know or No response	13%	17%	18%
<i>Presenting statement in person or via audio or videotape</i>			
Yes, in most cases	4%	--	9%
Yes, only in serious cases	32%	14%	18%
No	51%	62%	55%
Don't know or No response	14%	24%	18%
Note: Respondents could provide only one response; totals may not equal 100% due to rounding. Respondents who answered "don't know" or gave no response are not included in this table.			

About three-quarters of the national (73%) and provincial (77%) parole board respondents and 86% of CSC respondents believe that there are obstacles to victim participation in the parole or correctional process.³⁹ The main barriers cited by NPB and CSC respondents are the lack of funding to assist victims who want to attend parole board hearings, and the lack of victim awareness of ways in which they can participate in the parole process and of the support services available. CSC respondents also emphasize that support services for victims in the parole process are insufficient. Provincial parole board respondents perceive lack of funding for victims to attend parole hearings as less of an obstacle. Instead, they consider the lack of victim awareness of their opportunities for participation and the support services available; insufficient support services; and lack of victim knowledge of when applications are required as the primary obstacles to victim participation. See Table 88 for the complete results.

³⁹ National and provincial parole board respondents were only asked about the parole process, and CSC respondents were asked about the correctional or parole process.



TABLE 88:
WHAT ARE THE OBSTACLES TO VICTIM PARTICIPATION IN THE CORRECTIONAL PROCESSES?
BASE: RESPONDENTS WHO BELIEVE THERE ARE OBSTACLES TO VICTIM PARTICIPATION

Obstacles:	National Parole Board (n=62)	Correctional Service Canada (n=25)	Provincial parole board (n=17)
Lack of funding for victims who want to attend hearings	76%	68%	35%
Victims are not aware of the ways they can participate	69%	76%	94%
Victims are unaware of support services available	61%	56%	65%
Support services for victims are insufficient	48%	60%	71%
Victims do not know when an application is required	42%	48%	65%
Registration requirements	16%	--	--
Distance, travel or transportation	11%	12%	--
Insufficient notice	8%	--	--
Information-sharing policy	8%	--	--
Fear or intimidation and/or unwillingness to face offender	5%	16%	12%
Other	8%	16%	29%
No response	2%	--	--

Note: Respondents could provide more than one response; totals sum to more than 100%.

4.15 Information for Criminal Justice Professionals

As shown in Table 89, there is considerable discrepancy among the proportion of victim services providers, Crown Attorneys, defence counsel, and police surveyed who believe that they are adequately informed of the *Criminal Code* provisions intended to benefit victims. Almost three-quarters of Crown Attorneys believe that they are adequately informed, compared to 40% of defence counsel and police, and 32% of victim services providers.

TABLE 89:
ARE CRIMINAL JUSTICE PROFESSIONALS ADEQUATELY INFORMED OF PROVISIONS TO BENEFIT VICTIMS?

	Victim Services (N=318)	Crown Attorneys (N=188)	Defence Counsel (N=185)	Police (N=686)
Yes	32%	71%	40%	40%
No	40%	20%	49%	46%
Don't know	25%	9%	11%	13%
No response	3%	1%	1%	1%

Note: Some columns to sum to more than 100% due to rounding.

In interviews, Crown Attorneys mentioned receiving copies of the new provisions as well as summaries of changes as they are implemented; or occasionally attending seminars, conferences, and training. In their view, this is usually sufficient to keep them well informed. Several Crown Attorneys pointed out that, in any case, it is their professional obligation to remain up to date on changes to the law. However, a few said that it is sometimes difficult to stay current with the pace of legislative change due to the frequency with which such changes have been made in recent years and due to workload and time constraints. Nevertheless, Crown Attorneys who

believe they are not adequately informed had few suggestions for measures to improve the situation. They recommended information sessions or seminars, bulletins, briefs, guidelines and reference sheets from the federal Department of Justice.

Defence counsel who were interviewed also consider it their professional responsibility to remain current with legislative change. Among those surveyed who believe that they are not adequately informed, one-third said that professional organizations like the Canadian Bar Association and provincial law societies are the appropriate entities to provide them with information about changes to legislation. Other suggestions included information sessions or seminars, e-mail updates, and bulletins and briefs from the federal Department of Justice.

In interviews, police described various internal police systems for disseminating information, including not only distribution of printed materials, but also regular internal briefings, internal e-mail notification of legislative changes, and training workshops and seminars when there are numerous changes. Nevertheless, several also explained that while information is available, the onus is on each officer to keep up to date on new legislative provisions, and some officers are more diligent in this respect than others. A few interviewees pointed out that this has created a situation where knowledge of *Criminal Code* provisions regarding victims varies quite widely among individual officers. Among police officers surveyed who believe they are inadequately informed of *Criminal Code* provisions to benefit victims, more than 60% recommended increased training, while about one-fifth suggested improved distribution of information.

Among victim services providers who think that they are inadequately informed of the *Criminal Code* provisions designed to benefit victims, the most commonly proposed suggestion - mentioned by two-thirds of respondents - was increased training opportunities. In interviews, victim services providers expressed a preference for seminars and workshops where they can actively participate in discussions and ask questions. Several victim services providers observed in interviews that training is generally not a priority due to lack of human and financial resources. For this reason, they would like to see additional written materials sent to them so they could learn about the provisions on their own time. In fact, increased circulation of booklets, manuals, newsletters, and other print materials was the second most common suggestion for improving victim services providers' knowledge of the relevant provisions. In interviews, a few victim services providers said that the federal Department of Justice should take on a more active role in informing victim services workers of the *Criminal Code* provisions intended to benefit victims, by providing regular updates and funding training sessions.

4.16 Impact of *Criminal Code* Provisions

All respondent groups, except for probation and parole, were asked what, in their opinion, has been accomplished by the *Criminal Code* provisions intended to benefit victims. Respondents identified numerous outcomes that they believe have resulted from the *Criminal Code* provisions. However, a large proportion of each respondent group did not answer the question. Many (particularly victim services providers) noted on the questionnaire that they did not know enough about the *Criminal Code* provisions to comment. In total, about half of victim services providers and police, one-third of advocacy groups, and a quarter of judges, Crown Attorneys, and defence counsel did not answer this question.



A number of respondents from all groups who were asked about the impact of the provisions (i.e., judges, Crown Attorneys, victim services, police, defence counsel, and advocacy groups) said that they have provided a more balanced criminal justice system. Crown Attorneys and judges emphasized this point the most, with about one-quarter of judges (24%) and one-fifth of Crown Attorneys (19%) identifying this outcome, compared to about one-tenth of victim services providers and defence counsel and an even smaller percentage of police and advocacy groups.

In interviews, Crown Attorneys and victim services providers said that the rights of victims have been formally recognized within the criminal justice system through the *Criminal Code* provisions and that, as a result, there is greater awareness of and sensitivity to needs of victims on the part of judges and prosecutors. The increased profile of the victim within the system, in turn, has led to enhanced services for victims, a more approachable and personal system that responds better to victims' needs, and victims who are more informed about the criminal justice process and the status of their own case. Judges concurred, commenting in interviews that the provisions have led to more uniform consideration of victims in the courts, to a more balanced criminal justice system, and to increased credibility of the system in the eyes of the public.

All six respondent groups also mentioned that the provisions have given victims a voice in the system. About one-quarter of judges and Crown Attorneys cited this as an accomplishment of the *Criminal Code* provisions, as did about one-tenth of the remaining respondent groups. Several Crown Attorneys commented in their interviews that the *Criminal Code* provisions give victims a voice in the process and an opportunity to provide input, particularly through victim impact statements. However, several others worried that the victim impact statement, as an unintended consequence, may have created the false impression among some victims that they are entitled to make sentencing recommendations. Others mentioned the possibility of defence counsel cross-examination on the victim impact statement and said that such statements can make the victim more vulnerable if they conflict with other evidence or the victim's earlier statements. About 5% of Crown Attorneys surveyed mentioned negative effects of the victim impact statement.

Victim services providers had a more positive view of victim impact statements with 5% of those surveyed commenting on the role of the statements in giving victims a voice and empowering victims. In interviews, several stated that the number of victims submitting victim impact statements is increasing and that the option of reading the victim impact statement is a very positive development. A few of those surveyed (1%) mentioned negative effects of victim impact statements stemming from the disclosure to defence counsel and possibilities of cross-examination of victims on their statements.

Some judges, Crown Attorneys, and victim services providers also believe that victims are now more satisfied with the criminal justice system. In the survey, 16% of judges and 11% each of Crown Attorneys and victim services providers listed this as an impact of the *Criminal Code* provisions. In interviews, Crown Attorneys and judges explained further that the provisions have increased victim confidence in the criminal justice system and made victims more willing to participate in it. In particular, several Crown Attorneys said that the provisions have made it easier for victims to report crimes and to testify in court. In addition, by better protecting victims, the legislation has created more reliable witnesses who are willing to provide open and complete

testimony in court. In the survey, 12% of judges, 7% of Crown Attorneys, and 3% of victim services providers mentioned better protection of victims; and 9% of Crown Attorneys mentioned making testimony easier as accomplishments of the *Criminal Code* provisions. The results discussed above are shown in Table 90.

TABLE 90: WHAT HAS BEEN ACCOMPLISHED BY THE <i>CRIMINAL CODE</i> PROVISIONS INTENDED TO BENEFIT VICTIMS?						
	Victim Services (N=318)	Crown Attorney (N=188)	Defence Counsel (N=185)	Judiciary (N=110)	Police (N=686)	Advocacy Groups (N=47)
Gives victims a voice or opportunity for input	11%	25%	12%	27%	9%	15%
More balanced criminal justice system	13%	19%	10%	24%	7%	4%
Victims more satisfied or informed	11%	11%	5%	16%	3%	--
Victim testimony or experience easier	--	9%	--	--	1%	--
Better protection of victims	3%	7%	--	12%	5%	11%
Victim impact statement positive	5%	3%	--	8%	2%	--
More restitution	--	2%	--	6%	--	6%
Don't know or No response	52%	28%	25%	23%	47%	35%
Note 1: Respondents could give more than one answer.						
Note 2: Open-ended question.						

While these results show that many Crown Attorneys and judges believe that the legislative changes have improved the experience of victims of crime in the criminal justice system, others cautioned that it is impossible to accommodate everything that victims want in an adversarial system. There was considerable concern among Crown Attorneys, judges, and defence counsel that the provisions have inadvertently created unrealistic expectations on the part of some victims about both the level of their involvement and how that involvement might affect any decisions made. These respondents worried that if expectations are not met, this could cause disappointment or resentment (9% of Crown Attorneys, 16% of judges, and 15% of defence counsel).

Another concern was the effect of the provisions on the ability of Crown Attorneys to make independent legal decisions in their capacity as representatives of the state. This possible curtailment of Crown Attorney discretion is a larger issue for defence counsel (17%) than for Crown Attorneys (3%) or judges (2%). In interviews, several defence counsel expressed the concern that criminal justice professionals, particularly Crown Attorneys, have deviated from or abandoned their professional roles because of pressures to include the victim in the process.

Other concerns about the provisions come primarily from defence counsel. However, Crown Attorneys and judges as well as defence counsel (9%, 6%, and 11%, respectively) commented on the delays in the process caused by the provisions (e.g., the time required to consult with victims, or the adjournments needed to inform victims of victim impact statements). Defence counsel also believe that the provisions have eroded accused rights (10%), have achieved mainly political objectives (9%), and have reduced judicial independence (7%).

Some respondents in all categories said they believe that the *Criminal Code* provisions have accomplished little or nothing. Police and advocacy groups most often cited this concern (27% and 15%, respectively). Twelve percent of Crown Attorneys and victim services providers also



expressed this belief. In interviews, victim services providers explain this lack of progress. They believe that victims remain largely uninformed of their rights and options within the criminal justice system, which continues to be mainly offender-focused; and that victims are not as involved as they should be. According to these respondents, victims continue to be traumatized by their experience within the criminal justice system and therefore continue to see the system in a negative light. Results are given in Table 91.

TABLE 91: HAVE THERE BEEN ANY UNINTENDED OR UNEXPECTED CONSEQUENCES TO THE <i>CRIMINAL CODE</i> PROVISIONS INTENDED TO BENEFIT VICTIMS?						
	Victim Services (N=318)	Crown Attorneys (N=188)	Defence Counsel (N=185)	Judiciary (N=110)	Police (N=686)	Advocacy Groups (N=47)
Delays criminal justice process	--	9%	11%	6%	--	--
Unrealistic expectations on part of victims	--	9%	15%	16%	--	--
Curtails Crown Attorney discretion	--	3%	17%	2%	--	--
Erosion of accused rights	--	--	10%	--	--	--
Has achieved mainly political objectives	--	--	9%	--	--	--
Reduces judicial independence	--	--	7%	--	--	--
Nothing or little has been accomplished	12%	12%	13%	11%	27%	15%
Don't know or No response	52%	28%	25%	23%	47%	35%
Note 1: Respondents could give more than one answer. Note 2: Open-ended question.						

In summary, while all respondent groups included some comments on the limitations of the impact of the *Criminal Code* provisions, most reflections on the provisions revealed positive accomplishments. The two biggest accomplishments are 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 the victims have opportunities to participate and have a voice in the system.



5.0 Summary

5.1 Results from the *Multi-site Survey of Criminal Justice Professionals*

Role of the Victim and Responsibility of Criminal Justice Professionals

Criminal justice professionals included in this research 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 do not fully understand the intricacies of the legal system and should not be the ultimate decision-makers.

Services for Victims

In the sites studied, victim services providers offer a wide range of assistance, from more immediate services such as crisis support to more long-term assistance such as informing victims about court processes and helping prepare victims to testify in court and beyond the court process. In addition to these services, other commonly provided types of assistance include giving referrals, providing information on the criminal justice system, informing victims about victim impact statements, and accompanying victims to court.

Victim services providers, police, and advocacy groups who were surveyed identified a number of challenges in providing accessible services. The most common challenge 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 workers. Respondents also considered financial issues, such as the need to pay for transportation and childcare, as limiting 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.

In addition to these accessibility issues, victim services providers commented in interviews that they believe that there is a lack of awareness of available victim services. To address this, they suggested more publicity for victim services and more education of both the public and criminal justice professionals about the services available. For victims, who are often traumatized and overwhelmed after the crime, they suggest that the information on available services should come from a variety of methods (written and oral) and be provided at various points throughout the process. This need to better connect victims to available services also received attention from those involved in the post-sentencing phase. During this phase, victims do not usually receive information without first registering with the NPB or CSC. Survey respondents from these

organizations identified a gap between victim services in sentencing and in corrections or 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, case outcomes, victim impact statements, and victim services. There was no consensus on the adequacy of information provided on various other aspects of the criminal justice process, ranging from the progress of the police investigation to the rights of the accused to alternative processes. Neither, for the most part, did these criminal justice professionals agree about who is responsible for providing information to victims. They tend to regard information provision as a shared duty rather than the sole responsibility of a single agency.

In interviews, victim services providers characterized the provision of information to victims of crime 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 also believe that victims are more likely to receive information from police or the Crown Attorney if they initiate contact themselves or if a victim services provider 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. Suggestions for improving the information given to victims included more widespread establishment of court-based or police-based victim assistance programs; better provision of information by police and the Crown Attorney and/or more police and Crown Attorney resources; stronger links among agencies; and development of clear guidelines on agencies' respective responsibilities for information provision.

Victim Safety at Bail Determinations

The criminal justice professionals surveyed in this research appear to regard victim safety as an important consideration in bail determinations. Police use 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, about one-third of victim services providers and advocacy organizations surveyed believe that the victim's safety is generally considered at bail determinations.

Provisions to Facilitate Testimony

Publication Bans and Exclusion of the Public

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 and 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. Although very few victim services providers and advocacy organizations could speak on the subject of these protections, those who offered a response believe that judges are hesitant to grant these requests, and several suggested that the protections should be more widely used.

Testimonial Aids

Of the three testimonial aids designed to assist young witnesses or those with a mental or physical disability, 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 these cases, and a similar proportion of defence counsel generally agree to its use. More than 80% of judges generally grant the use of screens. The minority of survey respondents who perceive obstacles to the use of screens mentioned judicial reluctance to grant their use, the requirement that applications meet a stringent legal test in order to be used, logistical obstacles such as a lack of the necessary equipment at small sites, and the ineffectiveness of screens at facilitating 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. Among judges, over 60% reported that they usually grant these requests. The main obstacle to the use of closed-circuit television is a lack of necessary technology and properly equipped courtroom facilities, particularly at small and medium-sized sites.

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 the need to adopt their testimony on the stand and be cross-examined by defence counsel. Judges were just as likely to grant the use of video taped testimony as closed-circuit television.

Overall, Crown Attorney requests for these 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 the aids unless there is a compelling reason to do so, and many reported having as much success without using the aids as with them due to careful preparation of witnesses before trial. 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, for their part, 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 parameters.

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 these requests. Over 80% of judges typically grant these requests. However, both Crown Attorneys and defence counsel remarked upon the need to select a neutral individual who is not too close to the victim and who does not have a vested interest in the outcome of the case. Very few respondents in any category perceive obstacles to the use of support persons.

Section 486 (2.3)

A relatively small proportion of survey respondents (just over one-quarter of Crown Attorneys and one-fifth of judges) has been involved in cases where *Criminal Code* 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 a large proportion of judges reported that they would appoint counsel respectively for the purpose of cross-examination. Seven judges surveyed have allowed 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 respondent groups, support was most widespread for expanding the section to adult witnesses in the category of offences to which it currently applies.

Victim Impact Statements

Criminal justice professionals believe that victim impact statements are usually submitted only in serious cases; however, victim services providers and advocacy groups believe that victim impact statements are submitted in most cases. This different perception may be because victim services providers and advocacy groups tend to be involved in the more serious cases. There is



agreement among all respondent categories that victims usually submit a written statement, but that few victims choose to read their statement aloud in court.

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 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.

Less than two-thirds of victim services providers surveyed reported that they assist victims with victim impact statements at sentencing. Most provide basic assistance, such as helping victims obtain forms, explaining how to complete the impact statement, and telling victims where to send their completed statements. In terms of assisting with the actual writing of the statement, victim service providers are more likely to write down the information provided by the victim or review the statement, than they are to actually assist the victim with formulating his or her thoughts. Half of victim services providers who assist with impact statements collect and submit the completed statements.

From this latter finding, it appears that many victims submit their own impact statements to the Crown Attorney and/or court. The interviews support this, as 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. This is important because both Crown Attorney and victim services providers 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 their 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.

This issue of the timing of the submission of victim impact statements raised several concerns for Crown Attorneys and victim services providers, which led to conflicting views on when to submit an impact statement. The major concerns are: the need to receive the statement early enough to ensure it is considered during plea negotiations versus the requirement of disclosing

the victim impact statement to the defence counsel and 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.

Judges reported somewhat uneven compliance with the 1999 amendments to the *Criminal Code*. Under these amendments, judges have certain responsibilities for how to handle victim impact statements: they must inquire before sentencing whether the victim has been advised of the opportunity to prepare a victim impact statement; and they must consider impact statements at sentencing. Judges were divided about whether they regularly inquire about victim notification; about half reported that they always or usually enquire, and the other half said that they only sometimes, rarely, or never do. 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 and use them to help determine the length of sentence and the severity of the offence. 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. About half of judges who were surveyed reported disallowing parts of victim impact statements, usually for containing irrelevant or inappropriate information.

The different categories of criminal justice professionals had very different survey responses to whether there are obstacles 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 Attorneys 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.

A related issue to the inclusion of irrelevant information is the possible objection to the statement, or the cross-examination of the victim on their 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 service providers who were interviewed expressed the concern that some victims do not prepare statements because they fear being questioned on its content. However, in looking at all victim service respondents' responses (i.e., both self-completed questionnaires and in person interviews), 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.

In interviews, victim services providers commented on the benefits of victim impact statements. The most cited benefit was that these statements allow victims to express themselves and make the judge and offender aware of the crime's effect on them. Other benefits cited were: providing the victims with a sense of closure and serving a therapeutic purpose; and empowering victims and letting them feel that they are regaining some control. Victim services providers consider the decision to read the statement as very personal, but one that could serve to enhance the benefits listed above.

At parole, the victim can rely on the victim impact statement from sentencing and/or provide another statement to the parole board. According to parole survey respondents, victim impact statements used at sentencing are not always provided to the parole board. If they are provided, they are usually provided by the victim, followed by the court; the Crown Attorney; and CSC. About 10% or less of victim services respondents who assist victims with impact statements reported assisting victims with statements for use at parole board hearings. Victim services respondents indicated that victims usually submit a written statement to the parole board. 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.

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 who were surveyed, the key factors are the ability to quantify the losses and the offender's ability to pay. In cases where restitution is appropriate, nine-tenths of Crown Attorneys surveyed reported that they usually request restitution; similarly, three-quarters of defence counsel surveyed said that they usually agree to reasonable restitution requests. The difficulties come with enforcing restitution orders. Half of Crown Attorneys and two-thirds of probation officers 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 for 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 accordance 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 under-used due to victims' lack of awareness and knowledge of restitution. If victims do not request restitution, Crown Attorneys and judges do not take the initiative and raise the issue on their own. In addition, the process for enforcing stand-alone restitution orders is too complex and costly for victims.

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 give the offender's inability to pay as the reason. A few judges said that they considered the surcharge to be inappropriate or questioned whether the funds are used to assist victims. 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 impecunious or incarcerated and 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.

Conditional Sentences

There is widespread agreement across all respondent groups surveyed that conditional sentences are appropriate in non-violent offences, but there is less support for their imposition in offences against the person, on the grounds that these offenders do not meet the basic criterion of posing no threat to the public. Defence counsel are more likely than other respondents 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, about one-quarter of victim services providers and advocacy groups disagreed. 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. They also suggested



that the conditions imposed on offenders serving conditional sentences are too lenient and do not sufficiently restrict their liberty.

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. For example, about one-sixth of police and one-tenth of victim services providers had participated in a restorative justice process. 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.

Respondents generally agreed that it is important to consult the victim in the decision to use a restorative justice approach, although it was also noted that the decision whether to proceed is not the victim's alone to make since some cases can affect entire communities. Restorative Justice, thus in principle, requires voluntary agreement of the victim, the accused and the community.⁴⁰ Survey respondents 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. Respondents 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

Across all categories of parole respondents a small number mentioned that victims participate in the parole process. This would include requesting information, providing information, presenting a victim statement, or attending parole board hearings. This was true regardless of the seriousness of the case. Complementing these results, about three-quarters of parole respondents (NPB, provincial, and CSC) 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, lack of victim awareness of available support services, and obstacles in finding how victims can participate. Provincial parole board respondents consider the lack of victim awareness as the primary obstacle.

Impact of the *Criminal Code* Provisions

Respondents identified numerous outcomes that they believe have resulted from the *Criminal Code* provisions. While all respondent groups included some comments on the limitations of the impact of the provisions, a larger proportion focused on positive accomplishments. The accomplishments receiving the most mentions from survey respondents are the creation of a more balanced criminal justice system through increased awareness of the concerns and interests

⁴⁰ Restorative justice in principle does require voluntary agreement of the victim, the accused and the community.

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, respondents 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. In the survey, 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 their role in the system and how their input might affect outcomes. These respondents worried that if these expectations are not met, victims will be disillusioned. A sizeable minority (one-quarter to one-tenth) of respondents believe that the provisions have accomplished little or nothing.

5.2 Results from the Victim Interviews

Services Received by Victims

Almost nine-tenths of victims who participate in these services received some sort of assistance, mostly from police-based, community-based, or court-based victim services. In terms of the types of assistance received, 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 aspects of the assistance they received.

Almost all victims were referred to the victim services organizations where they received services. The police served as most common referral source for police-based, court-based, system-based, and, to a lesser extent, community-based organizations. Over two-thirds of system-based and police-based organizations and just over half of court-based services initiated contact with the victims. For four-fifths of community-based organizations, victims reported initiating the contact.

Initiating contact with victims must be treated carefully. While half of victims said 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 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 to victims 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.

In helping victims find the assistance that they need, victims stressed the importance of giving information about available services shortly after the crime. They also suggested using a variety



of methods of communication, although more preferred oral to written, and several thought that more public education and outreach would be beneficial. Over two-thirds of victims who received services said that assistance was generally prompt. About 60% of victims reported receiving assistance within one week after requesting assistance.

Information Received by Victims

Victims were asked a series of questions about the nature of the information they received at various stages of the criminal justice process and how they received it. Overall, at all stages prior to incarceration and parole, between half and all of the victims to whom the questions applied reported that they received the various pieces of relevant information.

Those who were involved in a case where the suspect was charged were asked whether they were informed about their role in court as a witness, about the role of the Crown Attorney, and about the criminal justice system in general. Between 60% and 70% of these victims reported receiving this information, most often in person from victim services personnel. Likewise, two-thirds of victims in these cases reported that they were told whether the accused was released on bail. However, in cases where the accused was released, just over half were informed about when the accused was released and about conditions of release. Police were the main source of information about bail, and the information was most often provided by telephone. With respect to pleas, 60% of victims in cases where charges were laid were told whether the accused pleaded guilty; this information was equally likely to have come from the Crown Attorney, the police, and victim services, and was slightly more likely to have been provided by telephone than in person. However, about half of victims in cases where the accused pleaded guilty were told (most often by the Crown Attorney) whether any agreements had been made with the accused to plead guilty.

With three exceptions, all 36 victims involved in a case that went to trial were told whether there was a trial and about important trial dates. About two-thirds were told about changes in trial dates and given updates on their case, and all except seven were told the outcome of their case. Overall, victim services were the main source of information about trials, followed by the Crown Attorney, and this information was most frequently provided by telephone. However, about half of victims learned the outcome of the trial because they were present in court at the time of the disposition.

A large proportion of victims involved in a case where the accused pleaded guilty or was convicted reported that they were informed about the date of the sentencing hearing and about the sentence. In cases where the offender received probation, 80% of victims said that they were told whether conditions were placed on the offender. Victims most often found out this information from victim services or because they were present in court. If they were not in court, they were about equally likely to receive the information by telephone and in person.

Close to 60% of victims who were involved in a case where the offender was sentenced were told where the offender was incarcerated, while slightly more, 66% were told the date the sentence began and 80% were told the length of the sentence. In cases where the offender was moved, about one-third of victims were told the offender's new location; this latter piece of

information most often came from a victim liaison coordinator at a correctional institution, whereas information about where the offender was incarcerated came from a variety of sources, including the police, the Crown Attorney, or the victim liaison coordinator. Victims most often learned about the date the sentence began and the length of the sentence because they were present in court at the sentencing hearing. Except in instances where victims were in court, information about the offender's incarceration was most often provided by telephone.

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 about 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, and that they received the 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. 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 through a single source; providing information at the outset of the victim's involvement with the system; and providing more detailed information and more in print form.

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. Victims were divided on the best way to provide the information; approximately equal numbers prefer to receive it in person and by telephone.

Consideration of Victim Safety at Bail

While 75% of victims were aware that conditions of release could be placed on the accused, only 40% were aware that victim safety must be considered in release decisions. Victims disagreed about the clarity and completeness of the information they received about release decisions, with approximately equal proportions saying that some aspect of the information was unclear or incomplete and that there was nothing unclear or incomplete about it. Almost all of those in the former group explained that the problem was a lack of any information whatsoever on the subject.

About 40% of victims in cases where the accused was charged believe that their safety was considered in the decision about the possible release of the accused; about one-quarter believe that their safety was not considered. The latter group most commonly explained that the conditions placed on the accused were either insufficient or were not respected. About 70% of



those who had safety concerns made these concerns known, most often by mentioning them to police.

Experience with Testifying

One-third of the 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 re-victimized, or said that they had inadequate time to prepare. Victims who did not testify at trial most commonly reported that their testimony was unnecessary because the Crown had sufficient physical evidence or that they

were not witnesses to the crime. When asked for ways to make testifying less stressful, victims most

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.

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.

Nine victims received information about provisions to facilitate testimony. 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 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. Only two said that the protections helped them to testify.

Victim Impact Statements

Almost four-fifths of victims received information on victim impact statements. Victim services usually provided the information, although one-fifth of victims received the information from police. This information was usually given in person or by brochure. The timing for the provision of this information varied. The most common times for receiving the information were: within one month after the crime occurred, around the time of the accused's arrest, and just before final disposition.

While most victims said that victim impact statements were adequately explained to them, about 40% reported that they found some aspect of the information on victim impact statements unclear or incomplete in some way. Those who found the information unclear offered a variety of reasons, however, none of the reasons were held by more than one-tenth of victims. These reasons included lack of clarity on what information could be included in the statement; not understanding how the court would use the statement; failure to notify about disclosure; and conflicting advice on when to complete the statement. However, when asked about specific types

of information, at least two-thirds of victims said that the information adequately explained what could be included in their statement, that the statement would be provided to the defence counsel and the accused, and how to complete the statement.

When discussing how best to provide victims with information on impact statements, about half of victims whose accused was charged said that information about victim impact statements should be provided through verbal communications (in person or telephone) so that victims can ask questions if needed. Opinion varied as to when victims should receive this information. One-quarter said that the information should be provided shortly after the crime is reported and one-tenth immediately after the arrest of the accused so that victims can keep records of the crime's effect on them; however, one-tenth want victim services to let some time to pass so that the victim is less overwhelmed by the experience. About one-fifth of victims thought that the information should be provided close to the time of final disposition.

Almost two-thirds (66%) of victims involved in cases where someone was charged with the crime prepared a victim impact statement for sentencing. Close to two-thirds of these victims received some form of assistance, usually from victim services. Over two-thirds of these victims received a variety of types of assistance, including getting the forms, instructions on how to complete the statement, a review of their statement, and assistance with submission of the statement. 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. When asked about submitting their statement, two-thirds said that they gave it to victim services. One-fifth submitted it early in the process, shortly after either the crime, the arrest of the accused or the laying of charges; and 54% submitted it just prior to the guilty plea or conviction.

Victims were asked a few questions about presenting their victim impact statement. Since 1999 victims can read their victim impact statements in court. Two-thirds (n=42) of eligible victims were told about this opportunity, and nine victims chose to read their statement. The most common reasons for not reading the statement were that the accused was not convicted and that the victim did not feel emotionally able to read his or her statement. Nine said that they were not made aware of this opportunity.

Two-thirds of victims who submitted a victim impact statement reported that they were satisfied with their opportunity to give their statement. One-third expressed dissatisfaction because they either objected to the content restrictions or wished they had read their statement. Seven victims in cases after 1998 wanted to read their statement but did not have the opportunity. Some were not informed that they could read their statement; others were not allowed to read their statement because of inappropriate content or because the accused was already receiving the maximum sentence. One victim was too intimidated by the offender's presence.

Eighty percent 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. About 40% of victims whose victim impact statement was submitted to the court thought that the judge considered their statement. The most



common reason for believing that the judge did not consider the statement was the perception that the offender's sentence did not reflect the impact of the crime.

Other *Criminal Code* Provisions and Restorative Justice

Very few victims had experience with restitution, the victim surcharge, conditional sentences, and restorative justice. For example, 11 of 72 victims involved in a case where there was a conviction or guilty plea reported that restitution was ordered in their case; 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.

With respect to the victim surcharge, nine of 72 victims involved in a case where there was a conviction or guilty plea reported being aware of the surcharge, and of these, three reported that the offender in their case was ordered to pay the surcharge. As for conditional sentences, just under one-quarter of victims (n=17) 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.

Finally, three victims reported that they received information about restorative justice, and none reported that restorative justice was used in their case.

Overview of Victim Experiences in the Criminal Justice System

Victims were divided on the consideration victims are given by the criminal justice system. Half rated the system as good, while just over one-quarter considered it to be poor. One-fifth said that the system's consideration of victims fell somewhere in between. Most of the remaining victims did not respond. Those who gave the system positive marks based this impression largely on their experiences with individuals in the system (i.e., their victim service provider, the Crown Attorney, the police). Most of the victims who commented on police and victim services said that they were helpful and understanding of victim needs. 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 the Crown Attorney and more explanation of the process.

When commenting on the system as a whole, most victims provided critical comments that covered a range of issues. 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 felt 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.

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 the criminal justice system and recent reforms to benefit victims of crime. These findings are intended to inform the work of the Policy Centre for Victim Issues, Department of Justice Canada, and assist in identifying new areas of research as well as potential areas for future reforms.

Appendix A

The Canadian Statement of
Basic Principles of Justice for
Victims of Crime



THE CANADIAN STATEMENT OF BASIC PRINCIPLES OF JUSTICE FOR VICTIMS OF CRIME

In honour of the United Nations' Declaration of Basic Principles of Justice for Victims of Crime, and with concern for the harmful impact of criminal victimization on individuals and on society, and in recognition that all persons have the full protection of rights guaranteed by the Canadian Charter of Rights and Freedoms and other provincial Charters governing rights and freedoms; that the rights of victims and offenders need to be balanced; and of the shared jurisdiction of federal, provincial, and territorial governments, the federal, provincial, and territorial Ministers Responsible for Criminal Justice agree that the following principles should guide the treatment of victims, particularly during the criminal justice process.

The following principles are intended to promote fair treatment of victims and should be reflected in federal/provincial/territorial laws, policies and procedures:

1. Victims of crime should be treated with courtesy, compassion, and respect.
2. The privacy of victims should be considered and respected to the greatest extent possible.
3. All reasonable measures should be taken to minimize inconvenience to victims.
4. The safety and security of victims should be considered at all stages of the criminal justice process and appropriate measures should be taken when necessary to protect victims from intimidation and retaliation.
5. Information should be provided to victims about the criminal justice system and the victim's role and opportunities to participate in criminal justice processes.
6. Victims should be given information, in accordance with prevailing law, policies, and procedures, about the status of the investigation; the scheduling, progress and final outcome of the proceedings; and the status of the offender in the correctional system.
7. Information should be provided to victims about available victim assistance services, other programs and assistance available to them, and means of obtaining financial reparation.
8. The views, concerns and representations of victims are an important consideration in criminal justice processes and should be considered in accordance with prevailing law, policies and procedures.
9. The needs, concerns and diversity of victims should be considered in the development and delivery of programs and services, and in related education and training.
10. Information should be provided to victims about available options to raise their concerns when they believe that these principles have not been followed.

Appendix B

Letter of Introduction



January 21, 2003

Dear XXX:

The Department of Justice Canada has recently launched a multi-site study seeking insight on a wide range of issues with respect to the criminal justice system as it pertains to victims. The purpose of this study is to gather factual information from criminal justice professionals (Crown, judiciary, defence counsel, police officers, parole/probation, advocacy, victim services) on their use of recent reforms (Bill C-79) with respect to victims of crime in the criminal justice system as well as information on any impediments to the implementation of these reforms. This study is being undertaken with the endorsement of the Federal/Provincial/Territorial Working Group on Victims of Crime. Prairie Research Associates (PRA Inc.; www.pra.ca), an independent research company, has been engaged by the Department of Justice Canada to conduct this study.

Bill C-79 is intended to enhance the role of the victims in the criminal justice system, expand their opportunity to describe the impact of crime on their lives, and ensure their privacy and safety are considered in decisions affecting them. The information obtained from this research will be used to assess the success of and barriers to implementing this new legislation. Further, insights from this study will generate evidence to inform future legislative reforms and policy changes. The information provided to PRA will be analyzed and forwarded to the Department of Justice. To ensure anonymity of respondents, individual responses will remain with PRA to be shredded once the analysis has been completed.

This letter is being sent to inform you of the study and to ask for your assistance in this research. Since this is a broad study involving contact with many individuals across Canada (approximately 1,500), we are asking that you inform your colleagues and staff that this study is being conducted.

It is very important that the views of criminal justice professionals be represented in this research in order to make the revisions necessary to best serve the victims. I hope that we can have your support, as well as that of your colleagues, in ensuring that this research contributes meaningfully to the Victims of Crime Initiative.

PRA will be following up with you or a designate in the next two or three weeks. In the meantime, if you have any questions with respect to this research, please contact either Anna Paletta at the Department of Justice (613-941-4142), or Danielle Muise at PRA (613-233-5474).

Sincerely,

Roberta Russell

Appendix C
Interview Guides and
Self-Administered Questionnaires



Interview Guide for Victims of Crime



INTERVIEW GUIDE FOR VICTIMS OF CRIME

LOCATION OF INTERVIEW (CITY) _____

I'd like to thank you for helping us with this study of victims of crime. The study is funded by the Department of Justice Canada, and its purpose is to gain a better understanding of the experiences of victims of crime in the criminal justice system. The information gathered by this study will help the government learn what types of assistance are helping victims and where improvements can be made.

Before we begin, I would like to remind you that your participation in this interview is completely voluntary. If I ask you a question that you don't want to answer, please let me know and we will move on to another question. Also, you can end the interview at any time.

What you say today will be kept confidential. The report about this study will be a summary of hundreds of interviews and will not contain any information that might identify you.

Before we begin, do you have any questions or concerns?

INTRODUCTION

1. I'd like to begin with a general question about how the police, Crown attorneys, and the courts deal with victims of crime. Overall, would you say the criminal justice system does a good job or a poor job of considering victims of crime?
2. Would you please tell me what the crime was that you agreed to discuss for this study? Was it committed against you personally or against a family member? Who committed the crime?
3. Where did the crime occur (city and province), and in what year?
4. During what year(s) were you involved with the criminal justice system as a result of this crime?

VICTIM SERVICES

The next questions deal with whether you received any assistance from victim services and if so, what was available and useful to you?

5. Did you (or family member) receive any victim assistance as a result of this experience? [If no, go to Q9]
6. [If yes to Q5] What kind of assistance did you (or family member) receive (e.g., crisis assistance, medical assistance, counselling, financial assistance, assistance with housing or

women's shelter, court support, assistance with understanding the criminal justice system, other)? Was the assistance helpful? What was most helpful about the assistance you received?

7. [Under this question, we also coded the type of victim service received] How did you (or family member) find out about the service(s)? Was it offered by, or referred to you by police, prosecutor, court, other victim services, etc.? Or did you find out about it from a friend, from family, or some other way (e.g., Internet, phonebook, pamphlets)?
8. How easy was it go get services? Were you (or family member) contacted by a victim service? Did you (or family member) have to initiate contact? Was assistance available promptly, or did you (or family member) have to wait? How long?
9. [Ask only of those who did not receive victim services] Do you recall why you did not receive any type of assistance from any victim services? (Were services not available, not appropriate, other reasons?)
10. [Ask of everyone] Based on your experiences, what do you think would be the best way to help victims of crime find the assistance they need? (e.g., Would you prefer that you be given a phone number of a service to contact on your own, or would you prefer that your name be given to the services and that the services contact you? And when should this happen?)

INFORMATION FOR VICTIMS

The next questions concern the information a victim of crime might receive about the case. There are several points at which a victim of crime might receive information. Please tell me if you (or family member) received information on the various steps in the criminal justice process and if so, who provided it.

11. Do you know if someone was arrested for this crime? Do you know if charges were laid? Do you know the sentence of the offender?
12. If there was no arrest or no charges were laid, do you know why? Who explained to you why no arrest occurred or no charges were laid?

TO BE ASKED ONLY IF A SUSPECT WAS CHARGED

I'm going to list several areas where you might have received information. Please tell me A) **if you received information**, and if so, B) **who provided you with the information**, and C) **how you were given the information (in person, telephone, in writing, letter, etc.)**.

13. Did anyone talk to you about your role in court as a witness? The role of the Crown prosecutor in handling the case? The Crown's relationship with you? Did anyone give you a general explanation of the criminal justice process?



14. Whether the accused was released on bail? When the accused was released on bail?
Conditions of bail, if any? (e.g., non-communication order, etc.)

15. Whether the accused pleaded guilty? Whether there were any agreements made with the accused to plead guilty?

TO BE ASKED ONLY IF THERE WAS A TRIAL

16. Whether there was a trial? Important trial dates? Changes in trial dates? Updates on case?
Outcome of the case?

TO BE ASKED ONLY IF THERE WAS A CONVICTION/GUILTY PLEA

17. Date of sentencing hearing? Sentence? If probation, conditions if any?

TO BE ASKED ONLY IF THE OFFENDER WAS INCARCERATED

18. Where the offender was incarcerated? If moved, where moved to? Date sentence began?
Length of sentence?

19. (If applicable) Parole eligibility and dates of hearings? Release dates? Conditions imposed on release? Destination of offender on release?

TO BE ASKED OF EVERYONE

20. Were you satisfied with the way in which information was provided to you (at the various levels)? In general, did the information you received meet your needs (e.g., amount and type of information; timeliness of getting the information)? If not, how could providing information to victims of crime be improved?

21. Based on your experience, what kind of information do you think victims of crime most want to receive and why? How would that information best be provided?

LEGAL PROVISIONS

Now, I'd like to talk with you about certain laws that have been designed to benefit victims of crime. Some of these laws have only existed since 1999, and so they might not have applied to your situation.

Consideration of victim safety at bail hearings
TO BE ASKED ONLY IF SUSPECT WAS ARRESTED AND CHARGED

22. What information did you receive about bail decisions? Were you aware that victim safety must be considered in any decision about bail? Were you aware that certain conditions could be placed on the accused, like not having contact with the victim? Was anything about the information you received about bail unclear or incomplete? If yes, what was unclear or incomplete?
23. In your case, was the accused released on bail? Was the accused detained for any period of time before release? Were conditions placed on the accused? What were the conditions? Did the conditions address your concerns?
24. Do you believe that your safety was considered in the decision about the possible release of the accused until trial? If not, what occurred or did not occur that caused you to feel that your safety was not considered? Did you make your concerns with safety known to the police, justice of the peace, judge, or Crown? If so, how? If not, why not?

Provisions facilitating testimony
TO BE ASKED ONLY IF THERE WAS A TRIAL

Some victims are eligible for certain protections. Many of these protections have only been included in the law since 1999 and are intended for only certain crimes and for young victims, so you might not have had the benefit of these provisions. [INTERVIEWER: ASK ONLY WHERE THE PROTECTION SEEMS APPROPRIATE – ANY RESTRICTIONS ON THE PROTECTIONS ARE IN PARENTHESES]

25. Were you given information about any of the following types of protections:
- A. A publication ban where the identity of the victim cannot be disclosed to the public
 - B. The possibility of testifying behind a screen or by closed circuit television (under 18 years of age or has difficulty communicating because of a mental or physical disability)
 - C. The possibility of testifying by videotape (under 14 years of age or has a mental or physical disability)
 - D. A self-represented accused cannot cross-examine a victim (under 18 years of age and case is a sexual offence, a sexual assault, or where violence against the victim is alleged to have been used, threatened, or attempted)
26. Who provided that information to you? Were you given this information with enough time to make the decision about using any of these protections?
27. What information did you receive about these protections? Was anything about the information you received unclear or incomplete? If yes, what was unclear or incomplete?



28. Did you testify at the trial of the accused?
29. (IF DID TESTIFY) I'd like to ask you some questions about your experience testifying. Did you receive help in preparing to testify? If yes, who helped you prepare to testify and what help did they give you? Did you feel that you were prepared for testifying? Why or why not?
30. I'd like to ask you whether you (or your child) received certain protections to help you testify. These are the same protections I mentioned earlier. Please remember that many of these protections have only been included in the law since 1999 and are intended for only certain crimes and for young victims, so you might not have had the benefit of these provisions. [INTERVIEWER: ASK ONLY WHERE THE PROTECTION SEEMS APPROPRIATE – ANY RESTRICTIONS ON THE PROTECTIONS ARE IN PARENTHESES] Did you receive any of the following protections?
- A. A publication ban where the identity of the victim cannot be disclosed
 - B. The possibility of testifying behind a screen or by closed circuit television (under 18 years of age or has difficulty communicating because of a mental or physical disability)
 - C. The possibility of testifying by videotape (under 14 years of age or has a mental or physical disability)
 - D. That a self-represented accused cannot cross-examine a victim (under 18 years of age and case is a sexual offence, a sexual assault, or where violence against the victim is alleged to have been used, threatened, or attempted)
31. How did these protections help you in testifying?
32. (IF DID NOT TESTIFY) Did you have concerns about testifying? If yes, why were you reluctant to testify?
33. Do you have any suggestions for helping victims with testifying at trial?

[Please note that some victims mentioned that they received information on protections, even though the case did not go to trial. Their responses are included in the questions on protections.]

Victim impact statements

TO BE ASKED ONLY IF SOMEONE WAS ARRESTED AND CHARGED

The next few questions are about victim impact statements. As you may already know, a victim impact statement is a written statement, prepared by the victim, that describes the harm done or the loss suffered by the victim as a result of the crime. The court must consider the statement at the time of sentencing the offender. Parole officers must also consider victim impact statements in parole decisions. Since 1999, victims are entitled to read their statements aloud in court if they want to.

34. Were you given information about victim impact statements after the crime occurred? Who provided that information to you? How were you given the information (in person, telephone, in writing (brochures, letters))?
35. When were you provided the information about victim impact statements (immediately following the report to police, immediately after the arrest of the accused, just prior to the start of the trial, other)?
36. What information did you get about victim impact statements? Did the information explain victim impact statements so that you understood what you could include in a victim impact statement? Did the information explain how victim impact statements are used in court? Did the information tell you that your statement, once you submit it to the Crown, has to be provided to the defence counsel and the accused? Did the information explain victim impact statements so that you knew what you needed to do to give a victim impact statement? Was anything about the information you received unclear or incomplete? If yes, what was unclear or incomplete?
37. What do you think would be the best way to provide victims of crime information about victim impact statements (in person, telephone, or in writing (brochures, letters))? When should this be provided?
38. Before the offender was sentenced, did the judge ask you whether you had been given the opportunity to prepare a victim impact statement and provide it to the court?
39. Did you prepare a victim impact statement at sentencing? Did you prepare a victim impact statement at parole? Both?

IF DID GIVE AN IMPACT STATEMENT

I'd like to ask you some more specific questions about your experience in preparing and giving a victim impact statement.

40. At what stage did you submit a victim impact statement?

[AT SENTENCING]

41. Did you have any help preparing your statement? Who helped you? What kinds of help did they give?
42. Did you have any problems completing your victim impact statement? If yes, what were the problems?
43. To whom did you submit your victim impact statement (e.g., victim services, Crown)?



-
44. Since 1999, changes have been made which allow you to read a victim impact statement aloud. Were you told that you could read your statement? Did you read your statement aloud? If not, why not? Did you present your statement by videotape or any other way? Were you satisfied with how you were able to give your statement? If not, why not?
 45. Why did you decide to prepare a victim impact statement? Are you glad that you prepared the statement? Why or why not?
 46. What were your expectations of how the victim impact statement would be used by the court? Do you think that the judge considered what you wrote in your victim impact statement? (If yes or no) What leads you to believe this?

[AT PAROLE]

47. Did you have any help preparing your statement? Who helped you? What kinds of help did they give?
48. Did you have any problems completing your victim impact statement? If yes, what were the problems?
49. To whom did you submit your victim impact statement (victim services, parole officers)?
50. Did you read your statement aloud? Did you present your statement by videotape or any other way? Were you satisfied with how you were able to give your statement? If not, why not?
51. Why did you decide to submit a victim impact statement? Are you glad that you gave the statement? Why or why not?
52. What were your expectations of how the victim impact statement would be used by the Parole Board? Do you think that the federal parole officer/parole board considered what you wrote in your victim impact statement? What leads you to believe this?

IF DID NOT GIVE A STATEMENT

53. Why did you decide not to give a victim impact statement? Did you not know about these statements or feel that you did not know enough to feel comfortable giving one? Did you not feel comfortable giving one because of the possibility of being questioned by the defence or accused about your statement or because you knew that the offender would receive a copy of the statement? Did you find out about victim impact statements too late to prepare a statement?

54. Did you give the court information about the crime's effect on you in some way other than in a victim impact statement? If so, please describe how you gave this information to the court. Do you think that the judge considered this information? What leads you to believe this?

Restitution

TO BE ASKED ONLY IF THERE WAS A CONVICTION OR GUILTY PLEA

55. Did the court order restitution in your case?

[If they ask for a definition] In some cases when a court sentences an offender, the court may order the offender to pay restitution (money) to a victim for certain kinds of financial losses as a result of the crime.

56. If yes, were you given information about restitution after the crime was committed? Were you aware of restitution as a sentencing option? Who provided information about restitution? Did the information explain restitution so that you knew how to request it? Was anything about the information you were given unclear or incomplete? If yes, what was unclear or incomplete?

57. Did you receive the full amount of the restitution order? Did you bring a civil suit against the accused to enforce a restitution order? What difficulties, if any, did you have in enforcing the restitution order?

Victim surcharge

TO BE ASKED ONLY IF THERE WAS A CONVICTION OR GUILTY PLEA

The next questions are about the victim surcharge. As you may know, the victim surcharge is imposed automatically (unless it is waived due to undue hardships). The surcharge requires the offender to pay money, and that money is used to help support programs and services for victims of crime in that province or territory.

58. Were you aware of the victim surcharge? Who provided that information to you?

59. Was the offender in your case ordered to pay the surcharge? If not, do you know why not?



Conditional sentences

TO BE ASKED ONLY IF THERE WAS A CONVICTION OR GUILTY PLEA

I'd like to briefly talk about conditional sentences. When a court finds a person guilty of a crime, the person may be sentenced to time in prison or, in certain circumstances, may be allowed to serve the sentence in the community. As you may know, this is called a conditional sentence.

60. Was the offender in your case given a conditional sentence? Did you agree with that decision? Were you informed of the details of the conditional sentence (conditions, requirements, etc.)? Who provided that information?

61. What input should victims of crime have in the conditions attached to such a sentence?

Restorative justice processes

TO BE ASKED ONLY IF THERE WERE CHARGES LAID

I'd like to turn now to restorative justice processes. As you may know, restorative justice considers the wrong done to a person as well as the wrong done to the community. Restorative justice programs involve the victim(s) or a representative, the offender(s), and community representatives. The offender is required to accept responsibility for the crime and take steps to repair the harm he or she has caused.

62. Were you given information about restorative justice processes after the crime? Who provided that information to you?

63. What information were you given? (Did the information explain the restorative justice process, what the results of the process might be, what your role would be, what were the other ways that the case might be handled?)

64. Was a restorative justice process used in your case? Did you participate in the process? In what ways did you participate? (Was it direct or indirect participation?) Were you given any support during the process? If so, what kind of support and who provided it? Was the support helpful? Please explain.

65. Was your participation helpful or useful to you? Why or why not? Were you satisfied with the outcome? Why or why not?

CONCLUSION

I have just a few more questions for background purposes.

66. In what year were you/was the victim born?

67. Are you/Is the victim of Aboriginal ancestry?

68. What is your first language?

69. Do you have any other comments about your experiences in the criminal justice system as a victim of crime that you would like to share with those responsible for drafting legislation and developing policy?

Thank you very much for your participation in this research.

De-brief follows with Interviewer.



Interview Guide for Victim Services and Community Organizations



KEY INFORMANT INTERVIEW GUIDE FOR VICTIM SERVICES AND COMMUNITY ORGANIZATIONS (Those that directly provide services to victims)

The Department of Justice Canada has recently launched a multi-site study of victims of crime and criminal justice professionals. The main objectives of this study are:

- ▶ To provide information on the use and awareness of recent reforms with respect to victims of crime in the criminal justice system
- ▶ To identify any impediments to the implementation of recent reforms by criminal justice professionals
- ▶ To learn what information is provided to victims throughout the criminal justice process
- ▶ To gain a better understanding of the experiences of victims of crime in the criminal justice system and with various victim services.

The following questions address issues relating to the role of the victim in the criminal justice system, victim services, and the implementation of recent reforms to assist victims of crime through the criminal justice process.

We realize that you may not have the personal knowledge required to answer some of the questions. Please let us know if you do not feel that you can answer a question.

Background information

1. How would you describe your organization? (*e.g., court-based services, police-based services, community-based services, system-based services, specialized services for domestic violence, sexual assaults, or children*)
2. Could you please tell me about the services that your organization generally provides to victims? (*e.g. crisis support, information to victims, liaison with Crown, court preparation, court accompaniment, counselling, referrals*) In your opinion, what aspects of these services are most beneficial to victims and why?

The role of the victim

3. In your opinion, what role should the victim have in the criminal justice system? In particular, please consider bail decisions, plea negotiations, and sentencing.

Victim services

4. What other victim services are currently available in your community for victims of crime? (*e.g., court-based services, police-based services, community-based services, system-based services, specialized services*)
5. What do you think is the best way to inform victims of these services? (*e.g., pamphlets, mail, phone calls, in person*)

6. What are the challenges, if any, faced by victims of crime in accessing victim services? (PROMPT: geographic location – e.g. urban vs. rural; language barriers; physical barriers – e.g. access to persons with disabilities; financial barriers; services not culturally sensitive; services do not respond to needs of both genders). In your opinion, what changes could be made to increase accessibility of services for victims of crime?

7. In general, do you think that victims are provided with adequate information on:

- ▶ the progress of investigation
- ▶ outcomes of bail decisions
- ▶ conditions of release
- ▶ date and location of court proceedings
- ▶ charges laid
- ▶ charges dropped
- ▶ victim impact statements
- ▶ restitution
- ▶ the ultimate outcome of the case
- ▶ the criminal justice process
- ▶ alternative processes, such as diversion or restorative justice
- ▶ accused rights
- ▶ victim services
- ▶ other community support services?

For each of the above, who should provide victims of crime with this type of information?

8. What, if anything, can be done to improve the information given to victims? Are there any difficulties in providing victims of crime with the information that they require? Please explain.

9. Based on your experience, what kind of information do you think victims of crime most want to receive and why?

10. Please describe the extent to which your organization works together or shares information with other victim services or community organizations, the police, and/or the Crown.

Recent reforms relating to victims of crime

As you may know, a number of legislative changes at the federal level have been made relating to victims of crime and their participation in the criminal justice system (victim surcharge, victim impact statements, consideration of victim safety in bail decisions, assistance to victims testifying at trial, publication bans, etc.). The following questions address issues relating to the implementation of these provisions.

11. [If applicable] In your opinion, are there any difficulties notifying victims about bail determinations?

12. Do you believe that victims' safety is generally considered in the decision about bail and conditions on release? If no, what are the obstacles to the consideration of victim safety?



13. There are several legal provisions to assist victims with testifying. For the following, please explain whether you think there are any obstacles to their use.
- ▶ Publication bans in cases other than sexual assault
 - ▶ Exclusion of the public from a trial
 - ▶ Use of a screen or closed-circuit television for testimony of a complainant/witness (who is under 18 years of age or has a mental or physical disability)
 - ▶ Use of pre-trial videotaped testimony of a complainant/witness (who is under 18 years of age or has a mental or physical disability)
 - ▶ Use of a support person to accompany a victim/witness to court (who is under 14 years of age or has a mental or physical disability)

Section 486 (2.3) of the *Criminal Code* states that, unless required by "*the proper administration of justice*" a self-represented accused cannot cross-examine a child witness (under 18 years of age). This section is applicable to proceedings where an accused is charged with a sexual offence, a sexual assault under sections 271, 272, and 273, or where violence against the victim is "*alleged to have been used, threatened, or attempted.*"

14. Do you feel that s. 486 (2.3) of the *Criminal Code* should be expanded to include other victims/witnesses and/or other types of offences? Please explain.
15. [If applicable] How do you help victims prepare to testify in court? What kind of assistance do you provide?
16. Based on your experience, how do victims find the experience of testifying in court?
17. Do you have any suggestions for additional ways to help victims with testifying?

Questions 18-23 concern victim impact statements. If you have experience with victim impact statements at both sentencing and parole hearings, please answer for each separately.

18. Based on your experience, do victims usually submit victim impact statements? What about in serious cases? What are the most common methods for submitting a victim impact statement (written statement only, victim reads statement, Crown read statement, other)?
19. Do you think that most victims are made aware of victim impact statements? If not, what might be done to inform victims of their opportunity to give victim impact statements?
20. What do you think is the best way to inform victims about victim impact statements? (e.g., pamphlets, mail, phone calls, in-person) When do you think is the best time to tell victims about victim impact statements? (e.g., as soon as possible after the crime, after someone is arrested and charged, just before trial is scheduled to commence, other)
21. Do you assist victims with victim impact statements? What kind of assistance do you provide? (e.g., provide forms, help with drafting the statement, advice on what to include in the statement, advice on how to present the statement to the court)

22. In your opinion, what are the benefits of victim impact statements for victims? Are there unique benefits to reading the victim impact statement?
23. Are there any obstacles to the use of victim impact statements? (e.g., difficulties in preparing, submitting, or delivering the statement) If yes, please explain. How can these best be addressed?
24. Based on your experience, do victims, who are eligible, usually ask for restitution? Are there any obstacles to the use of restitution? If yes, please explain. How can these be addressed?
25. Based on your experience, is the victim surcharge waived more often than it should be?
26. In your opinion, in what types of cases would a conditional sentence be appropriate? Do you think that victims' safety is generally considered in a decision to impose a conditional sentence of imprisonment? If not, what are the obstacles to the consideration of victim safety?

Restorative justice

Restorative justice considers the wrong done to a person as well as the wrong done to the community. Restorative justice programs involve the victim(s) or a representative, the offender(s), and community representatives. The offender is required to accept responsibility for the crime and take steps to repair the harm he or she has caused.

27. Have you participated in a restorative justice approach? Why or why not? At what stage in the process have you participated in restorative justice? (e.g., pre-charge, sentencing, other)
28. Are victims involved in the process? If so, how?
29. In what kinds of cases do you think that the restorative approach would be most effective? Do you consider it important to consult the victim in the use of a restorative approach? Why or why not? Do you think that restorative approaches adequately protect victims and address their interests? Please explain.



Conclusion

30. Do you think that victim services workers are adequately informed of the provisions of the *Criminal Code* intended to benefit victims? If no, what can be done to better inform victim services workers?
31. What has been accomplished by the *Criminal Code* provisions intended to benefit victims? Have there been any unintended consequences to these provisions? Please explain.
32. Do you have any suggestions of other advocacy groups or criminal justice professionals who you think should be interviewed for this study?
33. Do you have any other comments?

Thank you for your participation



Self-Administered Questionnaire for Survey of Victim Services Providers



Self-Administered Questionnaire for Survey of Victim Services Providers

1. What role do you believe victims should have in the following stages of the criminal justice process?

	Victim should be			Victims should not have any role
	Informed	Consulted	Other (<i>specify</i>)	
Bail decisions	1	2	3 _____	00
Plea negotiations	1	2	3 _____	00
Sentencing decisions	1	2	3 _____	00

The following questions ask about your victim services organization and other victim services in your community.

2. How would you describe your organization? (*Please check all that apply*)

	Yes	No
Police-based victim services	1	2
Court-based victim services	1	2
Community-based victim services	1	2
System-based victim services	1	2
Specialized victim services for domestic violence	1	2
Specialized victim services for sexual assaults	1	2
Specialized victim services for children	1	2
Other (<i>please specify</i>) _____	1	2

3. Does your organization generally provide the following services to victims: (*Check “Yes” or “No” for each of the following*)

	Yes	No	Don't know
Provide crisis support	1	2	8
Provide counselling	1	2	8
Make referrals	1	2	8
Inform victims about the police investigation	1	2	8
Inform victims about the criminal justice system	1	2	8
Inform victims about court procedures	1	2	8
Inform victims about bail outcomes, when appropriate	1	2	8
Help victims prepare to testify in court	1	2	8
Inform victims about victim impact statements	1	2	8
Accompany victims to court	1	2	8
Inform victims of the opportunity to request restitution	1	2	8
Help victims prepare forms to request restitution	1	2	8
Liaise with Crown attorneys	1	2	8
Inform the police, Crown, or court of victims' safety concerns when accused released on bail	1	2	8

4. What other victim services are available in your community?

	Yes	No	Don't know
Police-based victim services	1	2	8
Crown-based victim services	1	2	8
Community-based victim services	1	2	8
System-based victim services	1	2	8
Specialized victim services for domestic violence	1	2	8
Specialized victim services for sexual assaults	1	2	8
Specialized victim services for children	1	2	8
Other (<i>Specify</i>) _____	1	2	8
Other (<i>Specify</i>) _____	1	2	8



5. Do victims of crime face any of the following challenges in accessing victim services in your community?

	Yes	No	Don't know	If yes, please explain
Lack of victim services because of rural location	1	2	8	_____
Language barriers	1	2	8	_____
Physical barriers for persons with disabilities	1	2	8	_____
Financial barriers	1	2	8	_____
Services do not respond to cultural needs (e.g., lack of Aboriginal victim services)	1	2	8	_____
Services do not respond to needs of both genders	1	2	8	_____

The next questions ask about information provided to victims of crime.

6. Please indicate your level of agreement with the following:

<i>Victims usually receive adequate information on...</i>	Strongly agree	Agree	Disagree	Strongly disagree	Don't know
The progress of the investigation	4	3	2	1	8
Outcomes of bail decisions	4	3	2	1	8
Conditions of release	4	3	2	1	8
Date and location of court proceedings	4	3	2	1	8
Charges laid	4	3	2	1	8
Charges dropped	4	3	2	1	8
Victim impact statements	4	3	2	1	8
Restitution	4	3	2	1	8
The ultimate outcome of the case	4	3	2	1	8
The criminal justice process	4	3	2	1	8
Alternative processes, such as diversion and restorative justice	4	3	2	1	8
Rights of accused	4	3	2	1	8
Victim services	4	3	2	1	8
Other community support services	4	3	2	1	8

6a. For those items in Question 6 with which you **disagree** or **strongly disagree**, what could be done to improve the information given to victims?

7. Who should provide the following information to victims? *(Please check all that apply)*

	Crown	Police	Victim services	Other (Specify)	Don't know
The progress of the investigation	1	2	3	_____	8
Outcomes of bail decisions	1	2	3	_____	8
Conditions of release	1	2	3	_____	8
Date and location of court proceedings	1	2	3	_____	8
Charges laid	1	2	3	_____	8
Charges dropped	1	2	3	_____	8
Victim impact statements	1	2	3	_____	8
Restitution	1	2	3	_____	8
The ultimate outcome of the case	1	2	3	_____	8
The criminal justice process	1	2	3	_____	8
Alternative processes, such as diversion and restorative justice	1	2	3	_____	8
Rights of accused	1	2	3	_____	8
Victim services	1	2	3	_____	8
Other community support services	1	2	3	_____	8

8. Please describe the extent to which your organization works together or shares information with the following.

	Please describe extent of collaboration, if any	Do not work together or share information
Other victim services or community organizations	_____ _____ _____	00
Police	_____ _____ _____	00
Crown	_____ _____ _____	00



The following questions ask about federal legislative provisions that are intended to benefit victims.

9. Do you think that the victim's safety is generally considered in a decision about bail and conditions on release?

1 Yes

2 No

8 Don't know

9a. If no, what are the obstacles to the consideration of victim safety?

10. Are there any obstacles to using the following testimonial aids?

	Yes	No	Don't know
Publication bans in cases other than sexual offences	1	2	8
Exclusion of the public from a trial	1	2	8
A screen for young witnesses or witnesses with a mental or physical disability	1	2	8
Closed-circuit television for young witnesses or witnesses with a mental or physical disability	1	2	8
Pre-trial videotaped testimony for young witnesses or witnesses with a mental or physical disability	1	2	8
Support person to accompany a young witness under the age of 14 or witnesses with a mental or physical disability	1	2	8

10a. If you answered yes to any part of Question 10, please explain.

Publication bans in cases other than sexual offences _____

Exclusion of the public from a trial _____

A screen for young witnesses or witnesses with a mental or physical disability _____

Closed-circuit television for young witnesses or witnesses with a mental or physical disability _____

Pre-trial videotaped testimony for young witnesses or witnesses with a mental or physical disability _____

Support person to accompany a young witness under the age of 14 or witnesses with a mental or physical disability _____

Section 486 (2.3) of the *Criminal Code* states that, unless required by "the proper administration of justice," a self-represented accused cannot cross-examine a child witness (under 18 years of age). This section is applicable to proceedings where an accused is charged with a sexual offence, a sexual assault under sections 271, 272, and 273, or where violence against the victim is "alleged to have been used, threatened, or attempted."

11. Should Section 486 (2.3) be expanded? *(Please check all that apply)*

- Yes, to other victims
 Yes, to other offences
 No

11a. If yes to other victims and/or to other offences, please explain.

The next several questions ask you to consider victim impact statements. As you know, victim impact statements can be submitted for use at sentencing or at parole.

12. Based on your experience, do victims usually submit victim impact statements?

- At sentencing
 Yes
 Yes, in serious cases
 No
 Don't know
- At parole
 Yes
 Yes, in serious cases
 No
 Don't know

13. What are the most common methods for submitting a victim impact statement? *(Check all that apply)*

- At sentencing:
 Written statement only
 Victim reads statement
 Crown reads statement
 Other *(Specify)* _____
 Don't know
- At parole:
 Written statement only
 Victim reads statement in person
 Victim presents statement via audiotape or videotape
 Other *(Specify)* _____
 Don't know

14. Do you think that most victims are made aware of victim impact statements?

- At sentencing
 Yes
 No
 Don't know
- At parole
 Yes
 No
 Don't know

14a. If not, what can be done to better inform victims?



15. When is the best time to inform victims about victim impact statements for use at sentencing? *(Check all that apply)*

- ₁ As soon as possible after the crime
 ₂ After someone is arrested and charged
 ₃ Just before the trial is scheduled

₆₆ Other *(Specify)* _____

16. Do you assist victims with victim impact statements?

- ₁ Yes, at sentencing
 ₂ Yes, at parole
 ₃ At both sentencing and parole
 ₄ No
 ₈ Don't know

16a. If yes to Question 16, what types of assistance do you provide? *(Please check all types of assistance you provide)*

	At sentencing	At parole
Providing victim impact statement forms	1	2
Informing victims where forms can be obtained	1	2
Explaining instructions on how to complete victim impact statements	1	2
Explaining the kinds of information that can be included in victim impact statements	1	2
Helping complete the statement (write down what victim says)	1	2
Helping with drafting statement (assist victim with formulating his/her thoughts)	1	2
Reviewing completed victim impact statements	1	2
Informing victims where completed statements should be sent	1	2
Collecting completed victim impact statements	1	2
Submitting completed victim impact statements to Crown	1	2
Other <i>(Specify)</i> _____	1	2
Other <i>(Specify)</i> _____	1	2

17. Are there any obstacles to the use of the victim impact statement (e.g., in preparing, submitting, or delivering the statement)?

- At sentencing ₁ Yes ₂ No ₈ Don't know
 At parole ₁ Yes ₂ No ₈ Don't know

17a. If yes, please explain.

The following questions ask about restitution, the victim surcharge, and conditional sentences.

18. Based on your experience, do victims who are eligible usually ask for restitution?

- 1 Yes 2 No 8 Don't know

19. Are there any obstacles to the use of restitution?

- 1 Yes 2 No 8 Don't know

19a. If yes, please explain.

20. Based on your experience, is the victim surcharge waived more often than it should be?

- 1 Yes 2 No 8 Don't know

21. In what types of cases do you think a conditional sentence is appropriate? (*Check all that apply*)

- 1 All offences 2 Non-violent offences
3 Offences against the person
4 Family violence offences 5 Murder
66 Other (*Specify*)

22. Do you think that the victim's safety is generally considered in a decision to impose a conditional sentence?

- 1 Yes 2 No 8 Don't know

22a. If not, what are the obstacles to the consideration of victim safety?

Restorative justice considers the wrong done to a person as well as the wrong done to the community. Restorative justice programs involve the victim(s) or a representative, the offender(s), and community representatives. The offender is required to accept responsibility for the crime and take steps to repair the harm he or she has caused.

23. Have you participated in a restorative justice approach?

- 1 Yes 2 No 8 Don't know

23a. If yes to Question 23, at what stage in the process have you participated in restorative justice? (*Check all that apply*)

- 1 Pre-charge 2 Sentencing 66 Other (*Specify*) _____



23b. If yes to Question 23, in your experience, which statement best describes the victim's involvement in the decision to use restorative justice?

- ₁ The victim is always involved ₂ The victim is sometimes involved ₃ The victim is seldom involved

23c. If no to Question 23, why have you **not participated** in any restorative justice? (*Check all that apply*)

- ₁ Restorative justice approaches are not available
₂ Restorative justice approaches do not protect the victim adequately
₃ Restorative justice approaches do not act as a deterrent
₆₆ Other (*Specify*) _____

The concluding questions ask you to consider all of the *Criminal Code* provisions intended to benefit victims.

24. Do you think that victim services personnel are adequately informed of the provisions in the *Criminal Code* intended to benefit victims?

- ₁ Yes ₂ No ₈ Don't know

24a. If not, what could be done to better inform victim services workers?

25. In your opinion, what has been accomplished by the *Criminal Code* provisions intended to benefit victims?

26. Have there been any unintended or unexpected consequences to these provisions?

- ₁ Yes ₂ No ₈ Don't know

26a. If yes, what are they?

27. Do you have any other comments?

**Thank you for taking the time to complete this survey.
Please return the questionnaire by faxing it back to us toll-free at:**



Self-Administered Questionnaire for Survey of Victim Advocacy Groups



Self-Administered Questionnaire for Survey of Victim Advocacy Groups

1. Please describe what work your organization does on behalf of victims.

2. What role do you believe victims should have in the following stages of the criminal justice process?

	Victim should be Informed	Victim should be Consulted	Other (<i>specify</i>)	Victims should not have any role
Bail decisions	1	2	3 _____	00
Plea negotiations	1	2	3 _____	00
Sentencing decisions	1	2	3 _____	00

The following questions ask about victim services.

3. Do victims of crime face any of the following challenges in accessing victim services in your community?

	Yes	No	Don't know	If yes, please explain
Lack of victim services because of rural location	1	2	8	_____
Language barriers	1	2	8	_____
Physical barriers for persons with disabilities	1	2	8	_____
Financial barriers	1	2	8	_____
Services do not respond to cultural needs (e.g., lack of Aboriginal victim services)	1	2	8	_____
Services do not respond to needs of both genders	1	2	8	_____

4. Please indicate your level of agreement with the following:

<i>Victims usually receive adequate information on...</i>	Strongly agree	Agree	Disagree	Strongly disagree	Don't know
The progress of the investigation	4	3	2	1	8
Outcomes of bail decisions	4	3	2	1	8
Conditions of release	4	3	2	1	8
Date and location of court proceedings	4	3	2	1	8
Charges laid	4	3	2	1	8
Charges dropped	4	3	2	1	8
Victim impact statements	4	3	2	1	8
Restitution	4	3	2	1	8
The ultimate outcome of the case	4	3	2	1	8
The criminal justice process	4	3	2	1	8
Alternative processes, such as diversion and restorative justice	4	3	2	1	8
Rights of accused	4	3	2	1	8
Victim services	4	3	2	1	8
Other community support services	4	3	2	1	8

4a. For those items in Question 4 with which you **disagree** or **strongly disagree**, what could be done to improve the information given to victims?

5. Who should provide the following information to victims? (*Please check all that apply*)

	Crown	Police	Victim services	Other (Specify)	Don't know
The progress of the investigation	1	2	3	_____	8
Outcomes of bail decisions	1	2	3	_____	8
Conditions of release	1	2	3	_____	8
Date and location of court proceedings	1	2	3	_____	8
Charges laid	1	2	3	_____	8
Charges dropped	1	2	3	_____	8
Victim impact statements	1	2	3	_____	8
Restitution	1	2	3	_____	8
The ultimate outcome of the case	1	2	3	_____	8
The criminal justice process	1	2	3	_____	8
Alternative processes, such as diversion and restorative justice	1	2	3	_____	8
Rights of accused	1	2	3	_____	8
Victim services	1	2	3	_____	8
Other community support services	1	2	3	_____	8



The following questions ask about federal legislative provisions that are intended to benefit victims.

6. Do you think that the victim's safety is generally considered in a decision about bail and conditions on release?

₁ Yes

₂ No

₈ Don't know

6a. If no, what are the obstacles to the consideration of victim safety?

7. Are there any obstacles to using the following testimonial aids?

	Yes	No	Don't know
Publication bans in cases other than sexual offences	1	2	8
Exclusion of the public from a trial	1	2	8
A screen for young witnesses or witnesses with a mental or physical disability	1	2	8
Closed-circuit television for young witnesses or witnesses with a mental or physical disability	1	2	8
Pre-trial videotaped testimony for young witnesses or witnesses with a mental or physical disability	1	2	8
Support person to accompany a young witness under the age of 14 or witnesses with a mental or physical disability	1	2	8

7a. If you answered yes to any part of Question 7, please explain.

Publication bans in cases other than sexual offences

Exclusion of the public from a trial

A screen for young witnesses or witnesses with a mental or physical disability

Closed-circuit television for young witnesses or witnesses with a mental or physical disability

Pre-trial videotaped testimony for young witnesses or witnesses with a mental or physical disability

Support person to accompany a young witness under the age of 14 or witnesses with a mental or physical disability

Section 486 (2.3) of the *Criminal Code* states that, unless required by "*the proper administration of justice*," a self-represented accused cannot cross-examine a child witness (under 18 years of age). This section is applicable to proceedings where an accused is charged with a sexual offence, a sexual assault under sections 271, 272, and 273, or where violence against the victim is "*alleged to have been used, threatened, or attempted*."

8. Should Section 486 (2.3) be expanded? (*Please check all that apply*)

- Yes, to other victims Yes, to other offences No

8a. If yes to other victims and/or to other offences, please explain.

The next question asks you to consider victim impact statements. As you know, victim impact statements can be submitted for use at sentencing or at parole.

9. Based on your experience, do victims usually submit victim impact statements?

- | | | |
|---------------|------------------------------|------------------------------------------------|
| At sentencing | <input type="checkbox"/> Yes | <input type="checkbox"/> Yes, in serious cases |
| | <input type="checkbox"/> No | <input type="checkbox"/> Don't know |
| At parole | <input type="checkbox"/> Yes | <input type="checkbox"/> Yes, in serious cases |
| | <input type="checkbox"/> No | <input type="checkbox"/> Don't know |

9a. If not, please explain.

The following questions ask about restitution, the victim surcharge, and conditional sentences.

10. To your knowledge, are there any obstacles to the use of restitution?

- Yes No Don't know

10a. If yes, please explain.

11. To your knowledge, is the victim surcharge waived more often than it should be?

- Yes No Don't know



12. In what types of cases do you think a conditional sentence is appropriate? (*Check all that apply*)

- ₁ All offences ₂ Non-violent offences ₃ Offences against the person
 ₄ Family violence offences ₅ Murder
 ₆₆ Other (*Specify*) _____

13. Do you think that the victim's safety is generally considered in a decision to impose a conditional sentence?

- ₁ Yes ₂ No ₈ Don't know

13a. If not, what are the obstacles to the consideration of victim safety?

Restorative justice considers the wrong done to a person as well as the wrong done to the community. Restorative justice programs involve the victim(s) or a representative, the offender(s), and community representatives. The offender is required to accept responsibility for the crime and take steps to repair the harm he or she has caused.

14. Have you participated in a restorative justice approach?

- ₁ Yes ₂ No ₈ Don't know

14a. If yes to Question 14, at what stage in the process have you participated in restorative justice? (*Check all that apply*)

- ₁ Pre-charge ₂ Sentencing ₆₆ Other (*Specify*) _____

14b. If yes to Question 14, in your experience, which statement best describes the victim's involvement in the decision to use restorative justice?

- ₁ The victim is always involved ₂ The victim is sometimes involved ₃ The victim is seldom involved

14c. If no to Question 14, why have you **not participated** in any restorative justice? (*Check all that apply*)

- ₁ Restorative justice approaches are not available
 ₂ Restorative justice approaches do not protect the victim adequately
 ₃ Restorative justice approaches do not act as a deterrent
 ₆₆ Other (*Specify*) _____

The concluding questions ask you to consider all of the *Criminal Code* provisions intended to benefit victims.

15. In your opinion, what has been accomplished by the *Criminal Code* provisions intended to benefit victims?

16. Have there been any unintended or unexpected consequences to these provisions?

1 Yes

2 No

8 Don't know

16a. If yes, what are they?

17. Do you have any other comments?

**Thank you for taking the time to complete this survey.
Please return the questionnaire by faxing it back to us toll-free at:**



Interview Guide and
Self-Administered Questionnaire for
Survey of Judiciary



KEY INFORMANT INTERVIEW GUIDE FOR JUDICIARY

The Department of Justice Canada has recently launched a multi-site study of victims of crime and criminal justice professionals. The main objectives of this study are:

- ▶ To provide information on the use and awareness of recent reforms with respect to victims of crime in the criminal justice system
- ▶ To identify any impediments to the implementation of recent reforms by criminal justice professionals
- ▶ To learn what information is provided to victims throughout the criminal justice process
- ▶ To gain a better understanding of the experiences of victims of crime in the criminal justice system and with various victim services.

The following questions address issues relating to the roles of the judiciary and the victim in the criminal justice system, and the implementation of recent reforms to assist victims of crime through the criminal justice process.

The role of the judiciary

1. In your opinion, what is the judiciary's responsibility to victims?

The role of the victim

2. In your opinion, what role should the victim have in the criminal justice system? In particular, please consider bail decisions, plea negotiations, and sentencing.

Recent reforms relating to victims of crime

As you may know, a number of legislative changes at the federal level have been made relating to victims of crime and their participation in the criminal justice system (victim surcharge, victim impact statements, consideration of victim safety in bail decisions, assistance to victims testifying at trial, publication bans, etc.). The following questions address issues relating to the implementation of these provisions.

3. In bail or conditional release decisions, do you generally place conditions on the accused for the safety of the victim? Do you generally ask about safety issues if the Crown prosecutor does not mention them?
4. Do you think that you are adequately informed of safety issues in most bail hearings? If not, what changes would ensure that you are better informed of safety issues?

5. Have you granted an application to exclude the public from a trial? In what circumstances would you grant a request to exclude the public from a trial?
6. Do you generally grant applications for publication bans in sexual assault cases?
7. Have you granted an application for a publication ban in cases other than sexual offences? If yes, in what types of offences?
8. Do you generally place limitations or conditions on publication bans? If yes, what kinds of conditions do you generally order?
9. Do you generally grant requests for the use of a screen, videotape, or closed circuit television for testimony of a young witness or a witness with a mental or physical disability? If no, why not? Do you think that these aids are sufficiently available to meet current needs? Do you think that these aids should be available for other types of witnesses?
10. Do you generally grant requests for a support person to accompany a young witness or a witness with a mental or physical disability? When would it not be appropriate to allow a support person?

Section 486 (2.3) of the *Criminal Code* states that unless required by "*the proper administration of justice,*" a self-represented accused cannot cross-examine a child witness (under 18 years of age). This section is applicable to proceedings where an accused is charged with a sexual offence, a sexual assault under sections 271, 272 and 273, or where violence against the victim is "*alleged to have been used, threatened or attempted.*"

11. Have you ever had a case where section 486 (2.3) applied? If yes, in those cases, did you appoint counsel to conduct the cross-examination of the victim/witness? Have you presided over any cases where you allowed the accused to cross-examine a victim/witness? Why did you decide to allow the accused to cross-examine the victim/witness?
12. Based on your experience, do victims usually submit victim impact statements? What about in serious cases?
13. In cases where no victim impact statement was submitted, do you always inquire whether the victim was advised of the opportunity to prepare a victim impact statement? Have you had to adjourn a sentencing hearing to permit the victim to be informed?
14. What are the most common methods for submitting a victim impact statement (e.g., written only, victim reads, Crown reads, other)?
15. Do you use victim impact statements in determining the sentence? Why or why not?



-
16. Have you had to disallow parts of victim impact statements? If yes, why?
 17. Have you heard cases where the defence counsel or the accused wanted to cross-examine the victim on his or her statement either during trial or during sentencing? If yes, did you allow it?
 18. Do you generally apply the victim surcharge? Why or why not? Do you ever vary from the usual surcharge? If yes, please explain.
 19. Do Crown usually request restitution as part of the sentence where appropriate? In your view, when is restitution appropriate?
 20. In conditional sentences, do you generally impose conditions to protect a victim's safety?

Restorative justice

Restorative justice considers the wrong done to a person as well as the wrong done to the community. Restorative justice programs involve the victim(s) or a representative, the offender(s), and community representatives. The offender is required to accept responsibility for the crime and take steps to repair the harm he or she has caused.

21. Have you been involved in any restorative justice processes such as healing circles, etc? If yes, please explain. Have you received recommendations on sentencing from a restorative justice process? If you have not been involved in a restorative justice approach, why not?
22. In what kinds of cases do you think that the restorative approach would be most effective? Do you consider it important to consult the victim in the use of a restorative approach?

Conclusion

23. In your opinion, what has been accomplished by the *Criminal Code* provisions intended to benefit victims? Have there been any unintended consequences to these provisions? Please explain.
24. Do you have any other comments?

Thank you for your participation



Self-Administered Questionnaire for Survey of Judiciary

1. What role should victims have in the following stages of the criminal justice process?

	Victim should be		Other (specify)	Victim should not have any role
	Informed	Consulted		
Bail decisions	1	2	3 _____	00
Sentencing decisions	1	2	3 _____	00

2. What is the Court's responsibility to victims?

The next several questions ask about the use of specific *Criminal Code* provisions intended to benefit victims.

3a. Do you generally do any of the following: (*Check "Yes" or "No" for each of the following.*)

	Yes	No
Place conditions on the accused for the safety of the victim in bail determinations	1	2
Ask about safety issues if the Crown prosecutor has not mentioned them during bail determinations	1	2
Grant applications for publication bans in sexual assault cases	1	2
Place limitations or conditions on publication bans If yes, what kinds of conditions do you generally order? _____	1	2
Grant requests for the use of a screen for young witnesses or witnesses with a mental or physical disability Comments _____	1	2
Grant requests for the use of closed-circuit television for young witnesses or witnesses with a mental or physical disability Comments _____	1	2
Grant requests for the use pre-trial videotaped testimony for young witnesses or witnesses with a mental or physical disability Comments _____	1	2
Grant requests for a support person to accompany young witnesses under the age of 14 or witnesses with a mental or physical disability Comments _____	1	2

3b. Are you informed of safety issues in most bail hearings?

1 Yes 2 No 8 Don't know

If "No," what changes might ensure that you are better informed of safety issues?

8 Don't know

3c. Do you think that testimonial aids (screens, close-circuit television, videotape, or support persons) are sufficiently available to meet current needs?

1 Yes 2 No 8 Don't know

If "No," why not? _____

4. Have you granted an application to exclude the public from a trial?

1 Yes 2 No 8 Don't recall

5. In what circumstances would you grant a request to exclude the public from a trial?

8 Don't know

6a. Have you granted an application for a publication ban in cases other than sexual offences?

1 Yes 2 No 8 Don't recall

6b. If "Yes," in what types of offences?

8 Don't recall

Section 486 (2.3) of the *Criminal Code* states that, unless required by "*the proper administration of justice*" a self-represented accused cannot cross-examine a child witness (under 18 years of age). This section is applicable to proceedings where an accused is charged with a sexual offence, a sexual assault under sections 271, 272, and 273, or where violence against the victim is "*alleged to have been used, threatened, or attempted.*"

7. Have you had a case where Section 486 (2.3) applied?

1 Yes 2 No 8 Don't recall



8. [If “Yes” to question 7] In those cases, would you generally appoint counsel to cross-examine the victim/witness?

1 Yes 2 No 8 Don't recall

9a. [If “Yes” to question 7] Have you presided over any cases where you allowed the accused to cross-examine a victim/witness?

1 Yes 2 No 8 Don't recall

9b. If you answered “Yes” to question 9a, why did you decide to allow the accused to cross-examine the victim/witness? (Please describe)

The next several questions ask you to consider victim impact statements.

10. Based on your experience, do victims generally submit victim impact statements to the court? (Check one)

1 Yes 2 Yes, in serious cases 3 No 8 Don't know

11. What is the most common method for submitting a victim impact statement?

1 Written statement only 2 Victim reads statement 3 Crown reads statement

66 Other (Specify) _____

12. If no victim impact statement is submitted, do you inquire whether the victim was advised of the opportunity to prepare a victim impact statement?

5 Always 4 Usually 3 Sometimes 2 Rarely 1 Never

66 Depends on the case (Explain)

13. Have you had to adjourn a sentencing hearing to permit the victim to be informed of a victim impact statement?

1 Yes 2 No 8 Don't recall

14. Do you use victim impact statements in determining the sentence?

1 Yes 2 No 8 Sometimes

Please explain _____

15. Have you had to disallow parts of victim impact statements?

1 Yes 2 No 8 Don't recall

If yes, please explain _____

16. Have you had a case where the defence counsel or the accused wanted to cross-examine the victim on their victim impact statement?

	<u>Yes</u>	<u>No</u>	<u>Don't recall</u>
During trial	1	2	8
During sentencing	1	2	8
Other (<i>Specify</i>) _____	1	2	8
If "Yes," did you allow it?			
	<u>Yes</u>	<u>No</u>	<u>Don't recall</u>
During trial	1	2	8
During sentencing	1	2	8
Other (<i>Specify</i>) _____	1	2	8

The next questions ask about the victim surcharge.

17. Do you generally apply the victim surcharge?

₁ Yes ₂ No Why or why not? _____

18. Do you ever vary from the usual surcharge?

₁ Yes ₂ No ₈ Don't recall

If "Yes," please explain _____

The next questions concern restitution.

19. Does the Crown usually request restitution as part of the sentence, when appropriate?

₁ Yes ₂ No ₈ Don't know

20. In your view, when is restitution appropriate? (*Check all that apply*)

₁ When the offender can pay ₂ When damages victim suffered ₃ When the victim
desires it restitution are quantifiable
₆₆ Other (*Specify*) _____

The next question asks about conditional sentences.

21. Do you generally impose conditions to protect a victim's safety in conditional sentences?

₁ Yes ₂ No ₈ Don't know



The following questions are about restorative justice. Restorative justice considers the wrong done to a person as well as the wrong done to the community. Restorative justice programs involve the victim(s) or a representative, the offender(s), and community representatives. The offender is required to accept responsibility for the crime and take steps to repair the harm he or she has caused.

22. Have you been involved in any restorative justice processes such as a healing circles, etc.?
1 Yes 2 No
If yes, please explain _____

23. Have you received recommendations on sentencing from a restorative justice process?
1 Yes 2 No

24. [If "No" to questions 22 **and** 23, why have you **not** been involved in a restorative justice approach? (Check all that apply)]
1 Restorative justice approaches are not available
2 Restorative justice approaches do not protect the victim adequately
3 Restorative justice approaches do not act as a deterrent
66 Other (Specify) _____

25. Do you consider it important to consult the victim in the use of a restorative justice approach?
1 Yes 2 No 3 Depends (Please explain) _____

26. In your opinion, in what kinds of cases do you think that the restorative approach would be most effective?

The concluding questions ask you to consider all of the *Criminal Code* provisions intended to benefit victims.

27. In your opinion, what has been accomplished by the *Criminal Code* provisions intended to benefit victims?

28. Have there been any unintended or unexpected consequences to these provisions?

1 Yes 2 No 8 Don't know

What are they? _____

29. Do you have any other comments?

**Thank you for taking the time to complete this survey.
Please return the questionnaire by faxing it back to us toll-free at:**



Interview Guides and
Self-Administered Questionnaire for
Survey of Crown Attorneys



KEY INFORMANT INTERVIEW GUIDE FOR CROWN ATTORNEYS

The Department of Justice Canada has recently launched a multi-site study of victims of crime and criminal justice professionals. The main objectives of this study are:

- ▶ To provide information on the use and awareness of recent reforms with respect to victims of crime in the criminal justice system
- ▶ To identify any impediments to the implementation of recent reforms by criminal justice professionals
- ▶ To learn what information is provided to victims throughout the criminal justice process
- ▶ To gain a better understanding of the experiences of victims of crime in the criminal justice system and with various victim services.

The following questions address issues relating to the role of the victim and the Crown in the criminal justice system, victim services, and the implementation of recent reforms to assist victims of crime through the criminal justice process.

The role of the victim

1. In your opinion, what role should the victim have in the criminal justice system? In particular, please consider bail decisions, plea negotiations, and sentencing.

The Crown's role

2. In general, how would you describe the Crown's responsibility toward victims?
3. During a typical case, do you have sufficient opportunity to meet with victims? If time were not an issue, what else should the Crown do to further assist victims?

Victim services

4. What victim services are currently available in your community for victims of crime? (e.g., police-based victim services, crown-based victim services, specialized victim services for domestic violence, sexual assaults, or children)
5. In general, do you think that victims are provided with adequate information on:
 - ▶ the progress of investigation
 - ▶ outcomes of bail decisions
 - ▶ conditions of release
 - ▶ date and location of court proceedings
 - ▶ charges laid
 - ▶ charges dropped
 - ▶ victim impact statements

- ▶ restitution
- ▶ the ultimate outcome of the case
- ▶ the criminal justice process
- ▶ alternative processes, such as diversion and restorative justice
- ▶ accused rights
- ▶ victim services
- ▶ other community support services?

For each of the above, who should provide victims of crime with this type of information?

6. What, if anything, can be done to improve the information given to victims? Are there any difficulties in providing victims of crime with the information that they require? Please explain.
7. Are victim/witness assistants available to work with Crown attorneys in your office?
8. Please describe the extent to which the Crown and victim services work together or share information.

Recent reforms relating to victims of crime

As you may know, a number of legislative changes at the federal level have been made relating to victims of crime and their participation in the criminal justice system (victim surcharge, victim impact statements, consideration of victim safety in bail decisions, assistance to victims testifying at trial, publication bans, etc.). The following questions address issues relating to the implementation of these provisions.

9. How do you address the victims' safety concerns with respect to bail determinations? Do you generally call the victim as a witness? If no, why not? Where a bail hearing is held, do you generally request specific conditions to address the victim's safety? Do judges usually grant these conditions?
10. Do you generally request publication bans in cases other than sexual offences? If yes, in what types of offences? If no, why not? Do judges usually grant these requests?
11. Do you generally request the use of a screen or closed-circuit television for testimony of a young victim/witness or a victim/witness with a mental or physical disability? If no, why not? Do judges usually grant these requests? Are there any obstacles to the use of this provision? If yes, please explain. How can these best be addressed?



12. Do you generally request the use of pre-trial videotaped testimony of a young victim/witness or a victim/witness with a mental or physical disability? If no, why not? Do judges usually grant these requests? Are there any obstacles to the use of pre-trial videotape of testimony in these circumstances? If yes, please explain. How can these best be addressed?
13. Are there any alternatives to the use of screens, closed-circuit television, or pre-trial video-taped testimony that you believe would assist victims/witnesses in testifying?
14. Do you generally request that a support person be permitted to accompany a young victim/witness or a victim/witness with a mental or physical disability to court? If no, why not? Do judges usually grant these requests? Are there any obstacles to the use of support persons? If yes, please explain. How can these best be addressed?
15. Have you ever requested the exclusion of the public from a trial? If yes, in what circumstances? Do judges usually grant these requests?

Section 486 (2.3) of the *Criminal Code* states that, unless required by "*the proper administration of justice*" a self-represented accused cannot cross-examine a child witness (under 18 years of age). This section is applicable to proceedings where an accused is charged with a sexual offence, a sexual assault under sections 271, 272, and 273, or where violence against the victim is "*alleged to have been used, threatened, or attempted.*"

16. Have you ever had a case where Section 486 (2.3) applied? If yes, did you request that counsel be appointed for the self-represented accused for the purpose of cross-examination of a victim/witness? If no, why not?
17. Do you feel that s. 486 (2.3) of the *Criminal Code* should be expanded to include other victims/witnesses and/or other types of offences? Please explain.
18. Based on your experience, do victims usually submit victim impact statements? What are the most common methods for submitting a victim impact statement (written statement only, victim reads statement, Crown read statement, other)?
19. When is the best time for the Crown to receive victim impact statements?
20. When a victim impact statement is submitted, do you generally remind the judge to consider it?
21. Have you ever had a case where the defence counsel or the accused wanted to cross-examine the victim on their victim impact statement either during the trial or during sentencing? If yes, did the judge allow it?
22. How would you describe the effect of a victim impact statement on the sentencing of the accused?

23. If no impact statement is submitted, do you contact the victim about whether he/she wants to submit a victim impact statement? Do judges generally ask whether the victim is aware of the opportunity to prepare and submit a victim impact statement?
24. Are there any obstacles to the use of the victim impact statement? Please explain.
25. Do you generally request, when appropriate, that restitution be paid to a victim? If no, why not? What considerations motivate your decision to request restitution (e.g., offender's ability to pay, victim concerns, etc.)? Do judges usually grant requests for restitution?
26. Is restitution enforcement a concern or a problem? Why?
27. Based on your experience, is the victim surcharge waived more often than it should be? Do judges generally waive the surcharge without a request from the offender? Do you generally challenge an application by an accused to waive the surcharge?
28. In what circumstances do you think a conditional sentence is appropriate? Do you generally ask that conditions for the victim's safety be placed on the offender in conditional sentences?

Restorative justice

Restorative justice considers the wrong done to a person as well as the wrong done to the community. Restorative justice programs involve the victim(s) or a representative, the offender(s), and community representatives. The offender is required to accept responsibility for the crime and take steps to repair the harm he or she has caused.

29. Have you used a restorative justice approach? Why or why not? At what stage in the process have you used restorative justice? (e.g., pre-charge, sentencing, other)
30. How are victims involved in the process?
31. In what kinds of cases do you think that the restorative approach would be most effective? Do you consider it important to consult the victim in the use of a restorative approach? Why or why not? Do you think that restorative approaches adequately protect victims and address their interests? Please explain.

Conclusion

32. Do you think that Crown attorneys are adequately informed of the provisions of the *Criminal Code* intended to benefit victims? If no, what can be done to better inform Crown attorneys?



-
33. What has been accomplished by the *Criminal Code* provisions intended to benefit victims? Have there been any unintended consequences to these provisions? Please explain.
 34. Do you have any other comments?

Thank you for your participation



KEY INFORMANT INTERVIEW GUIDE FOR CROWN ATTORNEYS (Ontario)

The Department of Justice Canada has recently launched a multi-site study of victims of crime and criminal justice professionals. The main objectives of this study are:

- ▶ To provide information on the use and awareness of recent reforms with respect to victims of crime in the criminal justice system
- ▶ To identify any impediments to the implementation of recent reforms by criminal justice professionals
- ▶ To learn what information is provided to victims throughout the criminal justice process
- ▶ To gain a better understanding of the experiences of victims of crime in the criminal justice system and with various victim services.

The following questions address issues relating to the role of the victim and the Crown in the criminal justice system, victim services, and the implementation of recent reforms to assist victims of crime through the criminal justice process.

The Crown's role

1. What is your responsibility toward victims of crime?

Victim services

2. What victim services are currently available in your community for victims of crime? (e.g., police-based victim services, crown-based victim services, specialized victim services for domestic violence, sexual assaults, or children)
3. In general, do victims receive adequate information on:
 - ▶ the progress of investigation
 - ▶ outcomes of bail decisions
 - ▶ conditions of release
 - ▶ date and location of court proceedings
 - ▶ charges laid
 - ▶ charges dropped
 - ▶ victim impact statements
 - ▶ restitution
 - ▶ the ultimate outcome of the case
 - ▶ the criminal justice process
 - ▶ alternative processes, such as diversion and restorative justice
 - ▶ accused rights
 - ▶ victim services
 - ▶ other community support services?

4. What, if anything, can be done to improve the information given to victims?
5. Are victim/witness assistants available to work with Crown attorneys in your office?
6. Please describe the extent to which the Crown and victim services work together or share information.

Recent reforms relating to victims of crime

As you may know, a number of legislative changes at the federal level have been made relating to victims of crime and their participation in the criminal justice system (victim surcharge, victim impact statements, consideration of victim safety in bail decisions, assistance to victims testifying at trial, publication bans, etc.). The following questions address issues relating to the implementation of these provisions.

7. How do you address the victims' safety concerns with respect to bail determinations? Do you generally call the victim as a witness? If no, why not? Where a bail hearing is held, do you generally request specific conditions to address the victim's safety? Do judges usually grant these conditions?
8. Do you generally request publication bans in cases other than sexual offences? If yes, in what types of offences? If no, why not? Do judges usually grant these requests?
9. Do you generally request the use of a screen or closed-circuit television for testimony of a young victim/witness or a victim/witness with a mental or physical disability? If no, why not? Do judges usually grant these requests? Are there any obstacles to the use of this provision? If yes, please explain. How can these best be addressed?
10. Do you generally request the use of pre-trial videotaped testimony of a young victim/witness or a victim/witness with a mental or physical disability? If no, why not? Do judges usually grant these requests? Are there any obstacles to the use of pre-trial videotape of testimony in these circumstances? If yes, please explain. How can these best be addressed?
11. Are there any alternatives to the use of screens, closed-circuit television, or pre-trial video-taped testimony that assist victims/witnesses in testifying?
12. Do you generally request that a support person be permitted to accompany a young victim/witness or a victim/witness with a mental or physical disability to court? If no, why not? Do judges usually grant these requests? Are there any obstacles to the use of support persons? If yes, please explain. How can these best be addressed?
13. Have you ever requested the exclusion of the public from a trial? If yes, in what circumstances? Do judges usually grant these requests?



Section 486 (2.3) of the *Criminal Code* states that, unless required by "*the proper administration of justice*" a self-represented accused cannot cross-examine a child witness (under 18 years of age). This section is applicable to proceedings where an accused is charged with a sexual offence, a sexual assault under sections 271, 272, and 273, or where violence against the victim is "*alleged to have been used, threatened, or attempted.*"

14. Have you ever had a case where Section 486 (2.3) applied? If yes, did you request that counsel be appointed for the self-represented accused for the purpose of cross-examination of a victim/witness?
15. Based on your experience, do victims usually submit victim impact statements? What are the most common methods for submitting a victim impact statement (written statement only, victim reads statement, Crown read statement, other)?
16. When is the best time for the Crown to receive victim impact statements?
17. When a victim impact statement is submitted, do you generally remind the judge to consider it?
18. Have you ever had a case where the defence counsel or the accused wanted to cross-examine the victim on their victim impact statement either during the trial or during sentencing? If yes, did the judge allow it?
19. How is the victim impact statement used in the sentencing of the accused?
20. If no impact statement is submitted, do you contact the victim about whether he/she wants to submit a victim impact statement? Do judges generally ask whether the victim is aware of the opportunity to prepare and submit a victim impact statement?
21. Are there any obstacles to the use of the victim impact statement? Please explain.
22. Do you generally request, when appropriate, that restitution be paid to a victim? If no, why not? What considerations motivate your decision to request restitution (e.g., offender's ability to pay, victim concerns, etc.)? Do judges usually grant requests for restitution?
23. Is restitution enforcement a concern or a problem? Why?
24. How often is the victim surcharge waived? Do judges generally waive the surcharge without a request from the offender? Do you generally challenge an application by an accused to waive the surcharge?
25. In what circumstances do you agree to a conditional sentence? Do you generally ask that conditions for the victim's safety be placed on the offender in conditional sentences?

Restorative justice

Restorative justice considers the wrong done to a person as well as the wrong done to the community. Restorative justice programs involve the victim(s) or a representative, the offender(s), and community representatives. The offender is required to accept responsibility for the crime and take steps to repair the harm he or she has caused.

26. Have you used a restorative justice approach? Why or why not? At what stage in the process have you used restorative justice? (e.g., pre-charge, sentencing, other)
27. How are victims involved in the process?

Conclusion

28. Are Crown attorneys adequately informed of the provisions of the *Criminal Code* intended to benefit victims? If no, what can be done to better inform Crown attorneys?

Thank you for your participation



Self-Administered Questionnaire for Survey of Crown Attorneys

1. What role do you believe victims should have in the following stages of the criminal justice process?

	Victim should be			
	Informed	Consulted	Other (specify)	Victim should not have any role
Bail decisions	1	2	3 _____	00
Plea negotiations	1	2	3 _____	00
Sentencing decisions	1	2	3 _____	00

2. What do you think is the Crown's responsibility to victims?

3. If time were not an issue, what else should Crown do to further assist victims?

4. During a typical case, do you have sufficient opportunity to meet with victims?

1 Yes 2 No 8 Don't know

5. Are victim/witness assistants available to work with Crown attorneys in your office?

1 Yes 2 No 8 Don't know

6. Are the following victim services available in your community?

	Yes	No	Don't know
Police-based victim services	1	2	8
Crown-based victim services	1	2	8
Specialized victim services for domestic violence	1	2	8
Specialized victim services for sexual assaults	1	2	8
Specialized victim services for children	1	2	8
Other victim services (<i>Specify</i>) _____	1	2	8
Other victim services (<i>Specify</i>) _____	1	2	8
Other victim services (<i>Specify</i>) _____	1	2	8

7. Please indicate your level of agreement with the following:

<i>Victims usually receive adequate information on...</i>	Strongly agree	Agree	Disagree	Strongly disagree	Don't know
the progress of the investigation	4	3	2	1	8
outcomes of bail decisions	4	3	2	1	8
conditions of release	4	3	2	1	8
date and location of court proceedings	4	3	2	1	8
charges laid	4	3	2	1	8
charges dropped	4	3	2	1	8
victim impact statements	4	3	2	1	8
Restitution	4	3	2	1	8
the ultimate outcome of the case	4	3	2	1	8
the criminal justice process	4	3	2	1	8
alternative processes, such as diversion and restorative justice	4	3	2	1	8
accused rights	4	3	2	1	8
victim services	4	3	2	1	8
other community support services	4	3	2	1	8

7a. For those items from question 7 with which you **strongly disagree** or **disagree**, what could be done to improve the information given to victims?

8. Who should provide the following information to victims? (*Please check all that apply*)

	Crown	Police	Victim Services	Other (Specify)	Don't know
The progress of the investigation	1	2	3	_____	8
Outcomes of bail decisions	1	2	3	_____	8
Conditions of release	1	2	3	_____	8
Date and location of court proceedings	1	2	3	_____	8
Charges laid	1	2	3	_____	8
Charges dropped	1	2	3	_____	8
Victim impact statements	1	2	3	_____	8
Restitution	1	2	3	_____	8
The ultimate outcome of the case	1	2	3	_____	8
The criminal justice process	1	2	3	_____	8
Alternative processes, such as diversion and restorative justice	1	2	3	_____	8
Accused rights	1	2	3	_____	8
Victim services	1	2	3	_____	8
Other community support services	1	2	3	_____	8



9. Do you generally do any of the following: (Check “Yes” or “No” for each of the following.)

	Yes	No
Call the victim as a witness in bail hearings	1	2
Request specific conditions to address the victim’s safety in bail determinations	1	2
Request publication bans in cases other than sexual offences	1	2
Request the use of a screen for young witnesses or witnesses with a mental or physical disability	1	2
Request the use of closed-circuit television for young witnesses or witnesses with a mental or physical disability	1	2
Use pre-trial videotaped testimony for young witnesses or witnesses with a mental or physical disability	1	2
Request that a support person accompany a young witness under the age of 14 or witnesses with a mental or physical disability	1	2

9a. If you answered “No” to any part of question 9, please explain why not.

Call the victim as a witness in bail _____

Request specific conditions to address the victim’s safety in bail determinations _____

Request publication bans in cases other than sexual offences _____

Request the use of a screen for young witnesses or witnesses with a mental or physical disability _____

Request the use of closed-circuit television for young witnesses or witnesses with a mental or physical disability _____

Use pre-trial videotaped testimony for young witnesses or witnesses with a mental or physical disability _____

Request that a support person accompany a young witness under the age of 14 or witnesses with a mental or physical disability _____

10. In general, do judges usually grant the following requests?

	Yes	No	Don't know
Request specific conditions to address the victim's safety in bail determinations	1	2	8
Request for a publication ban in cases other than sexual offences	1	2	8
Request the use of a screen for young witnesses or witnesses with a mental or physical disability	1	2	8
Request the use of closed-circuit television for young witnesses or witnesses with a mental or physical disability	1	2	8
Request the use of pre-trial videotaped testimony for young witnesses or witnesses with a mental or physical disability	1	2	8
Request that a support person accompany a young witness under the age of 14 or witnesses with a mental or physical disability	1	2	8
Request to exclude the public from a trial	1	2	8
Request for restitution	1	2	8

11. Are there any obstacles to using the following?

	Yes	No	Don't know
A screen for young witnesses or witnesses with a mental or physical disability	1	2	8
Closed-circuit television for young witnesses or witnesses with a mental or physical disability	1	2	8
Pre-trial videotaped testimony for young witnesses or witnesses with a mental or physical disability	1	2	8
Support person to accompany a young witness under the age of 14 or witnesses with a mental or physical disability	1	2	8

11a. If you answered "Yes" to any part of question 11, please explain.

A screen for young witnesses with a mental or physical disability _____

Closed-circuit television for young witnesses or witnesses with a mental or physical disability _____

Pre-trial videotaped testimony for young witnesses or witnesses with a mental or physical disability _____

Support person to accompany a young witness under the age of 14 or witnesses with a mental or physical disability _____



12. Have you ever requested the exclusion of the public from a trial?

- 1 Yes 2 No

13. In what circumstances would you request the exclusion of the public from a trial?

8 Don't know

Section 486 (2.3) of the *Criminal Code* states that, unless required by "*the proper administration of justice*" a self-represented accused cannot cross-examine a child witness (under 18 years of age). This section is applicable to proceedings where an accused is charged with a sexual offence, a sexual assault under sections 271, 272, and 273, or where violence against the victim is "*alleged to have been used, threatened, or attempted.*"

14. Have you ever had a case where Section 486 (2.3) applied?

- 1 Yes 2 No 8 Don't recall

15. [If "Yes" to question 14] Did you request that counsel be appointed to cross-examine the victim/witness?

- 1 Yes 2 No

16. Should Section 486 (2.3) be expanded?

- 1 Yes 2 No 8 Don't know

16a. If you answered "Yes" to question 16, should it be expanded to other victims/witnesses? (Please describe)

16b. If you answered "Yes" to question 16, should it be expanded to other offences? (Please describe)

The next several questions ask you to consider victim impact statements.

17. Based on your experience, do victims generally submit victim impact statements?
(Check one)
- 1 Yes 2 Yes, in serious cases 3 No 8 Don't know
18. What are the most common methods for submitting a victim impact statement?
(Check all that apply)
- 1 Written statement only 2 Victim reads statement 3 Crown reads statement
- 66 Other (Specify) _____
19. If no victim impact statement is submitted, do you contact the victim about whether he/she wants to submit a victim impact statement?
- 5 Always 4 Usually 3 Sometimes 2 Rarely 1 Never
- 66 Depends on the case (Explain) _____
20. When is the best time for the Crown to receive a victim impact statement?
(Check all that apply)
- 1 As soon as the victim has prepared the statement 2 After a finding of guilt
- 66 Other (Specify) _____
21. When a victim impact statement has been submitted, do you generally remind the judge to consider it?
- 1 Yes 2 No 8 Don't know
22. In cases where no victim impact statement is submitted, do judges generally ask whether the victim is aware of the opportunity to prepare and submit a victim impact statement?
- 1 Yes 2 No 8 Don't know
23. Are there any obstacles to the use of the victim impact statement?
- 1 Yes 2 No 8 Don't know
- Please explain _____
- _____
- _____
24. Have you ever had a case where the defence counsel or the accused cross-examined the victim on their victim impact statement?
- | | Yes | No | Don't recall |
|-----------------------|-----|----|--------------|
| During trial | 1 | 2 | 8 |
| During sentencing | 1 | 2 | 8 |
| Other (Specify) _____ | 1 | 2 | 8 |



The next questions concern restitution.

25. What considerations motivate your decision to request restitution? (*Check all that apply*)

- ₁ Offender's ability to pay ₂ Ability to quantify damages victim suffered
 ₃ Victim's desire for restitution
 ₆₆ Other (Specify) _____

26. Do you generally request, when appropriate, that restitution be paid to a victim?

- ₁ Yes ₂ No ₈ Don't know

27. Is restitution enforcement a concern or problem ?

- ₁ Yes ₂ No ₈ Don't know

Please explain _____

The next two questions ask about conditional sentences.

28. In what circumstances do you think a conditional sentence is appropriate?

(*Check all that apply*)

- ₁ All offences ₂ Non-violent offences ₃ Offences against the person
 ₄ Family violence offences ₅ Murder
 ₆₆ Other (*Specify*) _____

29. Do you generally ask that conditions for the victim's safety be placed on the offender in conditional sentences?

- ₁ Yes ₂ No ₈ Don't know

Restorative justice considers the wrong done to a person as well as the wrong done to the community. Restorative justice programs involve the victim(s) or a representative, the offender(s), and community representatives. The offender is required to accept responsibility for the crime and take steps to repair the harm he or she has caused.

30. Have you ever used a restorative justice approach?

- ₁ Yes ₂ No ₈ Don't know

If "Yes", what approach(es) have you used? _____

31. [*If "No" to question 30*] Why have you **not used** a restorative justice approach? (*Check all that apply*)

- ₁ Restorative justice approaches are not available
 ₂ Restorative justice approaches do not protect the victim adequately
 ₃ Restorative justice approaches do not act as a deterrent
 ₆₆ Other (Specify) _____

32. [*If "Yes" to question 30*] At what stage in the process have you used restorative justice? (*Check all that apply*)

- ₁ Pre-charge ₂ Sentencing
 ₆₆ Other (Specify) _____

33. [If "Yes" to question 30] In your experience, which statement best describes the victim's involvement in the decision to use restorative justice?
1 The victim is always involved 2 The victim is sometimes involved 3 The victim is seldom involved

The next questions deal with the victim surcharge.

34. Based on your experience, is the victim surcharge waived more often than it should be?
1 Yes 2 No 8 Don't know
35. Do you generally challenge an application by an offender to waive the victim surcharge?
1 Yes 2 No 8 Don't know
36. Do judges generally waive the surcharge without a request from the offender?
1 Yes 2 No 8 Don't know

The concluding questions ask you to consider all of the *Criminal Code* provisions intended to benefit victims.

37. Do you think that Crown attorneys are adequately informed of the provisions in the *Criminal Code* intended to benefit victims?
1 Yes 2 No 8 Don't know

37a. If you answered "No" to question 37, what could be done to better inform Crown attorneys?

38. In your opinion, what has been accomplished by the *Criminal Code* provisions intended to benefit victims?

39. Have there been any unintended or unexpected consequences to these provisions?

1 Yes 2 No 8 Don't know

What are they? _____

40. Do you have any other comments?

**Thank you for taking the time to complete this survey.
Please return the questionnaire by faxing it back to us toll-free at:**



Interview Guide and
Self-Administered Questionnaire for
Survey of Defence Counsel



KEY INFORMANT INTERVIEW GUIDE FOR DEFENCE COUNSEL

The Department of Justice Canada has recently launched a multi-site study of victims of crime and criminal justice professionals. The main objectives of this study are:

- ▶ To provide information on the use and awareness of recent reforms with respect to victims of crime in the criminal justice system
- ▶ To identify any impediments to the implementation of recent reforms by criminal justice professionals
- ▶ To learn what information is provided to victims throughout the criminal justice process
- ▶ To gain a better understanding of the experiences of victims of crime in the criminal justice system and with various victim services;
- ▶ To generate research-based evidence that will inform future legislative reforms and policy changes.

The following questions address issues relating to the role of victims in the criminal justice system and the implementation of recent reforms to assist victims of crime through the criminal justice process.

Role of the complainant in the criminal justice process

1. In your opinion, what role should the complainant have in the criminal justice system? In particular, please consider bail decisions, plea negotiations, and sentencing.

Recent reforms relating to victims of crime

As you may know, a number of legislative changes, at the federal level, have been made relating to victims of crime and their participation in the criminal justice system (victim surcharge, victim impact statements, consideration of victim safety in bail decisions, assistance to victims testifying at trial, publication bans, etc.). The following questions address issues relating to the implementation of these provisions.

2. In bail determinations, do you generally agree to conditions that address complainant safety? If no, for what reasons do you object? Do judges or justices of the peace usually place conditions for the complainant's safety on the accused?
3. Do you generally agree to requests for a publication ban in non-sexual offence cases? If no, for what reasons do you object? Based on your experience, do judges usually grant publication bans in cases involving non-sexual offences?

4. Do you generally agree to requests for exclusion of the public? If no, for what reasons do you object? Based on your experience, do judges generally grant requests to exclude the public from a trial?
5. Do you generally agree to the use of a screen, closed-circuit television, or video-tape for testimony of a young complainant/witness or a complainant/witness with a mental or physical disability? If no, for what reasons do you object? Do courts usually grant requests for these testimonial aids? What has been your experience when such testimonial aids have been used?
6. Do you generally agree to requests for a support person to accompany a young complainant/witness or a complainant/witness with a mental or physical disability? If no, for what reasons do you object? Do courts usually grant requests for a support person?

Section 486 (2.3) of the *Criminal Code* states that, unless required by "*the proper administration of justice*" a self-represented accused cannot cross-examine a child witness (under 18 years of age). This section is applicable to proceedings where an accused is charged with a sexual offence, a sexual assault under sections 271, 272, and 273, or where violence against the victim is "*alleged to have been used, threatened, or attempted.*"

7. Have you ever been appointed to act for the accused pursuant to s. 486(2.3)?
8. Do you feel that s. 486 (2.3) of the *Criminal Code* should be expanded to include other complainant/witnesses and/or other types of cases? Please explain.
9. To your knowledge, are victim impact statements usually submitted? What about in serious cases? What are the most common methods for submitting? (e.g., written only, read by victim, read by Crown, other)
10. Have you ever had a case where you cross-examined the complainant on their victim impact statement? Please describe (e.g., was it during trial or sentencing, what were your reasons for needing to cross-examine the complainant, did the Crown object, why did the judge permit the cross-examination).
11. Are there any problems with the use of victim impact statements?
12. Do courts usually grant requests for restitution? Do you generally agree to requests for restitution? If no, for what reasons do you object? Do you generally offer restitution to mitigate the sentence?
13. Is restitution enforcement a concern or problem?
14. Based on your experience, is the victim surcharge waived more often than it should be? Do you generally request a waiver of a victim surcharge? Are these requests usually granted? Do judges generally waive the surcharge without a defence request to do so?



-
15. In what types of cases do you think a conditional sentence is appropriate? Do you usually agree to conditions in the sentence for the victim's safety? Please explain.

Restorative justice

Restorative justice considers the wrong done to a person as well as the wrong done to the community. Restorative justice programs involve the victim(s) or a representative, the offender(s), and community representatives. The offender is required to accept responsibility for the crime and take steps to repair the harm he or she has caused.

16. Have you used a restorative justice approach? Why or why not? At what stage of the process have you used restorative justice? (e.g., pre-charge, sentencing, other)
17. How are victims involved in the process?

Conclusion

18. Do you believe that information on these changes in the *Criminal Code* is adequately communicated to defence counsel? If not, what could be done to address the lack of information regarding these legal provisions?
19. What has been accomplished by the *Criminal Code* provisions intended to benefit victims? Have there been any unintended consequences to these provisions? Please explain.
20. Do you have any other comments?

Thank you for your participation



Self-Administered Questionnaire for Survey of Defence Counsel

1. What role do you believe complainants should have in the following stages of the criminal justice process?

	Complainants should be			Complainants should not have any role
	Informed	Consulted	Other (specify)	
Bail decisions	1	2	3 _____	00
Plea negotiations	1	2	3 _____	00
Sentencing decisions	1	2	3 _____	00

As you may know, a number of legislative changes, at the federal level, have been made relating to victims of crime and their participation in the criminal justice system (victim surcharge, victim impact statements, consideration of victim safety in bail decisions, assistance to victims testifying at trial, publication bans, etc.). The following questions address issues relating to the implementation of these provisions.

2. Do you generally agree to the following: (*Check "Yes" or "No" for each of the following.*)

	Yes	No
Requests for conditions that address a complainant's safety made in bail determinations	1	2
Requests for publication bans in non-sexual offence cases	1	2
Requests to exclude the public from a trial	1	2
Requests for the use of a screen for the testimony of a young complainant/witness or a complainant/witness with a mental or physical disability	1	2
Requests for the use of closed-circuit television for the testimony of a young complainant/witness or a complainant/witness with a mental or physical disability	1	2
Requests for the use of video-tape testimony of a young complainant/witness or a complainant/witness with a mental or physical disability	1	2
Requests for the use of a support person to accompany a young complainant/witness or a complainant/witness with a mental or physical disability	1	2
Requests for restitution	1	2

2a. If you answered no to any part of question 2 above, please explain the reasons why you object.

Requests for specific conditions that address a complainant's safety in bail determinations

Requests for publication bans in non-sexual offence cases

Requests to exclude the public from a trial

Requests for the use of a screen for the testimony of a young complainant/witness or a complainant/witness with a mental or physical disability

Requests for the use of closed-circuit television for the testimony of a young complainant/witness or a complainant/witness with a mental or physical disability

Requests for the use of video-tape testimony of a young complainant/witness or a complainant/witness with a mental or physical disability

Requests for the use of a support person to accompany a young complainant/witness or a complainant/witness with a mental or physical disability

Request for restitution



3. In general, do judges usually grant the following requests?

	Yes	No	Don't know
Request for specific conditions to address the complainant's safety in bail determinations	1	2	8
Request for a publication ban in cases other than sexual offences	1	2	8
Request to exclude the public from a trial	1	2	8
Request the use of a screen for young witnesses or witnesses with a mental or physical disability	1	2	8
Request the use of closed-circuit television for young witnesses or witnesses with a mental or physical disability	1	2	8
Request the use of pre-trial videotaped testimony for young witnesses or witnesses with a mental or physical disability	1	2	8
Request that a support person accompany a young witness under the age of 14 or witnesses with a mental or physical disability	1	2	8
Request for restitution	1	2	8

Section 486 (2.3) of the *Criminal Code* states that, unless required by "the proper administration of justice" a self-represented accused cannot cross-examine a child witness (under 18 years of age). This section is applicable to proceedings where an accused is charged with a sexual offence, a sexual assault under sections 271, 272, and 273, or where violence against the complainant is "alleged to have been used, threatened, or attempted."

4. Have you ever been appointed to act for the accused pursuant to Section 486 (2.3)?

1 Yes 2 No 8 Don't know

5. Should Section 486 (2.3) be expanded to other complainant/witnesses or offences?

1 Yes 2 No

5a. If yes, please describe how the provision should be expanded.

5b. If no, please explain.

6. Based on your experience, do complainants usually submit victim impact statements? (*Check one only*)

1 Yes 2 Yes, in serious cases 3 No 8 Don't know

7. What are the most common methods for submitting a victim impact statement? (*Check all that apply*)

₁ Written statement only ₂ Victim reads statement ₃ Crown reads statement

₆₆ Other (Specify)

8. Have you ever had a case where you cross-examined the complainant on their victim impact statement?

	Yes	No	Don't know/ recall
During trial	1	2	8
During sentencing	1	2	8
Other (<i>Specify</i>) _____	1	2	8

8a. If you answered yes to any part of question 8, why did you cross-examine the complainant?

9. Are there any problems with the use of the victim impact statement?

₁ Yes ₂ No ₈ Don't know

9a. Please explain.

10. Do you generally offer restitution to mitigate the sentence?

₁ Yes ₂ No ₈ Don't know

11. Is restitution enforcement a concern or problem?

₁ Yes ₂ No ₈ Don't know

11a. Please explain.



12. In what types of cases do you think a conditional sentence is appropriate?
(Check all that apply)
- All offences Non-violent offences Offences against the person
- Family violence offences Murder
- Other (Specify) _____
-
13. In conditional sentences, do you usually agree to conditions in the sentence for the victim's safety?
- Yes No Don't know
- 13a. Please explain.
- _____
- _____
- _____
14. Have you used a restorative justice approach?
- Yes No Don't know
- 14a. If yes to question 14, at what stage in the process have you used restorative justice?
(Check all that apply)
- Pre-charge Sentencing
- Other (Specify) _____
- 14b. If yes to question 14, in your experience, which statement best describes the complainant's involvement in the decision to use restorative justice?
- The complainant is always involved The complainant is sometimes involved The complainant is seldom involved
- 14c. If no to question 14, why have you **not used** a restorative justice approach? (Check all that apply)
- Restorative justice approaches are not available
- Restorative justice approaches do not protect the defendant adequately
- Other (Specify) _____
15. Based on your experience, is the victim surcharge waived more often than it should be?
- Yes No Don't know
16. Do you generally request a waiver of a victim surcharge?
- Yes No Don't know
17. Are defence requests to waive the surcharge usually granted?
- Yes No Don't know
18. Do judges generally waive the surcharge without a defence request to do so?
- Yes No Don't know

19. Do you believe that information on these changes to the *Criminal Code* is adequately communicated to defence counsel?

1 Yes 2 No 8 Don't know

19a. If not, what could be done to address this lack of information?

20. In your opinion, what has been accomplished by the *Criminal Code* provisions intended to benefit victims?

21. Have there been any unintended or unexpected consequences to these provisions?

1 Yes 2 No 8 Don't know

21a. What are they?

22. Do you have any other comments?

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Interview Guide and
Self-Administered Questionnaire for
Survey of Police Officers



KEY INFORMANT INTERVIEW GUIDE FOR POLICE OFFICERS

The Department of Justice Canada has recently launched a multi-site study of victims of crime and criminal justice professionals. The main objectives of this study are:

- ▶ To provide information on the use and awareness of recent reforms with respect to victims of crime in the criminal justice system
- ▶ To identify any impediments to the implementation of recent reforms by criminal justice professionals
- ▶ To learn what information is provided to victims throughout the criminal justice process
- ▶ To gain a better understanding of the experiences of victims of crime in the criminal justice system and with various victim services.

The following questions address issues relating to the role of the victim and the police in the criminal justice system, victim services, and the implementation of recent reforms to assist victims of crime through the criminal justice process.

The role of the victim

1. In your opinion, what role should the victim have in the criminal justice system? In particular, please consider the police investigation, and bail decisions.

The role of the police

2. In your opinion, what responsibility do police have with respect to victims?
3. Do you generally maintain regular contact with victims of crime throughout the investigation? Do you generally provide information to victims regarding victim services, court dates, outcomes of court processes (in particular bail determinations and conditions), and victim impact statements?
4. Does responding to victims' needs and requests impede your police work? If so, what suggestions do you have for balancing the needs of victims with your time and resource constraints?

Victim services

5. What victim services or other community support services are currently available in your province for victims of crime? (PROMPT: police-based victim services, crown-based victim services, specialized victim services for domestic violence, sexual assault or children)
6. Do you generally refer victims to these services or other services? If yes, which ones?
7. How do you stay informed about services available to victims of crime?

8. Please describe the extent to which the police and victim services work together or share information. Does your department/division have a policy for allowing victim services to access victim files? Is the policy formal or informal? Please describe the policy.
9. What are the challenges, if any, faced by victims of crime in accessing victim services? (PROMPT: geographic location – e.g., urban vs. rural; language barriers; physical barriers – e.g., access to persons with disabilities; financial barriers; services not culturally sensitive; services do not respond to needs of both genders.) In your opinion, what changes could be made to increase the accessibility of services for victims of crime?
10. In general, do you think that victims are provided with adequate information on:
 - ▶ the progress of the investigation
 - ▶ outcome of bail or conditional release determinations
 - ▶ conditions of release
 - ▶ date and location of court proceedings
 - ▶ charges laid
 - ▶ charges dropped
 - ▶ victim impact statements
 - ▶ the ultimate outcome of the case
 - ▶ restitution
 - ▶ the criminal justice process
 - ▶ alternative processes, such as diversion or restorative justice
 - ▶ accused's rights
 - ▶ victim services
 - ▶ community support services?

For each of the above, who would be in the most suitable position to provide victims of crime with this type of information? (PROBE: Victim services, police, crown, other)

11. What, if anything, can be done to improve the information given to victims? Are there any difficulties in providing victims of crime with the information that they require? Please explain.

Recent reforms relating to victims of crime

As you may know, a number of legislative changes at the federal level have been made relating to victims of crime and their participation in the criminal justice system (victim surcharge, victim impact statements, consideration of victim safety in bail decisions, assistance to victims testifying at trial, publication bans, etc.). The following questions address issues relating to the implementation of these provisions.



-
12. How do the police ensure that victims' safety concerns are considered at bail determinations? Do you generally ask victims about their safety concerns prior to any bail determination?
 13. To your knowledge, do victims usually submit victim impact statements? What about in serious cases? Do police assist victims with their victim impact statements? If yes, what kinds of assistance are provided by police?
 14. To your knowledge, are there any obstacles to the use of victim impact statements? If yes, please explain. How can these best be addressed?
 15. Do the police have procedures in place to ensure that a victim's stolen or seized property is promptly returned? Please describe.

Restorative justice

Restorative justice considers the wrong done to a person as well as the wrong done to the community. Restorative justice programs involve the victim(s) or a representative, the offender(s), and community representatives. The offender is required to accept responsibility for the crime and take steps to repair the harm he or she has caused.

16. Have you ever participated in any restorative justice processes, such as a healing circle, etc? Why or why not?
17. At what stage in the process have you participated in restorative justice? (pre-charge, sentencing, other)
18. How is the victim involved in the decision to use restorative justice? Please explain.

Conclusion

19. Do you believe that police officers are adequately kept informed of changes to the *Criminal Code* that are intended to benefit victims of crime? If not, what could be done to better inform police officers?
20. In your opinion, what has been accomplished by the *Criminal Code* provisions intended to benefit victims? Have there been any unintended consequences to these provisions? Please explain.
21. Do you have any other comments?

Thank you for your participation



Self-Administered Questionnaire for Survey of Police

1. What role should victims have in the following stages of the criminal justice process?

	Victim should be Informed	Victim should be Consulted	Other (specify)	Victim should not have any role
The police investigation	1	2	3 _____	00
Bail decisions	1	2	3 _____	00

2. What is the responsibility of police with respect to victims?

3. Do you generally do any of the following: (*Check "Yes" or "No" for each of the following.*)

	Yes	No
Maintain regular contact with victims of crime throughout the investigation	1	2
Provide victims information about victim services	1	2
Provide victims information about court dates	1	2
Provide victims information about the outcome of bail decisions	1	2
Provide victims information about outcomes of other court processes	1	2
Provide victims information on victim impact statements	1	2

- 4a. Does responding to victim's needs and requests impede your police work?

1 Yes 2 No 3 Don't know

- 4b. If yes, what suggestions do you have for balancing the needs of victims with your time and resource constraints?

The following questions are about victim services.

5a. Are the following victim services available in your community?

	Yes	No	Don't know
Police-based victim services	1	2	8
Crown-based victim services	1	2	8
Specialized victim services for domestic violence	1	2	8
Specialized victim services for sexual assaults	1	2	8
Specialized victim services for children	1	2	8
Other victim services (<i>Specify</i>) _____	1	2	8
Other victim services (<i>Specify</i>) _____	1	2	8
Other victim services (<i>Specify</i>) _____	1	2	8

5b. (Referring only to services in your community)
Do you generally refer victims to the following?

	Yes	No
Police-based victim services	1	2
Crown-based victim services	1	2
Specialized victim services for domestic violence	1	2
Specialized victim services for sexual assaults	1	2
Specialized victim services for children	1	2
Other victim services (<i>Specify</i>) _____	1	2
Other victim services (<i>Specify</i>) _____	1	2
Other victim services (<i>Specify</i>) _____	1	2

6a. Do police and victim services work together or share information?

1 Yes 2 No 8 Don't know

6b. If yes, please explain.

7a. Does your department/division have a policy for allowing victim services to access victim files?

1 Yes, formal policy 2 Yes, informal policy 3 No 8 Don't know

7b. If yes, please describe the policy.



8. Do victims of crime face any of the following challenges in accessing victim services in your community?

	Yes	No	Don't know	If yes, please explain
Lack of victim services because of rural location	1	2	8	_____
Language barriers	1	2	8	_____
Physical barriers for persons with disabilities	1	2	8	_____
Financial barriers	1	2	8	_____
Services do not respond to cultural needs (e.g., lack of aboriginal victim services)	1	2	8	_____
Services do not respond to needs of both genders	1	2	8	_____

The next questions ask about information provided to victims of crime.

9a. Please indicate your level of agreement with the following:

<i>Victims usually receive adequate information on...</i>	Strongly agree	Agree	Disagree	Strongly disagree	Don't know
the progress of the investigation	4	3	2	1	8
outcomes of bail decisions	4	3	2	1	8
conditions of release	4	3	2	1	8
Date and location of court proceedings	4	3	2	1	8
charges laid	4	3	2	1	8
charges dropped	4	3	2	1	8
victim impact statements	4	3	2	1	8
restitution	4	3	2	1	8
the ultimate outcome of the case	4	3	2	1	8
the criminal justice process	4	3	2	1	8
alternative processes, such as diversion and restorative justice	4	3	2	1	8
accused rights	4	3	2	1	8
victim services	4	3	2	1	8
other community support services	4	3	2	1	8

9b. For those items from question 9a with which you **disagree** or **strongly disagree**, what could be done to improve the information given to victims?

10. Who should provide the following information to victims? *(Please check all that apply)*

	Crown	Police	Victim Services	Other (Specify)	Don't know
The progress of the investigation	1	2	3	_____	8
Outcomes of bail decisions	1	2	3	_____	8
Conditions of release	1	2	3	_____	8
Date and location of court proceedings	1	2	3	_____	8
Charges laid	1	2	3	_____	8
Charges dropped	1	2	3	_____	8
Victim impact statements	1	2	3	_____	8
Restitution	1	2	3	_____	8
The ultimate outcome of the case	1	2	3	_____	8
The criminal justice process	1	2	3	_____	8
Alternative processes, such as diversion and restorative justice	1	2	3	_____	8
Accused rights	1	2	3	_____	8
Victim services	1	2	3	_____	8
Other community support services	1	2	3	_____	8

11a. Are there any difficulties in providing victims of crime with the information they require?

1 Yes 2 No 8 Don't know

11b. If yes, please explain.



The next several questions ask you to consider recent reforms relating to victims of crime.

12. How do the police ensure that victims' safety concerns are considered at bail hearings?

13. To your knowledge, do victims generally submit victim impact statements to the court?
(Check one)

- 1 Yes 2 Yes, in serious cases 3 No 8 Don't know

14a. Do police assist victims with their victim impact statement?

- 1 Yes 2 No 8 Don't know

14b. If yes, what type of assistance is provided by police?

	Yes	No
Providing victim impact statement forms	1	2
Informing victims where forms can be obtained	1	2
Explaining instructions on how to complete victim impact statements	1	2
Explaining the kinds of information that can be included in victim impact statements	1	2
Helping complete the statement (write down what victim says)	1	2
Helping with drafting statement (assist victim with formulating his/her thoughts)	1	2
Reviewing completed victim impact statements	1	2
Informing victims where completed statements should be sent	1	2
Collecting completed victim impact statements	1	2
Other (Specify) _____	1	2
Other (Specify) _____	1	2
Other (Specify) _____	1	2

15a. To your knowledge, are there any obstacles to the use of the victim impact statement? (e.g., in preparing, submitting, or delivering the statement)

- 1 Yes 2 No 8 Don't know

15b. If yes, please explain.

16a. Do the police have procedures in place to ensure that a victim's stolen or seized property is promptly returned?

- 1 Yes 2 No 8 Don't know

16b. If yes, please describe.

Restorative justice considers the wrong done to a person as well as the wrong done to the community. Restorative justice programs involve the victim(s) or a representative, the offender(s), and community representatives. The offender is required to accept responsibility for the crime and take steps to repair the harm he or she has caused.

17a. Have you participated in any restorative justice processes such as a healing circle, etc.?

- 1 Yes 2 No 8 Don't know

17b. If yes to question 17a, at what stage in the process have you participated in restorative justice? (*Check all that apply*)

- 1 Pre-charge 1 Sentencing 1 Other (Specify) _____

17c. If yes to question 17a, in your experience, which statement best describes the victim's involvement in the decision to use restorative justice?

- 1 The victim is always involved
2 The victim is sometimes involved
3 The victim is seldom involved

17d. If no to question 17a, why have you **not participated in** a restorative justice approach? (*Check all that apply*)

- 1 Restorative justice approaches are not available
2 Restorative justice approaches do not protect the victim adequately
3 Restorative justice approaches do not act as a deterrent
66 Other (*Specify*) _____

The concluding questions ask you to consider all of the *Criminal Code* provisions intended to benefit victims.

18a. Do you think that police officers are adequately informed of the provisions in the *Criminal Code* intended to benefit victims?

- 1 Yes 2 No 8 Don't know

18b. If no, what could be done to better inform police officers?



19. In your opinion, what has been accomplished by the *Criminal Code* provisions intended to benefit victims?

20a. Have there been any unintended or unexpected consequences to these provisions?

Yes No Don't know

20b. If yes, what are they?

21. Do you have any other comments?

**Thank you for taking the time to complete this survey.
Please return the questionnaire by faxing it back to us toll-free at:**



Self-Administered Questionnaire for Survey of Probation Officers



Self-Administered Questionnaire for Survey of Probation Officers

1. Who, if anyone, provides victims with the following information: *(Check all that apply)*

	Police	Probation officers	Other (<i>Specify</i>)	No one to my knowledge	Don't know
The offender's release on probation (date and location)	1	2	_____	3	8
The conditions of probation	1	2	_____	3	8
Any breaches of a condition of probation	1	2	_____	3	8
Proceedings for failure to comply with probation order (date and location)	1	2	_____	3	8
Outcome of failure to comply proceedings	1	2	_____	3	8

2. Do probation officers provide any other services to victims?

1 Yes 2 No 8 Don't know

If yes, please describe the services _____

3. Do provincial regulations require that you include recommendations on conditions in pre-sentence reports?

1 Yes 2 No 8 Don't know

4. In pre-sentence reports, do you generally recommend that conditions for victim safety be placed on the offender?

1 Yes 2 No 8 Don't know

5. In preparing pre-sentence reports, do you usually speak to victims?

1 Yes, to all victims 2 Yes, to victims who know their offender 3 No 8 Don't know

6. How do probation officers ensure that conditions of probation are followed?

7. Is restitution usually ordered as a condition of probation in appropriate cases?

1 Yes 2 No 8 Don't know

If no, please explain _____

8. If restitution is a condition of probation, please indicate whether you do any of the following:

	Yes	No
Remind the offender of the obligation to pay restitution	1	2
Monitor the offender's payment of restitution	1	2
Collect restitution payments	1	2
Submit restitution payments directly to the victim or to someone acting on the victim's behalf	1	2
Notify the court of failure to pay restitution	1	2

9. Is restitution enforcement a concern or problem?

1 Yes 2 No 8 Don't know

Please explain _____

Questions 10 and 11 ask about victim impact statements. Please indicate "don't know" if you do not have sufficient personal experience to answer these questions.

10. Do victims generally submit a victim impact statement for use in sentencing?

(Check one)

1 Yes 2 Yes, in serious cases 3 No 8 Don't know

11. In cases where no victim impact statement is submitted, do judges generally ask whether the victim is aware of the opportunity to prepare and submit a victim impact statement?

1 Yes 2 No 8 Don't know

Restorative justice considers the wrong done to a person as well as the wrong done to the community. Restorative justice programs involve the victim(s) or a representative, the offender(s), and community representatives. The offender is required to accept responsibility for the crime and take steps to repair the harm he or she has caused.

12a. Have you ever participated in any restorative justice processes such as a healing circle, etc.?

1 Yes 2 No 8 Don't know



12b. If yes to Question 12a, please describe your involvement. (*Please check all that apply*)

- | | |
|-------------------------------------------------------------------|---|
| Make recommendations on outcome, including conditions on offender | 1 |
| Monitor offender's compliance with conditions | 2 |
| Other (<i>please specify</i>) _____ | 3 |
| _____ | |
| Other (<i>please specify</i>) _____ | 4 |
| _____ | |
| Other (<i>please specify</i>) _____ | 5 |
| _____ | |

12c. If no to Question 12a, why have you **not participated in** a restorative justice approach? (*Check all that apply*)

- 1 Restorative justice approaches are not available
- 2 Restorative justice approaches do not protect the victim adequately
- 3 Restorative justice approaches do not act as a deterrent
- 66 Other (*Specify*) _____

13. Do you have any other comments?

**Thank you for taking the time to complete this survey.
Please return the questionnaire by faxing it back to us toll-free at:**



Self-Administered Questionnaires for Survey of Parole Board Personnel



Self-Administered Questionnaire for Survey of Parole Board Personnel

1. Please identify your position.

- | | |
|-----------------------|-----------------------------------|
| 1 Parole Board member | 2 Regional communications officer |
| 3 Hearing officer | 66 Other (<i>specify</i>) _____ |

2. What role do you believe victims should have in conditional release decisions?

Victim should be Informed	Victim should be Consulted	Other (<i>specify</i>)	Victims should not have any role
1	2	66 _____	00

3. Does the Parole Board generally provide the following information about the offender to victims who request it?

	Yes	No	Don't know	IF NO – Who, if anyone, typically provides this information to victims?
Offender's eligibility for conditional release	1	2	8	_____
Hearing dates for conditional release	1	2	8	_____
Release dates	1	2	8	_____
Conditions imposed on release	1	2	8	_____
Reasons for a release decision	1	2	8	_____
Destination of offender on release	1	2	8	_____
Suspension or revocation of release	1	2	8	_____
Whether the offender has appealed a Parole Board decision	1	2	8	_____
Copy of decision by appeal division	1	2	8	_____

4. Does the Parole Board usually inform victims of the following? *(Please check one)*

	Yes, inform all victims	Yes, inform victims who have contacted the Parole Board	No	Don't know
The right to request information about the offender's parole eligibility and hearing	1	2	3	8
The ability to provide new or additional information to the Parole Board that the victim considers relevant	1	2	3	8
That any information they provide will be shared with the offender	1	2	3	8
The opportunity to attend Parole Board hearings as observers (including the need to make an application)	1	2	3	8
The opportunity to present a statement at the parole hearing in person or via audiotape or videotape (including the need to make an application)	1	2	3	8

5. Do most victims of crime participate in the parole process by doing the following? *(Check one)*

	Yes, in most cases	Yes, only in serious cases	No	Don't know
Requesting information about the offender's parole eligibility and hearing	1	2	3	8
Providing new or additional information for use in conditional release decisions	1	2	3	8
Attending Parole Board hearings as observers	1	2	3	8
Presenting a statement in person or via audiotape or videotape for use in conditional release decisions	1	2	3	8



6. Do you think that there are any obstacles to victims' participation in the parole process?

1 Yes 2 No 8 Don't know

6a. If yes, what are the obstacles? *(Please check all that apply)*

- Victims are not aware of the ways they can participate 1
- Victims do not know when an application is required (e.g., for attending hearings or presenting a statement) 2
- Support services for victims during the correctional or parole process are insufficient 3
- Victims are unaware of support services available 4
- There is a lack of funding to assist victims who want to attend parole hearings 5
- Other *(please describe)* _____ 66
- _____
- _____

7. What services, if any, does the Parole Board provide for victims?

	Yes	No	Don't know
Assistance with making requests for information (e.g., provide forms and/or information on how to submit requests)	1	2	8
Victim notification once the victim has requested information	1	2	8
Providing information about victim statements	1	2	8
Assistance in preparing victim statements	1	2	8
Assistance with making requests to attend Parole Board hearings as observers	1	2	8
Accompaniment to parole hearings	1	2	8
Ensure that Parole Board members are aware of victims' concerns	1	2	8
Other <i>(please specify)</i>			
_____	1	2	8

8. Are you aware of other victim service organizations that assist victims with the parole process?

1 Yes 2 No

8a. If yes, what services do these organizations provide?

	Yes	No	Don't know
Assistance with making requests for information (e.g., provide forms and/or information on how to submit requests)	1	2	8
Victim notification once the victim has requested information	1	2	8
Providing information about victim statements	1	2	8
Assistance in preparing victim statements	1	2	8
Assistance with requests to attend Parole Board hearings as observers	1	2	8
Accompaniment to parole hearings	1	2	8
Ensure that Parole Board members are aware of victims' concerns	1	2	8
Other (<i>please specify</i>) _____	1	2	8

9. Does the Parole Board refer victims to available victim services?

1 Yes 2 No 8 Don't know

10. After an offender is sentenced, do you think there is a service gap in connecting victims to services available in corrections/parole?

1 Yes 2 No 8 Don't know

10a. If yes, what can be done to improve the situation? _____

11. Does the Parole Board generally grant victim requests to attend hearings as observers?

1 Yes 2 No 8 Don't know



12. When might the Board not permit a victim to attend a hearing?

The following questions are about victim impact statements submitted at trial.

13. Are victim impact statements submitted at trial always provided to the Parole Board?

- 1 Yes 2 No 8 Don't know

14. Who provides the victim impact statements to the Parole Board? *(Please check all that apply)*

- 1 Victim 2 Crown 3 Court 66 Other *(please specify)* 8 Don't know

The next question is about victim statements presented directly to the Parole Board.

15. What is the most common method for submitting a victim statement? *(Check one)*

- 1 Written statement only 2 Victim reads statement in person 3 Victim presents statement via audiotape or videotape 66 Other *(specify)* _____

Question 16 asks about the Parole Board's use of victim information.

16. Does the Parole Board use the following victim information in making conditional release decisions?

- | | | | |
|---------------------------------------------------------------------------------------------------|--------------------------------|-------------------------------|---------------------------------------|
| Victim impact statements at trial | <input type="checkbox"/> 1 Yes | <input type="checkbox"/> 2 No | <input type="checkbox"/> 8 Don't know |
| New or additional information that the victim considers relevant and provides to the Parole Board | <input type="checkbox"/> 1 Yes | <input type="checkbox"/> 2 No | <input type="checkbox"/> 8 Don't know |
| Formal victim statements to the Parole Board | <input type="checkbox"/> 1 Yes | <input type="checkbox"/> 2 No | <input type="checkbox"/> 8 Don't know |

16a. Please explain how the information is used.

17. Do parole officers usually provide the Parole Board with information about victim concerns in their assessment for decision?

- 1 Yes 2 No 8 Don't know

18. Does the Parole Board generally impose special conditions on the offender as part of the conditional release? *(Please check all that apply)*

- ₁ Yes, generally impose special conditions to protect specific victim (e.g., no contact order) ₂ Yes, usually impose other special conditions ₃ No ₈ Don't know

18a. If no, please explain. _____

19. Do you have any suggestions for additional services/service improvements that would assist victims and encourage their participation in the parole process?

20. Do you have any other comments?

Do you have responsibility for the following locations(s)? *(Check all that apply.)*

- ₁ [SITE]

**Thank you for taking the time to complete this survey.
Please return the questionnaire by faxing it back to us toll-free at:**



Self-Administered Questionnaire for Survey of Provincial Parole Board Personnel

1. Please identify your position.

1 Parole Board member 66 Other (*specify*) _____

2. What role do you believe victims should have in conditional release decisions?

Victim should be Informed	Victim should be Consulted	Other (<i>specify</i>)	Victims should not have any role
1	2	66 _____	00

3. Does the Parole Board generally provide the following information about the offender to victims who request it?

	Yes	No	Don't know	IF NO – Who, if anyone, typically provides this information to victims?
Offender's eligibility for conditional release	1	2	8	_____
Hearing dates for conditional release	1	2	8	_____
Release dates	1	2	8	_____
Conditions imposed on release	1	2	8	_____
Reasons for a release decision	1	2	8	_____
Destination of offender on release	1	2	8	_____
Suspension or revocation of release	1	2	8	_____
Whether the offender has appealed a Parole Board decision	1	2	8	_____
Copy of decision by appeal division	1	2	8	_____

4. Does the Parole Board usually inform victims of the following? *(Please check one)*

	Yes, inform all victims	Yes, inform victims who have contacted the Parole Board	No	Don't know
The right to request information about the offender's parole eligibility and hearing	1	2	3	8
The ability to provide new or additional information to the Parole Board that the victim considers relevant	1	2	3	8
That any information they provide will be shared with the offender	1	2	3	8
The opportunity to attend Parole Board hearings as observers (including the need to make an application)	1	2	3	8
The opportunity to present a statement at the parole hearing in person or via audiotape or videotape (including the need to make an application)	1	2	3	8

5. Do most victims of crime participate in the parole process by doing the following? *(Check one)*

	Yes, in most cases	Yes, only in serious cases	No	Don't know
Requesting information about the offender's parole eligibility and hearing	1	2	3	8
Providing new or additional information for use in conditional release decisions	1	2	3	8
Attending Parole Board hearings as observers	1	2	3	8
Presenting a statement in person or via audiotape or videotape for use in conditional release decisions	1	2	3	8



6. Do you think that there are any obstacles to victims' participation in the parole process?

1 Yes 2 No 8 Don't know

6a. If yes, what are the obstacles? *(Please check all that apply)*

- Victims are not aware of the ways they can participate 1
 - Victims do not know when an application is required (e.g., for attending hearings or presenting a statement) 2
 - Support services for victims during the correctional or parole process are insufficient 3
 - Victims are unaware of support services available 4
 - There is a lack of funding to assist victims who want to attend parole hearings 5
 - Other *(please describe)* 66
-
-
-

7. What services, if any, does the Parole Board provide for victims?

	Yes	No	Don't know
Assistance with making requests for information (e.g., provide forms and/or information on how to submit requests)	1	2	8
Victim notification once the victim has requested information	1	2	8
Providing information about victim statements	1	2	8
Assistance in preparing victim statements	1	2	8
Assistance with making requests to attend Parole Board hearings as observers	1	2	8
Accompaniment to parole hearings	1	2	8
Ensure that Parole Board members are aware of victims' concerns	1	2	8
Other <i>(please specify)</i>	1	2	8

8. Are you aware of other victim service organizations that assist victims with the parole process?

1 Yes 2 No

8a. If yes, what services do these organizations provide?

	Yes	No	Don't know
Assistance with making requests for information (e.g., provide forms and/or information on how to submit requests)	1	2	8
Victim notification once the victim has requested information	1	2	8
Providing information about victim statements	1	2	8
Assistance in preparing victim statements	1	2	8
Assistance with requests to attend Parole Board hearings as observers	1	2	8
Accompaniment to parole hearings	1	2	8
Ensure that Parole Board members are aware of victims' concerns	1	2	8
Other (please specify) _____ _____	1	2	8

9. Does the Parole Board refer victims to available victim services?

1 Yes 2 No 8 Don't know

10. After an offender is sentenced, do you think there is a service gap in connecting victims to services available in corrections/parole?

1 Yes 2 No 8 Don't know

10a. If yes, what can be done to improve the situation?

11. Does the Parole Board generally grant victim requests to attend hearings as observers?

1 Yes 2 No 8 Don't know

12. When might the Board not permit a victim to attend a hearing?



The following questions are about victim impact statements submitted at trial.

13. Are victim impact statements submitted at trial always provided to the Parole Board?
 1 Yes 2 No 8 Don't know
14. Who provides the victim impact statements to the Parole Board? *(Please check all that apply)*
 1 Victim 2 Crown 3 Court 66 Other *(please specify)* 8 Don't know

The next question is about victim statements presented directly to the Parole Board.

15. What is the most common method for submitting a victim statement? *(Check one)*
 1 Written statement only 2 Victim reads statement in person 3 Victim presents statement via audiotape or videotape 66 Other *(specify)*

Question 16 asks about the Parole Board's use of victim information.

16. Does the Parole Board use the following victim information in making conditional release decisions?
- | | | | |
|---------------------------------------------------------------------------------------------------|--------------------------------|-------------------------------|---------------------------------------|
| Victim impact statements at trial | <input type="checkbox"/> 1 Yes | <input type="checkbox"/> 2 No | <input type="checkbox"/> 8 Don't know |
| New or additional information that the victim considers relevant and provides to the Parole Board | <input type="checkbox"/> 1 Yes | <input type="checkbox"/> 2 No | <input type="checkbox"/> 8 Don't know |
| Formal victim statements to the Parole Board | <input type="checkbox"/> 1 Yes | <input type="checkbox"/> 2 No | <input type="checkbox"/> 8 Don't know |

16a. Please explain how the information is used.

17. Do parole officers usually provide the Parole Board with information about victim concern their assessment for decision?
 1 Yes 2 No 8 Don't know

18. Does the Parole Board generally impose special conditions on the offender as part of the conditional release? *(Please check all that apply)*
 1 Yes, generally impose special conditions to protect specific victim (e.g., no contact order) 2 Yes, usually impose other special conditions 3 No 8 Don't know

18a. If no, please explain _____

19. Do you have any suggestions for additional services/service improvements that would assist victims and encourage their participation in the parole process?

20. Do you have any other comments?

Do you have responsibility for the following location(s)? *(Check all that apply.)*

[SITE]

**Thank you for taking the time to complete this survey.
Please return the questionnaire by faxing it back to us toll-free at:**



Self-Administered Questionnaire for Survey of Correctional Service of Canada Personnel



Self-Administered Questionnaire for Survey of Correctional Service of Canada Personnel

1. Please identify your position.

- 1 Institutional victim liaison coordinator 2 District parole office victim liaison coordinator
- 3 Community correctional victim liaison coordinator
- 66 Other (*specify*) _____

We understand that not all respondents will have experience in the areas covered by some of the questions. Please answer all questions that you can.

2. What role do you believe victims should have in the following stages of the criminal justice process?

	Please describe role	Victims should not have any role
The offender's incarceration	_____	00
Conditional release decisions	_____	00

3. Do you generally provide the following information about the offender to victims when they request it? (*Please answer for your position within CSC*)

	Yes	No	Don't know	IF NO – Who, if anyone, typically provides this information to victims?
Date when offender's sentence began	1	2	8	_____
Length of the sentence	1	2	8	_____
Location where offender is incarcerated	1	2	8	_____
Dates of temporary absences or work releases	1	2	8	_____
Location of offender during temporary absences or work releases	1	2	8	_____
Offender's eligibility for conditional release	1	2	8	_____
Hearing dates for conditional release	1	2	8	_____
Release dates	1	2	8	_____
Conditions imposed on release	1	2	8	_____
Reasons for a release decision	1	2	8	_____
Destination of offender on release	1	2	8	_____
Whether the offender has appealed a Parole Board decision	1	2	8	_____
Copy of decision by appeal division	1	2	8	_____
Travel permits granted to offender	1	2	8	_____
Changes to offender's custodial status (including suspension or revocation of release)	1	2	8	_____

4. Are there any difficulties with providing victims any of the information listed in Question 3?
 1 Yes 2 No 8 Don't know

4a. If yes, please explain. _____

5. Do you usually inform victims of the following? (*Please check one and answer for your position within CSC*)

	Yes, inform all victims	Yes, inform victims who have contacted CSC	No
The right to request certain kinds of information about the offender	1	2	3
The ability to provide new or additional information to the Parole Board that the victim considers relevant	1	2	3
That any information they provide will be shared with the offender	1	2	3
The opportunity to attend Parole Board hearings as observers (including the need to make an application)	1	2	3
The opportunity to present a statement at the parole hearing in person or via audiotape or videotape (including the need to make an application)	1	2	3

6. Do most victims of crime participate in the correctional or parole process by doing the following? (*Check one*)

	Yes, in most cases	Yes, only in serious cases	No	Don't know
Requesting information about the offender	1	2	3	8
Providing new or additional information for use in conditional release decisions	1	2	3	8
Attending Parole Board hearings as observers	1	2	3	8
Presenting a statement in person or via audiotape or videotape for use in conditional release decisions	1	2	3	8



7. Do you think that there are any obstacles to victims' participation in the correctional or parole process?

1 Yes 2 No 8 Don't know

7a. If yes, what are the obstacles? *(Please check all that apply)*

Victims are not aware of the ways they can participate	1
Victims do not know when an application is required (e.g., for attending hearings or presenting a statement)	2
Support services for victims during the correctional or parole process are insufficient	3
Victims are unaware of support services available	4
There is a lack of funding to assist victims who want to attend parole hearings	5
Other <i>(please describe)</i> _____	66

8. What services, if any, does CSC provide for victims? *(Please answer for your position within CSC)*

	Yes	No	Don't know
Assistance with making requests for information about the offender (e.g., provide forms and/or information on how to submit requests)	1	2	8
Victim notification once the victim has requested information	1	2	8
Information about victim statements	1	2	8
Assistance in preparing victim statements	1	2	8
Assistance with making requests to attend Parole Board hearings as observers	1	2	8
Accompaniment to parole hearings	1	2	8
Ensure that Parole Board members are aware of victims' concerns	1	2	8
Other <i>(please specify)</i> _____			
_____	1	2	8

9. Are you aware of other victim service organizations that assist victims once the offender has been sentenced?

1 Yes 2 No

9a. If yes, what services do these organizations provide?

	Yes	No	Don't know
Assistance with making requests for information about the offender (e.g., provide forms and/or information on how to submit requests)	1	2	8
Victim notification once the victim has requested information	1	2	8
Information about victim statements	1	2	8
Assistance in preparing victim statements	1	2	8
Assistance with making requests to attend Parole Board hearings as observers	1	2	8
Accompaniment to parole hearings	1	2	8
Ensure that Parole Board members are aware of victims' concerns	1	2	8
Other (please specify) _____			
_____	1	2	8

10. Do you refer victims to other available victim services?

1 Yes 2 No 8 Don't know

11. Do other organizations or agencies refer victims to you?

1 Yes 2 No 8 Don't know

11a. If yes, what organizations refer victims to you? (Please check all that apply)

Police-based victim services	1
Crown-based victim services	2
Community-based victim services	
Crown	
Police	5
Other (please describe) _____	66



12. After an offender is sentenced, do you think there is a service gap in connecting victims to services available in corrections/parole?

1 Yes 2 No 8 Don't know

12a. If yes, what can be done to improve the situation?

13. Do you review parole officers' reports to the Parole Board to ensure that relevant victim concerns are included?

1 Yes 2 No 8 Don't know

14. In their reports to the Parole Board (assessments for decision), do parole officers generally recommend that special conditions be imposed on the offender?

(Please check all that apply)

1 Yes, generally recommend special conditions to protect specific victim (e.g., no contact order) 2 Yes, usually recommend other special conditions 3 No 8 Don't know

14a. If no, please explain.

15. Do you have any other comments?

**Thank you for taking the time to complete this survey.
Please return the questionnaire by faxing it back to us toll-free at:**



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 Service 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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