

**Building Our Capacity:**

Children's Advocacy Centres in Canada

**A Survey of Survivors of Sexual Violence****Is a Picture Worth a Thousand Words?**

The Opportunities and Challenges of Using GIS-Based Mapping with a Victim's Lens

**Police Responses to Elder Abuse:**

The Ottawa Police Service Elder Abuse Section

**A Comparative Overview of Victims' Rights, Enforcement Mechanisms, and Redress in England and Wales and the American Federal Jurisdiction****Victim-Related Conferences in 2013**

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## WE ALL HAVE A ROLE

Welcome to sixth issue of the *Victims of Crime Research Digest* which is being released during the eighth annual National Victims of Crime Awareness Week (NVCAW) (April 21-27, 2013). The theme of the 2013 NVCAW is “We All Have a Role.” This theme recognizes that criminal justice professionals and volunteers play a crucial role in reaching out to victims, that all levels of government play a role in reaching out to victims, and that all Canadians can play a role in reaching out to victims through their support and understanding.

The articles in this issue all touch on the many different services that are available, or are being developed, to assist victims of crime in this country. In the first article, Susan McDonald examines how research is supporting the development of children’s advocacy centres across the country. Melissa Northcott, in the second article, summarizes three studies with survivors of sexual violence that included men in two provinces, women in three provinces, and men and women in the Northwest Territories. The survivors spoke about their experiences with the criminal justice system. In the third article, Katie Scrim and Clarinda Spijkerman employ GIS software to map services for victims in the Northwest Territories with incidents of police-reported violent crime in 2010/11. In the fourth article, Lisa Ha describes the results from a study of the nature of

elder abuse cases handled by the Ottawa Police Service. And finally, Marie Manikis describes the enforceability regimes of victims’ rights at the US federal level and in England and Wales.

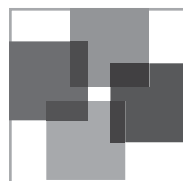
As always, if you have comments or questions, please do not hesitate to contact us.

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# Building Our Capacity: Children's Advocacy Centres in Canada



SUSAN MCDONALD,  
WITH KATIE SCRIM AND LARA ROONEY

Child and youth victims and witnesses face particular challenges as they navigate the criminal justice system, such as questions too complex for their age (see Sas 2002). Many provinces and territories have established special programs for child and youth victims within their provincial/territorial victim services directorates. Some non-governmental agencies also provide specialized assistance.

Children's advocacy centres (CACs) provide an array of services to reduce the trauma of child victims/witnesses

and their families in navigating the criminal justice system. CACs also undertake research and provide training and public legal education. Budget 2010 announced new resources for victims of crime and funding to increase support for victims through the creation and enhancement of CACs across Canada (\$5.25 million over five years). Budget 2012 announced additional resources (\$5M over five years) to further support the development and enhancement of CACs. These resources are available through the Victims Fund under the Federal Victims Strategy.

With the announcement of specific funds for CACs, the Department of Justice Canada is helping to provide some of the means for organizations to pursue their goals, including building the capacity of service providers who work with child and youth victims. The purpose of this article is to describe how research services from the Department's Research and Statistics Division (RSD) have contributed to this capacity building.



## BACKGROUND

CACs are widely used in the United States. They were first developed in the 1980s to provide a coordinated approach to addressing the needs of children implicated in the judicial system either as victims of crime or as witnesses. CACs seek to minimize system-induced trauma by providing a single, child-friendly setting for child/youth victims or witnesses and their families to seek services, and by reducing the number of interviews and questions directed at children during the investigation or court preparation process.

In the United States, CACs are accredited through the National Children's Alliance, but there are no accreditation standards for CACs in Canada. CACs here use varying approaches, often closely resembling

the US model, to meet their clients' needs. And while not all CACs offer the same services, the National Children's Alliance includes the following as key components of the CAC model:

- (1) a multidisciplinary team (MDT), which includes law enforcement, child protection services, prosecution, mental health services, victim advocacy services, and CAC staff;
- (2) cultural competency and diversity;
- (3) forensic interviewing;
- (4) victim support and advocacy;<sup>1</sup>
- (5) medical evaluation;
- (6) mental health services;
- (7) case review;
- (8) case tracking;
- (9) organizational capacity; and
- (10) a child-focused setting.<sup>2</sup>

Other important elements of a CAC's work are training and education for professionals, community outreach (such as training, fundraising, public education events) to raise awareness about child and youth victimization, and research. However, it must be noted that serving the clients is the priority, and undertaking training and research would depend on having enough resources.

In Canada, there have been specialized services for children and youth victims and witnesses for the past two decades, and there are several well-established organizations that provide a range of services. For example, the Zebra Child Protection Centre (known as the Zebra Centre) in Edmonton is seen as a leader in this area and is well respected for its multidisciplinary approach, and BOOST in Toronto offers mental health services

<sup>1</sup> The victim advocate is the key member of the multidisciplinary team at a CAC who provides updates on case status, court education, support and accompaniment, assistance with access to treatment, and referrals, among other services. There are numerous titles for the victim advocate, such as child advocate, family advocate, and victim services responder, and the services may be provided in a number of ways.

<sup>2</sup> The key components or standards of CACs are described on the National Children's Alliance Web site at <http://www.nationalchildrensalliance.org/index.php?s=76>.

and court preparation on site, as well as prevention, research, and outreach, but does not yet have coordinated forensic interviewing.

The Regina Children's Justice Centre (RCJC), established in 1993, and the Saskatoon Centre for Children's Justice (SCCJ), established in 1996, provide coordinated interviewing and court preparation, as well as outreach, all in child-friendly facilities with referrals to mental health services. In Regina, medical exams are done at a local hospital, whereas in Saskatoon, they are done on site. In addition, the RCJC now has a victim services responder (victim advocate) whose role is to provide information, support, and referrals from the first interview at the RCJC throughout the criminal justice and/or child protection process to the closure of a case. The SCCJ now has a mental health clinician who provides consultation and treatment services as well as referrals to community services for parents and youth over 13.

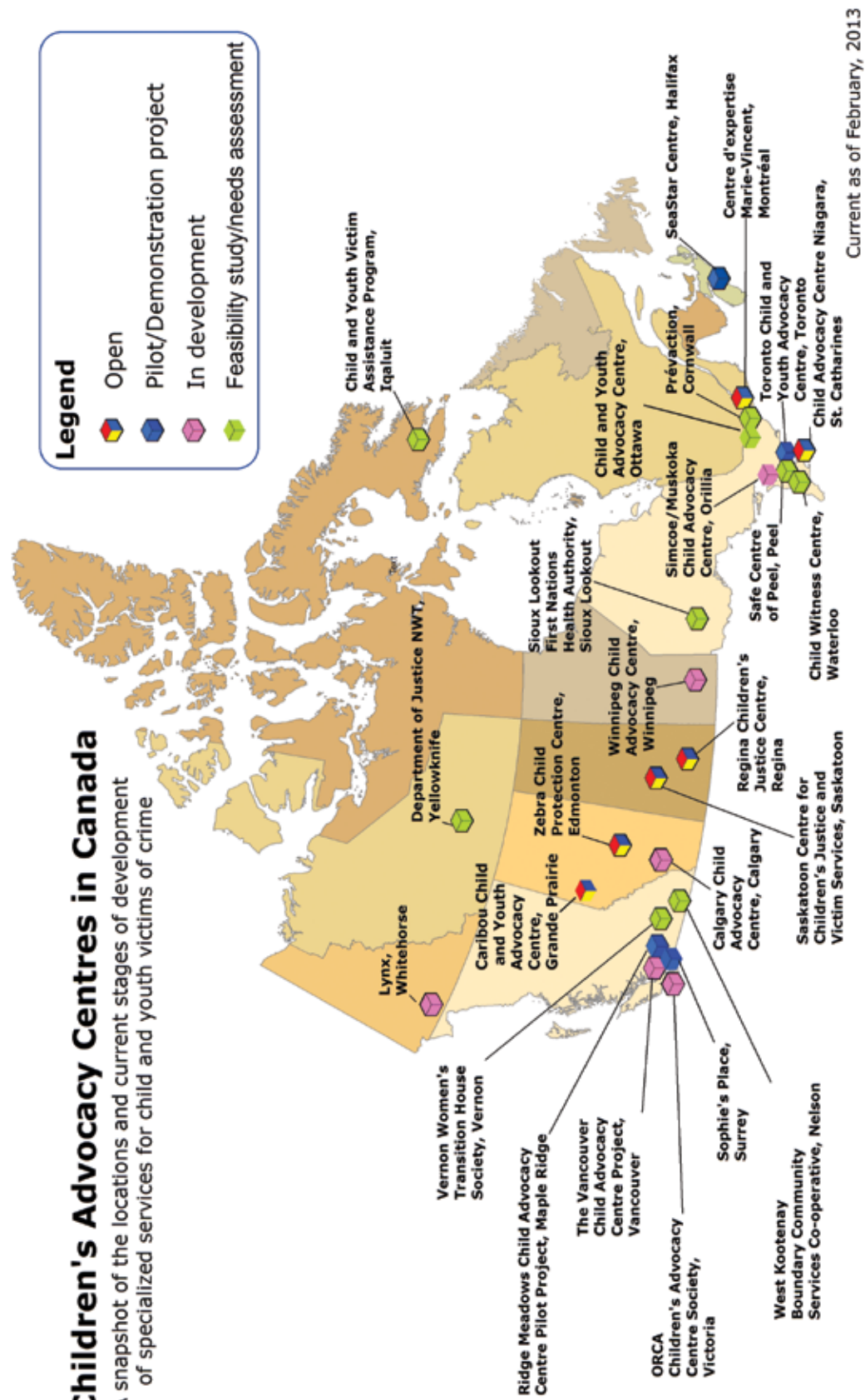
Another example is the Centre Marie-Vincent in Montreal, which undertakes research and training and provides a coordinated approach to services for children under the age of 12 who have been victims of sexual abuse and for their families. Mental health services are provided on site in a child-friendly facility.

In addition to these specific organizations, all jurisdictions provide victim services for children and youth. For example, in Ontario, there are eight community-run Child Victim/Witness Programs which offer emotional support to child victims and witnesses, prepare them for court, and refer them to counselling and other services. In Nova Scotia, the Child Victim/Witness Program is a core, specialized, non-evidentiary court preparation program of Victim Services. In the territories, all victim service providers and Crown prosecutors have received training on working with children and youth and the testimonial aids available.

While there is some capacity to serve child and youth victims and their families, many communities have limited resources, and their services lack the benefits of the CAC model. As a result of the Victims Fund, interest in the CAC model is growing in Canada and is gaining momentum and support among many non-governmental organizations, in many sectors and at all levels of government. To date, more than 20 communities in Canada have begun exploring the development of a CAC, have launched demonstration projects, or have enhanced the services of existing CACs. The accompanying map shows the status of the different projects and programs.

## Children's Advocacy Centres in Canada

A snapshot of the locations and current stages of development of specialized services for child and youth victims of crime



Current as of February, 2013

SOURCE: Information requests from Executive Directors of the organizations and internet searches.



## RESEARCH ON CACs

There have been numerous studies in the United States on CACs, including a series of quasi-experimental studies comparing communities with a CAC to those without. The results of these studies support the CAC model (see King et al. 2010). They indicate that parents whose children receive services from a CAC are more satisfied with the investigation process and interview procedures than parents whose children receive services from a non-CAC (Jones et al. 2007); that children who attend CACs are generally satisfied with the investigation experience and are more likely to state that they were not scared during the forensic interview compared to children in communities without a CAC (Jones et al. 2007); and that CACs use more coordinated and collaborative investigations, including more multidisciplinary team interviews, videotaped interviews, and joint investigations with child protection agencies and the police (Cross 2008; Cross et al. 2007).

No such research has been conducted in Canada. However, several organizations have commissioned evaluations. For example, shortly after three programs to serve young victims of crime were established in Regina, Saskatoon, and North Battleford, the Saskatchewan government commissioned an evaluation (PRA 1998). User feedback from the “Saskatoon Centre was extremely positive, with children saying they felt comfortable with the environment and the investigation.

There was no user feedback or detailed data on costs and outcomes for Regina. In North Battleford, the enthusiastic leadership of certain individuals got the program going, but once these individuals moved on, the program evaporated. This highlights the need for long-term institutional resources and support. As is often the case with program evaluations, some questions could not be answered because the program had not been established long enough. The RCJC is also currently evaluating their victim services responder position, and the SCCJ is evaluating their mental health clinician position.

The Zebra Centre completed an evaluation in the mid-2000s (Leger Marketing Alberta 2005) which included a public opinion survey to gauge the following: public awareness, support for the Centre, and how important child protection issues are to the public; client (non-offending parent or guardian) satisfaction with the services provided by the Centre; and outcomes as measured by case tracking. Baseline data were not available, but the researchers did create a database out of paper files from the opening of the Centre to the end of the evaluation period (2002 through 2006). Each year was examined for changes such as an increase in the number of case files; for example, there were 106 active files in January 2004 and 236 in December 2006. A review of letters written by children and their parents to the Zebra Centre after the process was completed clearly illustrated the valuable role the Centre is playing in the lives of these families as they move through the criminal justice system.

BOOST began an evaluation of its victim advocate pilot project in 2011 which included basic statistics as well as client-feedback questionnaires.



Overwhelmingly, the feedback from both children/youth and caregivers was very positive, and the numbers showed that there remained a strong demand for the services of the victim advocate. Other organizations are also planning evaluations to understand the impact of their work.

None of these evaluations employed an experimental design, or even a quasi-experimental design, and as such, they cannot attribute causation. No work in Canada has been done that empirically proves that CACs are responsible for increasing charges or conviction rates or leading to more appropriate sentences. Most of the criminal justice outcomes that are often cited from the US research (e.g., increases in charges laid, better quality of evidence, more guilty pleas, and higher conviction rates with more appropriate sentences) have not actually been demonstrated through empirical research (see Cross et al. 2008, 6). The research does show that investigations conducted by CACs are cost-effective. One study in the United States found that investigations conducted by a CAC resulted in a 36% cost savings compared to investigations conducted by a non-CAC (Shadoin et al. 2006). In addition, a study conducted in the United States found that the charging decision time is shorter when a CAC is involved (Walsh et al. 2008).

While the research from the US is extremely helpful, having results from Canadian experiences would be ideal for policy and program development, for governments of all levels as well as for the organizations on the ground, for many reasons. Research can identify cost savings, efficiencies, and good practices, and federal, provincial, and territorial governments can look to research

findings to help make decisions regarding program and policy development, including funding. If all organizations were to collect the same data, it would be possible to provide a national picture of how CACs are operating.



## **BUILDING OUR CAPACITY THROUGH RESEARCH**

In the fall of 2010, the Research and Statistics Division (RSD) of the Department of Justice Canada began to develop, in close collaboration with the Department's Policy Centre for Victim Issues (PCVI), a body of knowledge around child and youth victims and CACs in Canada. The following section describes the different initiatives and research projects that were included in these efforts.

### **Sharing Knowledge to Build Capacity**

A knowledge exchange<sup>3</sup> on CACs was held in Ottawa at the end of February 2011. Funded through the Victims Fund, the Knowledge Exchange on Children's Advocacy Centres brought together approximately 55 policy and program officials and researchers as well as criminal justice and CAC professionals for the purpose of developing a common understanding of the existing services for child and youth victims in Canada, the key components of CACs, and what research says about them. Pamela Hurley, a child

<sup>3</sup> A knowledge exchange is collaborative problem solving between researchers and decision makers that happens through linkage and exchange. It can take many different forms. The Knowledge Exchange on Children's Advocacy Centres took place in Ottawa over two and a half days.

and youth expert, organized this event and worked closely with the RSD and the PCVI as well as other participants. A Web site developed for the Knowledge Exchange provides summaries of the different presentations, delegate information, as well as the final report.<sup>4</sup>

This event was the first of its kind in Canada, and a number of next steps were identified to continue to build capacity on serving child and youth victims in Canada. For example, participants at the Knowledge Exchange highlighted the lack of Canadian research on CACs and their impact, short- and long-term. Participants also pointed to the need to develop a network, or community of practice, of CACs across the country, to hold additional meetings like the Knowledge Exchange, and to build a CAC community in the coming years.

The development of a CAC community will require continued efforts to build capacity through the sharing of knowledge. To address this ongoing need, the RSD, in partnership with the PCVI, hosted a meeting in January 2012 with 14 executive directors (or designates) of existing and emerging CACs. The objectives of the meeting were as follows:

- (1) to learn about practices and gaps in knowledge for each of the CACs, focusing on the role of the victim advocate, how organizations collect and manage operational data, and research issues of interest;
- (2) to transfer learning from the experienced CACs to the less-experienced CACs on these and other topics; and
- (3) to foster a community of practice for building knowledge and capacity.

The first day of the meeting was devoted to building knowledge for both the Department and the organizations on several different topics, using directed questions and group discussion. The second day was led by the PCVI and also focused on building knowledge, using presentations and discussions on governance models and compassion fatigue as well as on the role of the victim advocate.

This event was very successful, in part because the small number of participants permitted in-depth discussions and a real sharing of lessons learned and good practices, not just for emerging CACs but also for Justice officials. One of the participants noted on the evaluation: “It’s great to see the federal government take a leadership role!”

### **Responding to Direct Enquiries**

Regardless of the stage an organization is at, they are encouraged to touch base with the RSD if they have research questions. Questions also come from Crown prosecutors, government officials, and other stakeholders, and they range from looking for a specific resource to seeking statistics on the number of police-reported incidents of violent crime against children in a particular area. The RSD and the PCVI together have helped to connect organizations that need information with those that have it, while also acting as a repository of knowledge. Researchers take the time to respond as fully as possible, as the information provided has helped in preparing stronger applications for funding or conducting feasibility studies, needs assessments, and evaluation frameworks.

<sup>4</sup> See [www.cac-cae.ca](http://www.cac-cae.ca) for more information.

## **Making Statistics Accessible and Understandable**

While Statistics Canada provides online access to many tables of criminal justice data, actually retrieving the data can be challenging if one is not familiar with the different surveys used and what variables are collected. For example, court data do not capture any victim or witness information. From the 2011 Knowledge Exchange, it was evident that participants want as much statistical data as possible. As a result, the Research and Statistics Division has designed a new product: a one-page document that highlights one particular statistical finding, such as the number of police-reported sexual assaults in 2011 being highest for 5-year-old girls (Uniform Crime Reporting (UCR) Survey 2011). While these data are national, the RSD researchers have also shown organizations how to access location-specific data for the UCR. Knowing such information can help an organization ensure that it understands the needs of all children and youth in their catchment area.

## **Making Research Accessible**

Much of the research from the US can be accessed via academic journals, but this is often at a cost. In addition, interpreting results from social science research is not always straightforward. For example, one common error is attributing causation where only correlation has been shown. Using one of the RSD's products, a researcher has thoroughly reviewed all the peer-reviewed, academic research on CACs from the US and produced a JustFacts issue that clearly articulates those findings that can be generalized. The intent is to provide stakeholders with accurate summaries of relevant, recent research from the US, Canada or other countries. Organizations can then use this information when seeking additional funding and partnerships.

## **Data Collection/Information Management**

The RSD has developed a data collection/information management tool for CACs in Canada. It is an Excel spreadsheet with all the variables that would be desirable from a case-tracking, case-review, and policy and program perspective. This tool, along with the instruction manual, has been shared with all the CACs, regardless of the stage of their development. Some organizations already have systems in place or are required to use specific software mandated by provincial funders. A number of organizations, however, have indicated that they would be interested in using this tool, at least as they get started. The RSD has also offered to analyze the data and report on the results if an organization lacks the expertise on staff.

## **Research Projects**

Several small research projects have been undertaken to help build our body of knowledge. One is a compendium of CAC-like organizations around the world from countries as diverse as Cuba and Croatia to South Africa and Australia. Information was compiled primarily from the Internet with some follow-up with organizations. There are many good practices that are now documented.

Another project has been to determine how different organizations, including organizations in jurisdictions where there is no CAC and no plans for one, fulfil the role of the victim advocate and why they chose the particular approach. There are different models across the country that range from the use of one dedicated person who is part of the multidisciplinary team to using community volunteers who assist the client at a specific stage of the proceedings (e.g., court preparation, court accompaniment).

In addition, the RSD has used Geographic Information System (GIS) technology to map the location and status of organizations across the country, as in the accompanying map. This has proved to be an excellent communication tool for the Department, and the map will continue to be updated as organizations change their status and new organizations emerge.

### **Multi-Site Study**

Finally, working with the Department of Justice's Evaluation Division and the PCVI, a multi-year, multi-site study has been launched that will explore how CACs are working. Five sites in different stages of development are included—Grande Prairie, Whitehorse, Regina, Cornwall, and Halifax—and the study will be conducted over approximately three years. The study includes interviews with children and youth and a caregiver after the forensic interview, as well as follow-up questionnaires for those individuals whose cases do go through the criminal justice system. Staff and other partners will also be interviewed. This study will provide a great deal of information for the organizations involved, and it will also be very useful for other developing organizations.



## **CONCLUSION**

The community of CACs in Canada remains small, and there is a great opportunity to learn from the experienced organizations and to share knowledge with organizations that are just emerging or are less developed. By increasing knowledge and understanding of good practices, of the nature and scope of child and youth victimization, and of different CAC models across the country, organizations in development are building their capacity to better help young victims of crime and their families. At the same time, a community of CACs is being fostered to ensure that this capacity can be nurtured and sustained. In the longer term, the RSD and the PCVI may not always play such a role, but in this nascent stage of development, research has clearly contributed to capacity building for government officials, criminal justice and child protection professionals, as well as CACs at different stages of development.

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# A Survey of Survivors of Sexual Violence



MELISSA NORTHCOTT

In 2011, there were 21,821 incidents of sexual assault reported to the police in Canada (Brennan 2012). Incidents of sexual assault that are reported to the police, however, only reflect a small proportion of the actual incidents that occur. Findings from the 2009 General Social Survey on Victimization (GSS) revealed that an estimated 88% of incidents of sexual assault were not reported to the police (Perreault and Brennan 2010).

Available information on the prevalence of sexual assault reveals that there are certain demographic groups in Canada that experience sexual violence at higher rates than others. For example, data from self-reported and police-reported surveys reveal that females are the most common victims of sexual violence, and the rates

of sexual assault are higher in the Canadian territories compared to the provinces and higher among Aboriginals than non-Aboriginals.<sup>1</sup> Although the rates of sexual violence are higher among these groups, Canadians of all demographic backgrounds experience sexual violence.

This article summarizes the findings of a study that examined the experiences of male and female survivors of child sexual abuse (CSA) and adult sexual assault (ASA) from various demographic backgrounds across Canada. It is hoped that a better understanding of the experiences of survivors of sexual violence will help shape policies and programs designed to provide them with assistance and support.

<sup>1</sup> See for example reports by Brennan (2011), Perreault (2011), and Perreault and Hotton Mahony (2012).



## INTERVIEWING SURVIVORS

Data for this study were gathered through semi-structured interviews conducted in 2009 with 207 sexual assault survivors in Canada. Data were collected from six sexual assault centres across Canada. The participants represented three different demographic groups: a sample of males and females (34 participants) who were recruited from a sexual assault centre in the Northwest Territories that served both urban and rural areas (the Northern sample); a female-only sample (114 participants) who were recruited from sexual assault centres located in urban centres in Ontario, Alberta, and Nova Scotia (the female sample); and a male-only sample (59 participants) who were recruited from sexual assault centres located in urban centres in Ontario and British Columbia (the male sample).

The participants in this study were recruited through the participating sexual assault centres. Survivors from the Northwest Territories were interviewed in person by a counsellor from the participating centre. Participants in the female-only and male-only samples were interviewed via telephone by trained interviewers contracted by the Research and Statistics Division.

The survey consisted of questions on demographics, experiences of CSA and ASA, the psychological effects of abuse, coping skills, reporting to police, and

experiences with, and confidence in, the criminal justice system. The survey also asked participants to provide suggestions on what survivors of sexual violence need to know about the criminal justice system and on how the criminal justice system can better meet the needs of survivors of sexual violence.



## WHAT SURVIVORS HAD TO SAY

### Demographics

The participants represented a range of demographic backgrounds. In the Northern sample, all but one participant was female. The participants were between 17 and 57 years of age, with a median age of 40. The majority of participants (88%) self-identified as Aboriginal, while the remaining participants self-identified as Caucasian. In the female sample, the age of the survivors ranged from 20 to 70 years old, with a median age of 42. Most of the participants self-identified as Caucasian (85%), with the remainder making up a range of ethnicities. In the male sample, the age of the survivors ranged from 26 to 66 years old, with a median age of 46. More than three quarters (76%) of the participants self-identified as Caucasian, while the remaining quarter was made up of a range of ethnicities, including Aboriginal, Black, and Hispanic.

<sup>2</sup> In the Northern sample, many of the participants defined adult sexual assault (ASA) as having occurred when they were teenagers. For the purposes of the study, in this sample, the research team defined child sexual abuse (CSA) as occurring when the participant was 15 years of age and younger, while ASA is defined as an assault that occurred when the participant was 16 years of age and older. For the purposes of this study, the research team considered these participants adults. (2012).

## Experiences of Sexual Violence

Many of the survivors across the three samples reported experiencing both CSA<sup>2</sup> and ASA. In the Northern and female samples, more than half of the survivors reported experiencing both types of victimization (59% in the Northern sample and 52% in the female sample). A smaller percentage (14%) reported experiencing both CSA and ASA in the sample of male survivors.

A closer look at only the survivors of adult sexual assault reveals that the majority had been victims of child sexual abuse. In the Northern sample, 85% of those who had experienced ASA had experienced CSA, as did 80% of survivors of ASA in the male sample and 69% of survivors of ASA in the female sample.

## Child Sexual Abuse

The majority of the participants across all of the samples reported that they experienced CSA. In the male sample, 97% reported experiencing CSA, as did 88% in the Northern sample, and 76% in the female sample. Moreover, most of the survivors who experienced CSA experienced multiple incidents of abuse. Across all of the samples, the most common age range at which the participants experienced CSA was between 6 and 10 years old. The majority of survivors reported that the offender was someone they knew (e.g., a family member or someone they trusted).

## Adult Sexual Assault

Three quarters of those in the female sample reported experiencing ASA, as did 71% of those in the Northern sample. Fewer (17%) of those in the male sample reported that they experienced ASA. Several survivors described experiencing multiple incidents of ASA. In the Northern sample, the most common age range at which participants experi-

enced ASA was between 16 and 17 years of age, while in the female and the male samples, the most common age range was between 18 to 24 years of age. As with those who experienced CSA, the offender was a person known to the survivor (e.g., intimate partner, relative, friend, acquaintance, person in authority like a mentor or a teacher) in the majority of cases.

## Reporting CSA and ASA

Over two-thirds of those in the male sample (68%) and in the Northern sample (67%) and 64% in the female sample did not report the CSA to the police or have another individual report the abuse. The findings were similar for survivors of ASA. In the male sample, 70% stated that they did not report the ASA, while 59% of those in the female sample and 56% of those in the Northern sample did not report the assault.

The most frequently reported reasons for not reporting CSA were because the participants thought that they would not be believed, they felt ashamed or embarrassed, they did not know they could report the abuse, and they had no family support. The reasons provided by survivors of ASA for not reporting the assault were similar to those of survivors of CSA. Other reasons cited by survivors of ASA included because they did not have any confidence in the criminal justice and they were afraid of the offender.

Among those who did report the CSA and/or ASA, survivors across all samples cited the same reasons for choosing to report. The most frequently cited reason for reporting was because they felt they needed to take action. Other reasons included the need to release repressed feelings and the recommendation to report by a professional, such as a psychologist, or by a friend.



## **Emotional and Psychological Effects**

The participants described the strong emotional and psychological effects of the trauma. For most participants, the effects were multiple and ongoing. The emotional and psychological effects were similar across the groups, regardless of gender. In addition, the psychological harm experienced as a result of CSA was very similar to the harm experienced as a result of ASA.

The most common psychological and emotional effect of victimization described was depression and experiencing feelings associated with depression, such as worthlessness, helplessness, and suicidal ideation. A number of survivors described feelings associated with shame, self-blame, and low self-esteem and difficulties with trust. For many, this resulted in difficulties forming friendships and healthy, long-term relationships. Additionally, numerous participants described struggling with anxiety and fear.

## **Coping Mechanisms**

The participants also described the mechanisms they used to cope with the effects of the trauma. The majority of participants described using multiple coping mechanisms, both positive and negative. Several of the coping strategies used by CSA survivors were also used among those who experienced ASA.

There were a number of positive coping strategies described. For example, the participants in all three samples described turning to professional supports for help, including counselling. Many participants named the sexual assault centre as being extremely helpful in their recovery. Several participants in the Northern and female samples described turning to natural supports, such as

family and friends. However, these supports were not as prominently noted in the male sample.

The survivors also described using emotion-focused coping, which is coping that “involves activities that try to directly change how the victim feels” (Hill 2009, 47). Some examples of the types of emotion-focused coping used by participants included activities to keep busy, such as reading, drawing, and playing sports, which was especially noted by male survivors.

A very common coping strategy described by participants was turning to religion, including attending church and praying, and focussing on spirituality more generally. Although these were also noted by some participants in the other samples, they were more commonly described by the Northern participants.

Participants also described negative coping strategies. The most frequently described negative coping strategy was the use of drugs and alcohol, which was often used as a way of escaping thoughts or feelings. A number of participants used drugs and alcohol as a coping mechanism for CSA and continued to use that coping mechanism for dealing with ASA.

Dissociation, avoidance, and denial were also described by the participants. Participants in the female and Northern samples also described isolating themselves from others and not allowing themselves to become close to others.

Strategies associated with non-suicidal self-harm were also used by the participants, including physically harming oneself and engaging in promiscuous behaviours. Many participants also described attempting suicide on more than one occasion.

## The Criminal Justice System

Participants were also asked to provide information regarding their trial. Very few participants stated that their cases went to criminal trial. Of the 55 participants in the female sample who reported their CSA or ASA, 22 cases went to criminal trial and a conviction was rendered in 18 of these cases. Of the 15 participants in the Northern sample who reported their CSA or ASA, nine cases went to criminal trial and a conviction was rendered in four cases. In the male sample, 17 participants reported their CSA or ASA and three cases went to criminal trial, with a conviction being rendered in two cases. The disclosure of third party records<sup>3</sup> was sought in very few trials. Third party records were sought in four cases in the Northern sample; in five cases in the

female sample; and in only one case in the male sample. The records sought for disclosure included medical records, mental health records, and education records. Many of the participants did not know whether the third party records were ultimately released; only two participants in the female sample were certain that the records were released.

All of the participants, including those whose cases did and did not go to trial, were asked to rate their level of confidence in the police, the court process, and the criminal justice system in general. As shown in Table 1 below, few participants stated that they were very confident. Indeed, approximately two-thirds of the participants stated that they were not confident in the police, the court process, or the criminal justice system in general.

**Table 1. Confidence in the Criminal Justice System**

	Very Confident	Fairly Confident	Not Very Confident	Not Confident At All	Don't Know
<b>Male Sample (N=59)</b>					
Police	11 (19%)	20 (34%)	22 (37%)	5 (9%)	1 (2%)
Court Process	4 (7%)	17 (29%)	19 (32%)	16 (27%)	3 (5%)
Criminal Justice System in General	1 (2%)	25 (42%)	24 (41%)	9 (15%)	0 (0%)
<b>Northern Sample (N=30 to 34)</b>					
Police	2 (7%)	5 (16%)	15 (48%)	6 (19%)	3 (10%)
Court Process	3 (9%)	3 (9%)	12 (36%)	10 (30%)	5 (15%)
Criminal Justice System in General	1 (3%)	5 (17%)	6 (20%)	13 (43%)	5 (17%)
<b>Female Sample (N=114)</b>					
Police	13 (12%)	37 (33%)	37 (33%)	22 (20%)	4 (4%)
Court Process	4 (4%)	17 (15%)	40 (35%)	35 (31%)	17 (15%)
Criminal Justice System in General	5 (4%)	26 (23%)	38 (33%)	36 (32%)	9 (8%)

<sup>3</sup> Third party records refer to personal records such as medical, counselling, and employment records.

A higher percentage of participants in the male and female samples stated that they were confident in the police in comparison to participants in the Northern sample.



## WHAT SURVIVORS SUGGESTED

### What Survivors Need to Know about the Criminal Justice System

Many participants in the three groups stressed the importance of gaining a thorough understanding of the criminal justice system and preparing for participation in the process by asking questions and becoming informed of their rights. The participants also noted that it is important to understand the adversarial nature of the justice system and the potential negative impact participating in the process may have on the survivor (e.g., feeling re-victimized, feeling as if they are not believed). Participants also encouraged survivors to seek help and to know that there are services available and that these services are helpful. A number of participants also encouraged survivors to come forward and report their abuse and not give up.

### How the Criminal Justice System Can Better Meet the Needs of Survivors

The participants provided suggestions on how the criminal justice system can better meet the needs of survivors of sexual violence. These suggestions fall under three overarching themes: making survivors feel

safe and comfortable; providing information and education; and making changes to the criminal justice system as a whole.

#### (1) Making the Survivor Feel Safe and Comfortable

Four interconnected sub-themes emerged which reflected the need for survivors to feel safe and comfortable: enhancing support for survivors; helping survivors navigate the criminal justice process; treating survivors with respect; and educating criminal justice professionals.

While the participants indicated they were grateful for the services they were provided, especially the sexual assault centres with whom they were working, many participants said that more supports are needed for survivors. Participants in the male sample stressed that more male-specific support services are needed. A number of participants also indicated that support in all forms needs to be provided to survivors throughout the entire criminal justice process, that is, from the time the incident occurs through to the court process and after the trial has ended.

Participants also provided suggestions that centered on ensuring that survivors have the help and information they need to navigate the criminal justice system. Suggestions included providing a support or advocacy person to work with the survivor throughout the process, using basic language to explain legal terms, and providing translation to those who need it.

Several participants voiced concerns over how survivors are treated in the criminal justice process. A number of participants indicated that officials need to be more sensitive when interviewing survivors, as they often feel as if they are not believed. In addition, some indicated that survivors are treated as if they are somehow to blame or are the perpetrator. Many

participants also indicated that they believed that professionals within the criminal justice system would benefit from training on working with survivors of sexual violence, including sensitivity training.

## **(2) Information and Education**

Numerous participants indicated that survivors need to be provided with more information, including on victims' rights, the services available to them, and the criminal justice system in general. Many also indicated that survivors need to be kept up-to-date on their case and that information needs to be provided in a timely manner and throughout the entire process.

In addition, a number of participants suggested that education on the criminal justice system and on sexual violence needs to be provided to everyone, especially children through schools and those working with children. The participants in the male sample also stressed the importance of raising awareness, for example through awareness campaigns, about sexual violence toward males, including its nature and its prevalence, in order to address the myths and stigma associated with male sexual abuse.

## **(3) Changes to the Criminal Justice System**

There were also several suggestions that pertained to overall changes to the criminal justice system. For example, some participants stated that they felt that the police did not put enough effort into investigating their case or providing follow-up on their case. In addition, a number of participants stated that more timely processing of cases is required, since for many, the criminal justice process was long.

Moreover, various participants expressed frustration with the perceived unfairness in the way the survivor is treated compared to the accused. There was a perception among some that while the survivor must cope with the traumatic experience, the accused is not punished, or when there is punishment, it does not reflect the gravity of the crime. This perception led many to suggest that longer sentences be imposed in order to send a strong message about the impacts of sexual violence on survivors.



## **CONCLUSION**

Interviewing three different groups of survivors of sexual violence revealed that, although there were some differences among the groups, the overall experiences of the survivors were very similar. Most survivors who had experienced an adult sexual assault had also been the victim of child sexual abuse, and in the majority of cases, the offender was a person known to the victim. Most participants described the experience as having multiple and ongoing emotional and psychological effects. Survivors use various mechanisms to cope with these effects, including negative mechanisms, like using drugs and alcohol.

The interview participants provided a number of suggestions on what would be most helpful for survivors of sexual violence as they navigate the criminal justice process. Knowledge of the criminal

justice system and of one's rights is seen as an important preparation for participating in the justice process. In addition, survivors consider that the criminal justice system can better meet the needs of survivors by increasing support and by providing this support throughout the process. Many survivors also indicated a need for timely, up-to-date information on their case. Male participants suggested raising awareness about sexual violence toward males and highlighted a need for male-specific support services. The interviews also revealed the perception among some of the participants that more effort is needed on the part of the police in the investigative process, that the criminal justice process

is very long, and that, at times, survivors appear to be treated less fairly than the accused. Survivors also often feel they are not believed and are somehow to blame. Many suggested providing sensitivity training to justice system professionals, particularly with regard to working with survivors of sexual violence, and sending a strong message about the impact of sexual violence on survivors by imposing longer sentences on accused. It is hoped that by better understanding these experiences and needs, victim service providers and the justice system as a whole can be in a better position to support survivors of sexual violence.

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# Is a Picture Worth a Thousand Words?

## THE OPPORTUNITIES AND CHALLENGES OF USING GIS-BASED MAPPING WITH A VICTIM'S LENS



KATIE SCRIM AND  
CLARINDA SPIJKERMAN

Geographic Information System (GIS) technology has been used for decades to uncover and analyze the intersections between geography and a host of scientific and socio-economic phenomena, such as the environment, health, and even consumer trends. Modern computerized applications integrate hardware, software, and geographically referenced data to help us visualize, interpret, and understand data in ways that reveal patterns and relationships (ESRI 2012). GIS-based maps can be effective communication tools in that they convey information

visually so it can be understood across professional disciplines. GIS is increasingly being used in the criminal justice field. Numerous police services in Canada, for example, use this technology to map locations of crime incidents, an endeavour to help police better utilize resources and communicate with the public.<sup>1</sup> There are also some examples of GIS-based mapping being applied from a victim lens. Dawson (2010), for example, has done significant groundwork in Canada in terms of understanding how resources for

<sup>1</sup> See Saint John Police Force at <http://www.saintjohn.ca/en/home/cityservices/publicsafety/police/services/crimeprevention/crimemapping/default.aspx>; Ottawa Police Service at [http://www.ottawapolice.ca/en/crimefiles/crimemaps\\_reports/cr\\_redirect.aspx](http://www.ottawapolice.ca/en/crimefiles/crimemaps_reports/cr_redirect.aspx); Toronto Police Service at [http://www.torontopolice.on.ca/statistics/crime\\_maps.php](http://www.torontopolice.on.ca/statistics/crime_maps.php); and Vancouver Police Department at <http://vancouver.ca/police/crimemaps/index.htm>.

women who have been victims of violence can be mapped. Some extensive work is being done on community responses to intimate partner violence in rural and northern regions of the Canadian Prairie provinces and the Northwest Territories (NWT). One component of this project involves mapping services for female victims of intimate partner violence.<sup>2</sup> Other studies in the US and Britain have used GIS-based mapping to illustrate where gaps in services exist for victims (see Coy et. al. 2008; Stoe et. al. 2003).

As a further exploration of the use of GIS-based mapping as a tool for better understanding phenomena in the criminal justice field, the Policy Centre for Victim Issues and the Research and Statistics Division of the Department of Justice Canada conducted a case study in the NWT, where incidents of violent crime were mapped alongside services for victims and the intersections between victimization and available support services for victims were visually analyzed. This mapping exercise uncovered gaps in service provision for victims in some areas of the territory. However, does a picture always tell the full story? There are many inherent challenges to the provision of services in the NWT, and the Government of the NWT (GNWT) has found innovative ways to fill these gaps and reach victims, ways a single map cannot always capture.



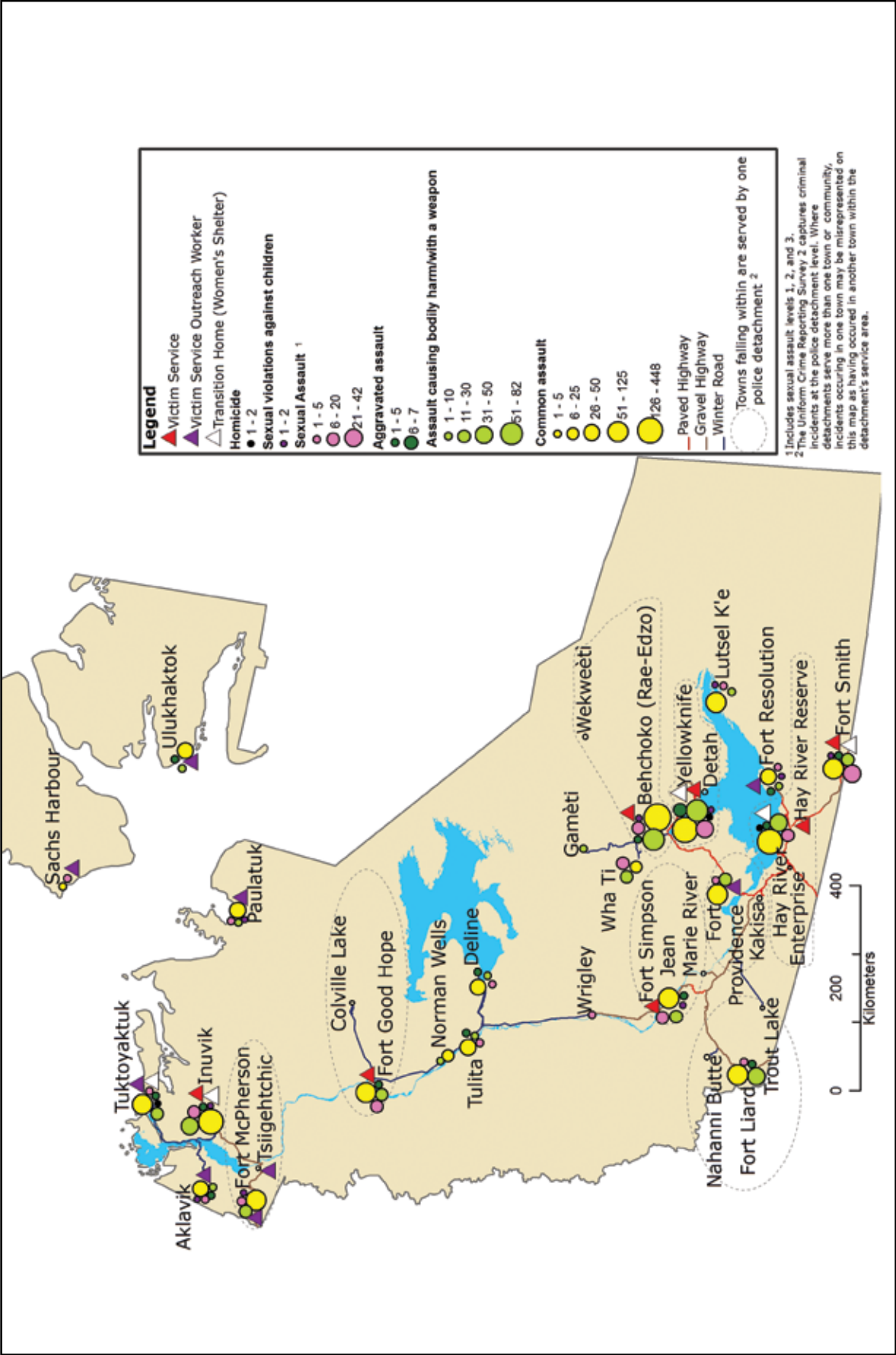
## **THE NORTHWEST TERRITORIES: A CASE STUDY FOR GIS-BASED MAPPING**

The map accompanying this article shows the results of a simple GIS-based mapping of the violent crime incidents reported to police in 2011 and the locations of victim services and transition homes in the NWT. Violent crimes are displayed by offence type using graduated symbols—the larger the symbol, the greater the number of incidents. A cursory analysis of the map reveals gaps in services for victims of crime in a number of communities. Violent crimes have been reported in communities across the territory, including in communities where no permanent victim services exist. For example, there are no victim services located in Norman Wells, Tulita, Deline, nor in Fort Liard or Lutsel K'e. The community of Tuktoyaktuk has a transition home (women's shelter) and an outreach worker, but no permanent, on-site victim services. Providing comprehensive and seamless coverage of services for victims in any jurisdiction is difficult, and it is even more complicated in isolated and remote areas of the country such as the NWT.

<sup>2</sup> See <http://www2.uregina.ca/ipv/research.html> and <http://www.uregina.ca/external/communications/feature-stories/current/fs-06132011-1.html>.



Locations of Services for Victims of Crime and Selected Violent Incidents in the NWT, 2011



SOURCES: Statistics Canada, Canadian Centre for Justice Statistics, Uniform Crime Reporting Survey 2, 2011; Government of the Northwest Territories, Department of Transportation, Northwest Territories Highway System (accessed September 24, 2012, from [http://www.dot.gov.nt.ca/\\_live/pages/travelinfo\\_brochures.aspx](http://www.dot.gov.nt.ca/_live/pages/travelinfo_brochures.aspx)).





## CHALLENGES TO SERVICE DELIVERY IN THE NWT

The NWT is a unique region of Canada. The territory is spread across more than a million square kilometres, with a climate that varies considerably from the northern polar climate to the southern subarctic climate. These conditions make building transportation and other infrastructure a real challenge. The NWT's population of roughly 43,000 is spread across 33 communities. While roughly half the population lives in Yellowknife, the capital, the rest reside in mainly rural and often isolated communities, most of which have less than 1,000 residents (GNWT Bureau of Statistics 2012a). Fourteen communities are on a road system while the remaining nineteen can be accessed solely by ice roads in the winter or are fly-in communities. Only 19 percent of all residents have year-round road access. As of 2008, sixty-five percent, including those in the territory's capital city, did not have any road access for one or two months of the year during the seasonal transition between ferry service and ice-crossing construction (Government of Yukon 2008). The distances and lack of transportation routes can make accessing help and safety difficult for victims, particularly in areas where no victim services or safe houses exist. While not all jurisdictions across Canada have seamless service coverage

for victims, the NWT faces the additional challenge of making services accessible to sparsely populated and often isolated communities with limited transportation routes.

A further challenge is that crime rates in the Canadian territories have historically been higher than in the provinces. The map "Locations of Services for Victims of Crime and Selected Violent Incidents in the NWT, 2011" illustrates the number of violent incidents reported to police in each community,<sup>3</sup> and while in some communities the incident count may seem relatively low, it is important to remember that the population of most communities is less than 1,000, which makes crime and victimization in the NWT a more intimate reality. In fact, two-thirds of victims of violent crime in northern Canada know their perpetrator (Perreault et al. 2012), and when population is accounted for, the NWT had one of the highest crime rates in Canada in 2011 (Brennan 2012). The 2009 General Social Survey on victimization (GSS), which asked respondents to report their own victimization experiences, also found the victimization rate in the NWT to be among the highest in Canada. It is important to note that while our map uses the incident counts reported by police services via the Uniform Crime Reporting Survey, the 2009 GSS reported that only 70% of violent victimizations in the territories were actually brought to police attention (Perreault et al. 2012). Therefore, the true extent of crime and victimization in the NWT is likely not fully captured on our map.

In addition, the NWT faces social and economic challenges, many of which are associated with higher rates of crime and victimization. Almost one-third of the population is under the

age of 15 (GNWT Bureau of Statistics 2012a), and research has shown that victimization rates are higher among youth and young adults than among older age groups (Perreault et al. 2012; Perreault et al. 2010; de Léséleuc et al. 2006). The NWT is one of two jurisdictions in Canada where Aboriginal people constitute the majority of the population (GNWT Bureau of Statistics 2012a). Research has found that being an Aboriginal person is associated with a higher likelihood of being the victim of a crime (Perreault et al. 2012; Perreault et al. 2010; de Léséleuc et al. 2006). Education levels are lower overall than in the provinces (GNWT Bureau of Statistics 2011), while income levels and employment rates show large gaps between communities and between the Aboriginal and non-Aboriginal populations, with rates among the Aboriginal population well below the Canadian averages (GNWT Bureau of Statistics 2011; 2012b). It is estimated that almost one out of every five dwellings in the NWT is in core housing need,<sup>3</sup> with rates substantially higher in the smaller communities (GNWT Bureau of Statistics 2011). It is a continuous challenge for service providers to help clients who have not only experienced primary trauma through victimization but are also dealing with housing issues, poverty, and a lack of education and employment options. In cases of family and intimate partner violence, these barriers can often contribute to victims going back to the abuser (Levan 2003).

Furthermore, the GNWT recognizes eleven different official languages. Of these, nine are Aboriginal and are most frequently spoken in smaller communities throughout the NWT. To facilitate the provision of services in the language of

choice of clients, the GNWT has for many years used the services of CanTalk, a twenty-four-hour-a-day, seven-day-a-week interpretation service that offers fast access to over-the-phone interpretation and translation.<sup>4</sup>

Even when services are available, there are occasions when societal attitudes and norms can preclude victims from seeking help. In some communities, victims may experience shunning, blaming, and shaming, and if the incident is reported to police, victims may also experience a great deal of secondary victimization by the offender's family and other members of the community who are pressuring them to drop the charges (Centre for Northern Families 2012; Levan 2003). In a 2003 study that examined victim services in the three territories and conducted interviews with victim service workers to ascertain attitudes and perceptions, some respondents indicated that the support and assistance given to victims is dependent on their place within the community power hierarchy. In other words, victims belonging to the least powerful families are more likely to be blamed, shunned, and intimidated than victims belonging to the more powerful families. In addition, respondents noted that shelters and other victim-focused programs are often accused of "breaking up families" (Levan 2003, 88). However, at the time of the study's report, it was noted that in many of the larger communities, these attitudes were beginning to shift towards more support for victims of crime in many communities.

In addition to a lack of full-time and accessible services for victims in the NWT, particularly for male victims, there is a shortage of counsellors and adequate treatment programs for trauma and addictions (Levan 2003).

<sup>3</sup> Measures the affordability, suitability, and adequacy of housing. See [http://www.cmhc.ca/en/corp/about/cahoob/data/data\\_013.cfm](http://www.cmhc.ca/en/corp/about/cahoob/data/data_013.cfm).

The lack of specialized services, in turn, increases demand for victim services, putting increased pressure on a system where there already exists a shortage of workers. Victim service providers, particularly in the smaller communities, often know both the client and the offender (Centre for Northern Families 2012). Victim service providers have noted anecdotally that seeing family and friends being hurt can contribute to compassion fatigue and vicarious trauma.



## SERVICES IN THE NWT

While the accompanying map shows that not all communities in the NWT have permanent victim services, the GNWT has always used innovative ways to overcome the inherent challenges in serving its isolated communities and continues to invest in the services it provides in order to advance high quality services.

Currently, the NWT Department of Justice funds seven regional, community-based victim services programs throughout the NWT. As seen on the map, these are located in Yellowknife, Fort Good Hope, Inuvik, Fort Simpson, Fort Smith, Tlicho (Behchoko/Rae), and Hay River Reserve. While program coordinators provide direct services to clients, they are also extremely visible in their communities. They provide information to community members, raise public awareness around victim issues, and liaise with other community service providers. There

are also two outreach programs operating out of Inuvik and Hay River Reserve. The Inuvik outreach worker serves the communities of Tuktoyaktuk, Sachs Harbor, Aklavik, Ulukhaktok, Fort McPherson, Tsiigehtchic, and Paulatuk, while the Hay River Reserve outreach worker serves Fort Resolution and Fort Providence.

There are also five transition homes (women's shelters), funded by the NWT Department of Health and Social Services, for women and their children in the NWT (based in Inuvik, Tuktoyaktuk, Hay River, Fort Smith, and Yellowknife). The Centre for Northern Families in Yellowknife houses some homeless women, and plans are currently underway to build a permanent shelter for homeless women in Yellowknife.

The Crown Witness Coordinator (CWC) program is another example of how the GNWT is effectively using resources to reach and serve victims of crime in areas where making victim services available is a challenge. There are five CWCs in the NWT who travel with the circuit court to 21 communities in the NWT. CWCs locate, support, and prepare crime victims and witnesses for their role in the prosecution of crimes. CWCs act as liaisons between the Crown prosecutor and victims/witnesses, keeping both parties apprised of developments and situations which impact the case. CWCs encourage the use of victim impact statements, assist in the arrangement of testimonial aids, attend court with victims/witnesses and follow up with them as necessary. CWCs also support and accompany victims and witnesses during their court process and, when appropriate, refer them to available, supportive community services. However, because there are only victim services programs in seven communities in the

<sup>4</sup> See <http://www.cantalk.com/langserv.htm>.

NWT, a CWC is often the victim's sole support. After a court case, coordinators continue to share information with victims and witnesses regarding the status of their case.<sup>5</sup>

Community Justice Committees (CJC) can also support victims of crime through their community-based interventions and responses to crime. While CJs do not have a mandate to provide support services to victims of crime, many do provide support. The approaches vary across committees regarding the level of victim involvement and support provided.

In addition, informal supports such as family and elders exist, but like CJs, these vary and are not always easy to identify. While these examples of victim supports could be mapped, mapping them is often a challenge given their sporadic, informal, or itinerant nature. They nevertheless play a very important role in providing support to victims.



## GOOD PRACTICES

In addition to reaching victims in innovative ways to reduce gaps in service, the NWT is also investing in making the resources it does have as effective as possible. Since the enactment of the NWT *Victims of Crime Act* in 1989, there have been significant improvements in the services available for victims of crime in the NWT. Most recently, the GNWT has

adopted the use of the Ontario Domestic Assault Risk Assessment (ODARA) tool to help service providers better assess the level of risk clients are facing and develop more effective safety plans with clients. The RCMP has developed policies and procedures stating that all domestic violence cases that come to the attention of police will require an ODARA score to be completed. Shelter workers and victim services workers also continue to receive training on how to use the risk assessment tool in conjunction with safety planning. The NWT has also adopted a response-based practice when working with victims of violence: victim service providers support and acknowledge the efforts that victims make to resist violence, and these efforts are validated and incorporated into service delivery.

Response-based practice has also been incorporated into a pilot program for men who use violence in their intimate and family relationships. The goals of the program are to reduce violent behaviours and re-offending rates among violent men. This program is part of a larger system of accountability and safety that provides violent men with an alternative way of behaving with their partners, their children, and their communities.

In 2009, the NWT, with the Department of Justice Canada, hosted the first national victims of crime conference for northern service providers. The conference was an opportunity for front-line workers to network with each other and share creative solutions. Participants gained new information in many areas including compassion fatigue, working with child/youth victims and testimonial aids, volunteer safety, restorative justice, and spousal violence. The conference was also beneficial in gathering information on

<sup>5</sup> For more information on the CWC program, see <http://www.justice.gc.ca/eng/pi/pcvi-cpcv/news-bulit/iss7-bul7.html>.

victim services programs in other jurisdictions. One of the most important lessons learned from the conference was that victim services have come a long way in Canada and they continue to improve.

A topic that interested many participants at the 2009 conference was compassion fatigue/vicarious trauma and self-care. Since 2009, the GNWT Department of Justice has been investing in the well-being of its frontline workers by addressing one of the most significant pitfalls of frontline service work. To date, there is one on-site trainer who provides full-day workshops on compassion fatigue/vicarious trauma and self-care. Two additional employees will be trained so that more workshops can be provided. Workshops have so far been provided to shelter workers, victim services workers, nurses, college students, and corrections officers.

Moving forward, the GNWT will continue to work with victim services workers and others to ensure that they are receiving the training that keeps them up-to-date on best practices. Due to the high turnover rate amongst frontline workers, the RCMP, and the Crown's office, there is a need to continually ensure that new workers are aware of available programming and existing policies and procedures, are proficient in response-based practices, and are trained to recognize and prevent compassion fatigue/vicarious trauma.



## CONCLUSION

GIS-based mapping has many advantages that can complement the ways in which patterns and relationships are analyzed and understood. The map of the NWT produced for this case study is fairly straightforward. It shows that victim services are available in many communities and reveals that there are gaps in formal service provision in some communities. What this particular map cannot illustrate, however, are the informal and traditional supports used by victims (i.e., elders, family members, and community members) and the policies that build and strengthen the capacity of those who do this very important work. Mapping is, nevertheless, an excellent starting point for determining where program development may be needed. The potential of GIS-based mapping is virtually unlimited. Other industries have adopted GIS-based mapping wholeheartedly, and it is certainly used by sectors of the criminal justice system, such as police services.<sup>6</sup> The application of a victim's lens to GIS-based mapping may serve to increase awareness of the usefulness of mapping in analyzing and communicating results, in perhaps any discipline, in ways that are easily interpreted and understood.

<sup>6</sup> See [www.crimemapping.com](http://www.crimemapping.com).

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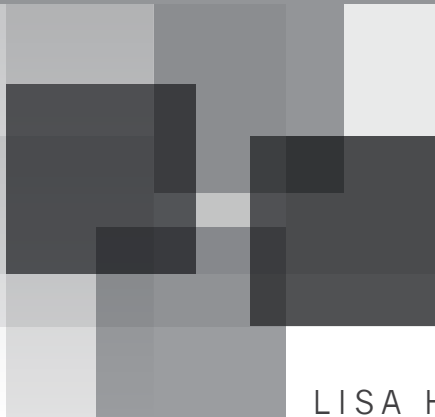
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# Police Responses to Elder Abuse:

THE OTTAWA POLICE SERVICE  
ELDER ABUSE SECTION



LISA HA

According to the 2011 Census, the number of seniors in Canada (those over the age of 65) has increased 14% since 2006 (Statistics Canada 2012a). Over the coming decades, as seniors continue to live longer, the proportion of elderly Canadians is projected to grow. This demographic change will impact many segments of Canada's public policy and social welfare structures, including the criminal justice system. In fact, elder abuse is a growing problem as the proportion of both elderly victims of crime and elderly offenders is predicted to increase over the coming years (Bomba 2006).

Research has shown that police play an integral role in effective responses to elder abuse (Payne et al. 2001). In fact, community policing models are being adopted across Canada and the U.S. as effective approaches to combating elder abuse. The community policing model encourages collaboration between police and other justice partners as well as community and social service agencies. Under this approach, elder abuse is seen as a "community issue" that requires multi-disciplinary, community-oriented solutions (Lai 2008).

In 2009, the Research and Statistics Division of the Department of Justice Canada conducted a study on elder

abuse using case files from the Ottawa Police Service (OPS) Elder Abuse Section. This specialized unit, created in 2005, utilizes a collaborative approach to tackling elder abuse. The study revealed that while the statistics provide valuable information on the nature of elder abuse cases, the complexity of the cases is not fully captured in this type of analysis. The purpose of this article is to highlight the work of the OPS Elder Abuse Section with a focus on the results of a semi-structured interview that was done with two OPS Elder Abuse Section officers. The results provide a more complete picture of the nature of these investigations and illustrate the importance of coordinated approaches to elder abuse cases.



## WHAT IS ELDER ABUSE?

Although there is not one universally accepted definition of elder abuse, most definitions take into account the existence of a relationship between the abuser and the abused. The World Health Organization (WHO) definition, introduced in 2002, is one of the most widely recognised. The WHO describes elder abuse as "...a single or repeated act, or lack of appropriate action, occurring within a relationship where there is an expectation of trust which causes harm

or distress to an older person."<sup>1</sup> Generally, elder abuse refers to adults over the age of 65; however, most elder abuse policies note that this term may be used for adults under this age, particularly if the adult has reduced capacity or competence related to aging.

In terms of the impact of this type of abuse, those who specialize in working with the elderly emphasize the dramatic ways in which elder mistreatment can affect the health, safety, and quality of life of older people. Injuries sustained by a frail older adult can have much more tragic consequences than similar injuries inflicted on a younger person. Physical abuse can result in nursing home placement, permanent disability, or even death. Financial exploitation can deprive older adults of resources needed for the necessities of life. Unlike younger people who lose assets or resources, older adults have less time and opportunity to recover from financial losses. An unexpected finding of a longitudinal study published in 1998 was that older adults who have been subjected to any form of mistreatment are three times more likely to die within three years than older adults with similar medical and social circumstances who have not been mistreated (Lifespan of Greater Rochester, Inc. 2011).

<sup>1</sup> From the WHO Web site at [http://www.who.int/ageing/projects/elder\\_abuse/en/](http://www.who.int/ageing/projects/elder_abuse/en/) (accessed November 7, 2012).





## OTTAWA POLICE ELDER ABUSE SECTION

The Ottawa Police Service has one of the first dedicated Elder Abuse sections in Canada. The mandate of the OPS Elder Abuse Section is two-fold: it “investigates all allegations of elder abuse where there is a relationship of trust/dependence between the victim and their abuser, and it works with front-line workers to educate them and the public to help raise awareness of elder abuse and support for seniors.”<sup>2</sup> In addition, the section works closely with the Ottawa Police Victim Crisis Unit which provides counselling and resources to victims both throughout and following a police investigation.

There are currently dedicated elder abuse sections in police forces across the country. Having a dedicated elder abuse section allows officers to adopt a specialized approach when dealing with elderly victims. Some of the small differences that help put elderly victims at ease include using a gentle tone and helpful manner, where seniors’ safety is the paramount concern, and wearing plain clothes and using an unmarked vehicle when investigating incidents. Most importantly, the Elder Abuse Section prioritizes exploring alternative solutions, which often involves coordinating police involvement with appropriate health, social, and community service agencies.



## WHAT DO THE NUMBERS TELL US?

In 2009, the Research and Statistics Division of the Department of Justice Canada developed a study to better understand the characteristics of elder abuse cases. The purpose of this study was to review case files from the OPS Elder Abuse Section in order to examine the extent and nature of incidents involving elderly victims that are reported to the police. Information from police files was coded and entered into an electronic database for analysis of the key incident and case characteristics.

There were a total of 453 files analysed, which included files from 2005 (when the section was created) to the spring of 2010 (when the file review was carried out). The average age of victims at the time of investigation was 80 (median age 81) with a minimum age of 49 and a maximum age of 101.<sup>3</sup> More than two thirds of victims were female (70%). Most victims were either widowed (69%) or married (20%) and the vast majority had children (98%). While a large proportion of victims lived in a private home or apartment (58%), a substantial number were residents of nursing homes or long-term care facilities (42%).

<sup>2</sup> See Ottawa Police Service Web site at [http://www.ottawapolice.ca/en/ServingOttawa/SectionsAndUnits/Elder\\_abuse.aspx](http://www.ottawapolice.ca/en/ServingOttawa/SectionsAndUnits/Elder_abuse.aspx) (accessed December 21, 2012).

<sup>3</sup> Age was unknown in 15 cases (3%).

<sup>4</sup> Age was unknown for 74 accused (16%).

The average age of accused in the year the case was investigated was 48 (median age 47). The age range was large, with the youngest accused being 17 years old and the oldest 89 years old.<sup>4</sup> There was an almost even split between male and female accused, with slightly more female accused than males.

Data on the relationship between the victim and the accused showed some interesting differences between men and women. Overall, mothers were the most common victims (28%), followed by “no relationship”<sup>5</sup> (22%) and “other”<sup>6</sup> (18%). Male accused were more likely to victimize family or friends, while female accused more often victimized those they cared for in a professional setting.

Overall, the most common type of abuse was financial (62%) with men being victimized more often than women. Within the category of financial abuse, there were two sub-categories: (1) abuse where the victim was unaware it was occurring and (2) abuse by threats or intimidation. In almost half of the cases, victims were unaware that the financial abuse was occurring (48%). Verbal abuse was the next most common category (41%),<sup>7</sup> with women being victimized only slightly more often than men. Physical abuse was present in 37% of cases, with women being victimized more often than men (40% vs. 30%).

Files were examined to determine if the police noted any barriers to their investigation of the case. Of those cases that were identified as having barriers to the investigation, victim mental health issues were the most commonly identified (55%), followed by victim fear in 16% of cases. Of the cases that were identified as having mental health barriers, in almost three quarters of these cases, dementia or Alzheimer’s disease were identified. Other barriers identified by police included the victim being deceased or the victim being paralyzed or otherwise immobile.

Charges were laid in 77 of the 453 files analysed, or in 17% of cases. This is in contrast to Statistics Canada 2010 data which show higher clearance rates for various types of offences (e.g., 21.3% for cases of theft under \$5,000 and 79.5% for assault level I) (Statistics Canada 2012b).<sup>8</sup> The most serious offence was most often fraud (stealing, forging, possessing, or using a credit card) (16% of cases), followed by assault level I (14%). Of those cases where charges were not laid, the most common reason was a lack of evidence (33%). In almost a quarter of cases (24%), the victim refused to cooperate with the police. In cases where no charges were laid and other specific actions were taken, police referred the victim to social services (48%) and victim services and support groups (11%).

<sup>5</sup> The “no relationship” category includes cases where an institution was being investigated for abuse.

<sup>6</sup> The “other” category includes paid home nurses, personal support workers, roommates, hospital nurses.

<sup>7</sup> Totals exceed 100% because more than one type of abuse was possible per case.

<sup>8</sup> Figures represent cases cleared by charge and cleared by other means.



## GOING BEYOND THE NUMBERS

Elder Abuse Section officers were invited to review the final report of the case files study and provide comments on the analysis. After reading the report, the officers felt that the numbers did not tell the entire story. While they recognized the importance of the hard data, they found that the analysis lacked the many nuances that characterise elder abuse investigations. As a result, it was agreed that a semi-structured interview with elder abuse investigators would provide the additional context necessary to better understand the complexities of these types of cases. In the fall of 2011, a researcher from the Research and Statistics Division conducted one interview with two officers from the Ottawa Police Service about their work as elder abuse investigators.

Police officers play a pivotal role in the response to elder abuse. Their role is complex, as they act as both investigators and educators. One officer suggested their work is much like social work due to the dynamics between the elderly person and their caregivers or family members. Officers stressed the importance of working side-by-side with other professionals, such as social workers, so they can be free to focus specifically on the criminal aspect of a case. As one officer noted, “We are juggling all these forms of abuse, and this work is very, very time consuming. It takes several weeks or months to investigate an elder abuse case, and there is no cookie-cutter method of investigating elder abuse.”

With regards to a typical scenario, officers suggested that the quantitative analysis did not adequately highlight one of the most common situations they encounter. They frequently deal with an accused, typically a family member of the elderly victim, who is suffering from a multitude of problems (e.g., substance abuse, mental health issues, or gambling addiction). In this scenario, the victim is reluctant to come forward and report their family member. It is challenging for officers to decide who to involve and what referrals to make. In these cases, the victim is the one who can access support services, when it is the accused who needs help.

Officers recounted one example where a daughter suffered from mental health issues and was physically abusing her mother. The woman reported the abuse to her doctor who subsequently referred her to in-house social workers. By the time the police got involved she had been assaulted twice. Police had to walk her through the process of the importance of relaying information so that her daughter could be arrested. They had to convince her it was in her daughter’s best interest to be arrested to get the support she needed. As one officer stated, “The elderly are hesitant to lay charges against their children, and as a result, police spend a large amount of time walking elders through the importance of reporting the abuse and the benefits of accessing services available to children who are abusive.” In this case, there was a successful outcome, as the daughter saw a doctor and was able to get housing.

Officers confirmed the finding of the quantitative review that financial abuse was the most common form of abuse investigated. Specifically, officers indicated that abuse of power of attorney or abuse by a substitute decision-maker is common. They went on to suggest that issues of privacy impede their ability

to gather information integral to these investigations, particularly from banks. As one officer related, “I worked on a financial elder abuse case where the bank watched the depletion of three savings accounts to the tune of \$1.2 million and did nothing to stop it. The banks were not willing to share information because of privacy concerns. It requires time, persistence, and creativity to investigate each of these cases.”

Additionally, the officers indicated that because the elderly are hesitant to report incidents of abuse, the officers often must rely on third-party information. Officers indicate this process is time consuming as all information must be verified before it is deemed reliable. As indicated in the bank example above, information-sharing is a huge hurdle due to privacy concerns. Privacy also comes into play when people are deciding whether to come forward to report assault or abuse. Officers spend a lot of time explaining to witnesses the importance of reporting.

In terms of the difficulties they face in their day-to-day work, officers said much of their time is spent on the telephone giving advice. They find that many callers are not ready to make a complaint; they just want to speak with an officer, who can easily spend an hour on the telephone providing guidance and advice. Communication can also be a challenge, as officers face language barriers or mental health issues that impede investigations. Cultural issues can come into play as well, since in many cultures, involving the police in family affairs is seen as bringing shame on the family.

One of the most important challenges that investigators highlighted is how best to make elder abuse a priority for the justice system. Public education and awareness of the potential criminal nature of elder abuse and the importance of reporting abuse is an important first step. However, the of-

ficers suggested that the system itself is not well adapted to deal appropriately with elder abuse cases; they see no mechanism to expedite elder abuse files into court and through the system. In addition, elder abuse cases involve a lot of emotional trauma and loss, yet the officers see the issue getting redefined by the courts and the Crown as a family issue rather than elder abuse. They suggest that training for counsel, the judiciary, and the police would help.



## CONCLUSION

While the demographic shift to an aging population is inevitable, there are many ways society can adapt to these changes and provide support and assistance to elderly Canadians. When the elderly are victimized, police officers are often their first point of contact, and the experiences of the OPS Elder Abuse Section demonstrate the importance of adopting collaborative approaches focusing on support and safety to meet the needs of elderly victims and their families. Furthermore, the officers in the OPS Elder Abuse Section stressed the importance of continued education and awareness of the signs and symptoms of abuse and the importance of adequate levels of support to ensure that there are resources available to elderly victims.

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# A Comparative Overview of Victims' Rights, Enforcement Mechanisms, and Redress in England and Wales and the American Federal Jurisdiction



MARIE MANIKIS

The development of victim-related policies and the enactment of victims' "rights" has become a standard feature of common law jurisdictions. Although most countries do not provide victims with legally enforceable rights in courts, the term "rights" is frequently employed by politicians, academics, and the media to designate an array of different expectations or entitlements that victims should expect from the justice system.

Victims' rights in this broader sense can be divided into two separate categories: service rights and procedural rights.<sup>1</sup> Service rights are initiatives that aim to provide victims with better treatment in, and experience of, the criminal justice system. Procedural rights are more controversial within the adversarial context, since they provide victims with a more central participatory role in the decision-making process.<sup>2</sup>

<sup>1</sup> Ashworth and Redmayne (2010).

<sup>2</sup> Examples of service rights include the right victims have to information/notification about important court dates and the progress of their case, assistance for vulnerable victims, and compensation. Procedural rights include opportunities to provide information, views, and opinions to criminal justice agencies (e.g., conferring with prosecutors on key criminal justice decisions on prosecution) and courts on bail/custody, sentencing decisions, parole release, and licence decisions, largely by "victim impact/personal" statements. See Sanders (2002).

In England and Wales, victims' rights mainly consist of service rights. Some procedural rights exist, but they are generally enforced outside criminal proceedings. The documents establishing these policies are diverse, including statutes, pledges, schemes, and codes. Although the *Code of Practice for Victims of Crime*<sup>3</sup> (the Code) was enacted in 2005 under the *Domestic Violence, Crime and Victims Act 2004*, many policies related to victims in England and Wales are non-statutory. This approach is very different to America's primarily legislative approach. Victims' rights in the US are mainly entrenched in statutes and state constitutions and generally focus on victim participation in criminal proceedings. To some extent, the legal nature and force of these policies is an important factor influencing how they are enforced. However, other factors are also influential, including the types of enforcement mechanisms provided to victims, their accessibility, and the will of individuals to enforce them.<sup>4</sup>

This brief article provides an overview of the nature and scope of victims' rights and discusses the recent enforcement mechanisms available for victims in England and Wales, particularly under the *Code of Practice for Victims of Crime* and in the federal American jurisdiction under the *Crime Victims' Rights Act (CVRA)*.<sup>5</sup>



## WHAT IS THE NATURE OF VICTIMS' RIGHTS IN BOTH JURISDICTIONS?

### Victims' Rights in England and Wales: The Primacy of Individualised Service Rights, Information, and Participation Through Prosecutors

In England and Wales, victims' rights are mainly service rights. The *Code of Practice for Victims of Crime* has played a major role in providing victims with a minimal level of service they can expect from eleven criminal justice agencies,<sup>6</sup> including a comprehensive and detailed list of information rights.<sup>7</sup> In addition, the Code includes a clear division of service obligations between the different criminal agencies to facilitate implementation and avoid confusion among the different agencies. For instance, the Code (as well as prosecutorial pledges and the *Code for Crown Prosecutors*) recognises the prosecutor's key role, not only in informing victims about decisions,<sup>8</sup> but also in meeting certain victims and providing them with *explanations* when

<sup>3</sup> *Code of Practice for Victims of Crime* (London: Home Office, 2005).

<sup>4</sup> The legislative route or the constitutionalisation of rights does not necessarily equate to stronger enforcement mechanisms. For instance, in the US, although victims' rights have been entrenched in statutes for years, victims were unable to obtain standing and remedies in cases of breaches. This continues to be the case for certain states even if rights are entrenched in constitutions. Furthermore, research in England and Wales also highlights some of the limitations related to the mechanism provided for victims under the Code. See Manikis (2012a).

<sup>5</sup> *Crime Victims' Rights Act 2004*, 18 U.S.C. § 3771.

<sup>6</sup> The agencies with obligations under the Code include: the Criminal Cases Review Commission; the Criminal Injuries Compensation Authority; the Criminal Injuries Compensation Appeals Panel; the Crown Prosecution Service; Her Majesty's Courts Service; the joint police/Crown Prosecution Service Witness Care Units; all police forces for police areas in England and Wales, the British Transport Police and the Ministry of Defence Police; the Parole Board; the Prison Service; the Probation Service and Youth Offending Teams.

<sup>7</sup> For instance, information rights include notifications by police regarding the investigation process, bail, information by Witness Care Units about case progress, and information by prosecutors about decisions to prosecute. Specific timescales for the provision of information are also provided.

<sup>8</sup> See s. 7.4 of the *Code of Practice for Victims of Crime*: "If, after an offender has been charged and following case review, the CPS takes a decision to substantially alter or drop any charge, the CPS must notify the victim within one working day for vulnerable or intimidated victims and within five working days for all other victims. In all other circumstances, the police will be responsible for notifying victims of decisions in cases."

certain prosecutorial decisions are made in the most serious crime cases.<sup>9</sup> Witness Care Units also have a unique duty to inform victims about case progress and to identify victims and witnesses with particular needs that would require enhanced services under the Code.<sup>10</sup> Finally, the Victim Personal Statement (VPS) scheme rolled out nationally in 2001 has provided victims with a right to submit a victim personal statement (VPS) to the police which is also meant to be part of the victim's file to inform criminal justice agencies about victims' specific service needs.<sup>11</sup>

Victims in England also have *procedural* rights that are generally implemented through direct contact with criminal justice agencies. There is therefore a central reliance on criminal justice agencies to bring victims' interests and views forward into the criminal process. This contrasts with the direct access to criminal courts facilitated by the *CVRA* in the US.

In effect, prosecutors in England in recent years have been increasingly obliged to include victims in the process, not only by providing them with information, but also by taking into account their interests and views in prosecutorial decisions as part of the wider public interest.<sup>12</sup> Notable examples of these rights include the right victims have to share their views on decisions on whether a prosecution is required in the public

interest,<sup>13</sup> decisions on whether to accept guilty pleas,<sup>14</sup> and requests for compensation and ancillary orders.<sup>15</sup> Finally, victims have a right to submit a written victim personal statement (VPS) which will constitute part of their file, and prosecutors have a duty to draw the sentencing court's attention to any victim personal statement in the file to facilitate the court's role in reaching an appropriate sentence.<sup>16</sup>

### **Victims' Rights in the American Federal System: An Emphasis on Participation in Criminal Justice Proceedings**

Contrary to the English approach, victims' rights under the federal American model have developed much more around the principle of victim participation in criminal proceedings, an approach emphasized by the enactment of the federal *Crime Victims' Rights Act* in 2004 (*CVRA*). One of the main features of this statute—novel within common law jurisdictions—is the ability of victims to have standing in criminal proceedings to assert their rights and hire lawyers to represent them in these instances. Victims' rights under the *CVRA* include

- (1) the right to be reasonably protected from the accused;
- (2) the right to reasonable, accurate, and timely notice of any court proceeding, or any parole proceeding;

<sup>9</sup> See section 7.7 of the *Code of Practice for Victims of Crime*.

<sup>10</sup> The Code provides vulnerable and intimidated victims with enhanced services.

<sup>11</sup> For further details on the VPS scheme in England and Wales, see Roberts and Manikis (2011); Roberts and Manikis (2012). Contrary to the victim impact statement (VIS) model in America, the VPS scheme has a much broader reach in England and Wales and is meant to inform criminal justice agencies from an early stage about victims' information needs, as well as inform sentencing decisions.

<sup>12</sup> See The Prosecutor's Pledge at [http://www.cps.gov.uk/publications/prosecution/prosecutor\\_pledge.html](http://www.cps.gov.uk/publications/prosecution/prosecutor_pledge.html) and the Code for Crown Prosecutors (CPS Policy Directorate, London, 2010) at [http://www.cps.gov.uk/publications/code\\_for\\_crown\\_prosecutors/](http://www.cps.gov.uk/publications/code_for_crown_prosecutors/). It is clear however that victims' views and interests are not the sole factors of public interest, and thus other interests must also be taken into account in prosecutorial decision-making.

<sup>13</sup> See section 4.18 of the *Code for Crown Prosecutors* which states "prosecutors should take into account any views expressed by the victim regarding the impact that the offence has had."

<sup>14</sup> See section 10.3 of the *Code for Crown Prosecutors* which states "In considering whether the pleas offered are acceptable, prosecutors should ensure that the interests and, where possible, the views of victims or, in appropriate cases, the views of the victim's family are taken into account when deciding whether it is in the public interest to accept the plea."

<sup>15</sup> Under s. 11.4 of the *Code for Crown Prosecutors*, "it is the duty of the prosecutor to apply for compensation and ancillary orders (...) the prosecutor must always have regard to the victim's needs."

<sup>16</sup> See 11.1b of the *Code for Crown Prosecutors*.



- (3) the right not to be excluded from any such public court proceeding (...);
- (4) the right to be reasonably heard at any public proceeding in the district court involving release, plea, sentencing, or any parole proceeding;
- (5) the reasonable right to confer with the attorney of the Government in the case;
- (6) the right to full and timely restitution as provided in law;
- (7) the right to proceedings free from unreasonable delay; and
- (8) the right to be treated with fairness and with respect for the victim's dignity and privacy.<sup>17</sup>

These rights were heavily inspired by the Victims' Rights Amendment which failed to pass despite three separate attempts and thus read much more like a constitutional bill of rights than a detailed statute.<sup>18</sup> Hence, contrary to the English Code's detail, most rights under the CVRA are vague. According to the statute, judges as well as prosecutors are meant to contribute to their implementation, but in general, no clear division of duties is articulated.

Over the years, however, federal courts have clarified the scope of some of these rights.<sup>19</sup> For instance, with regards to the right to notification, it was specified in *Turner*<sup>20</sup> that courts have an independent affirmative obligation to ensure that victims have been notified of court pro-

ceedings. In this respect, the court directed the prosecutor to provide a list of victims to the court to ensure they were given adequate notice of court proceedings. Furthermore, courts have also specified the scope of victims' rights to confer with the prosecutor and suggested that the purpose of this right is not to second-guess or veto prosecutorial decisions, but rather to allow victims "to obtain information from the government, and to form and express their views to the government and court."<sup>21</sup> More specifically, in a case involving a plea negotiation, the court found that the victim's right to confer with the prosecutor extends to conferring with prosecutors prior to reaching a plea agreement.<sup>22</sup> Finally, in a case interpreting the victim's right to make a victim impact statement in sentencing, an appellate court specified that victims have a right to address the court directly and orally to ensure procedural fairness.<sup>23</sup> It added that "the CVRA clearly meant to make victims full participants"<sup>24</sup> in the criminal justice process and thus were given the right to address the court in the sentencing hearing. Moreover, it was stated that under the CVRA, "victims now have an indefeasible right to speak similar to that of the defendant in every public proceeding including those that involve release, plea, sentencing, or any parole proceeding."<sup>25</sup>

<sup>17</sup> See *Crime Victims' Rights Act* 2004 18 U.S.C. § 3771 (a).

<sup>18</sup> For more details on the Victims' Rights Amendment, see Twist (1999) and Mosteller (1999).

<sup>19</sup> Although an important body of cases has emerged over the years—with several divisions and debates among courts—limited examples are provided in this article because of space constraints.

<sup>20</sup> *United States v. Turner*, 367 F. Supp. 2d 319 (E.D.N.Y. 2005).

<sup>21</sup> See *United States v. BP Products N.A., Inc.*, 610 F. Supp. 2d 655 (S.D. Tex. 2009); Similarly in *United States v. Heaton*, 458 F. Supp. 2d 1271 (D. Utah 2006), a court stated that victims should be consulted by the prosecutor prior to a request dismissing the charges; *United States v. Ingrassia*, 2005 WL 2875220, No. CR-04-0455ADSJO (E.D.N.Y. Sept. 7, 2005).

<sup>22</sup> *In re Dean*, 527 F.3d 391 (5th Cir. 2008). For an analysis of victims' rights during plea negotiations and possibilities in the Canadian context, see Manikis (2012b).

<sup>23</sup> *In re Brock*, 262 Fed. App'x 510 (4th Cir. 2008).

<sup>24</sup> *Kenna v. United States District Court.*, 435 F.3d 1011, 1016 (9th Cir. 2006).

<sup>25</sup> See *Kenna* (par. 3). A similar interpretation was also provided in *United States v. Degenhardt*, 405 F. Supp. 2d 1341 (D. Utah 2005).



## WHAT ENFORCEMENT MECHANISMS AND REDRESS ARE AVAILABLE FOR VICTIMS IN BOTH JURISDICTIONS IN CASES OF BREACHES?

In both jurisdictions, for the first time victims have been provided with explicit enforcement mechanisms to respond to breaches. Despite some of their similar aims,<sup>26</sup> namely providing victims with effective, objective, and accessible mechanisms to enable quick and adequate redress, the main mechanisms available for victims in both jurisdictions operate very differently.

### England and Wales: Informal Mechanisms as the Main Process and Judicial Review as a Mechanism of Last Resort

Since the development of victims' charters in the 1990s, victims in England have been able to bring forward complaints to the agency in breach. Under the Code that replaced these charters in 2006, the initial requirement to bring complaints to the agency in breach remained, but for the first time, victims were provided with a mechanism to bring their breaches forward to an independent entity, the Parliamentary Ombudsman (PO), via their Member of Parliament (MP) if they remained dissatisfied with

the response made by the agency allegedly in breach. This process is much more informal than a court process, involving fewer written procedures and not requiring any legal representation. The PO process is not adversarial like an ordinary tribunal and relies more on investigative/inquisitorial techniques by the PO that favours discussion and explanations between the parties and the decision-maker.<sup>27</sup>

The PO has not been vested with powers to legally enforce its decisions but can nevertheless *recommend* redress/remedies to the agency in breach to remediate the situation. These remedies include

- an apology, explanation, and acknowledgement of responsibility;
- reviewing or changing a decision on the service given to an individual complainant; revising published material; revising procedures to prevent the same thing happening again; training or supervising staff; or any combination of these;
- financial compensation for direct or indirect financial loss, loss of opportunity, inconvenience, distress, or any combination of these.<sup>28</sup>

Although the amount of complaints that have reached the remedial stage are very low, data obtained under a Freedom of Information request suggests that agencies have complied with the PO's recommendations. Hence, victims were provided with a combination of remedies, ranging from apologies to redress payments going up to £5,000 (approximately C\$8,000).<sup>29</sup>

<sup>26</sup> Although the Code's complaints mechanism is meant to be accessible and quick, a recent analysis of this process has revealed some of its structural limitations that render the process long and unduly complex for victims of crime. For further details, see Manikis (2012a).

<sup>27</sup> For further details on the PO model, see Kirkham (2008).

<sup>28</sup> For further details, see Ombudsman, "Principles for Remedy," at <http://www.ombudsman.org.uk/improving-public-service/ombudsmansprinciples/principles-for-remedy>.

<sup>29</sup> A more detailed analysis of findings is provided in the author's doctoral research.

## Judicial Review: The Exception?

Even if victims do not have general standing in criminal proceedings to enforce their rights, judicial review is a mechanism available for victims in England and Wales, particularly for breaches that occur under the *Code for Crown Prosecutors*. This includes cases in which victims seek to challenge a decision not to prosecute.<sup>30</sup> Although the judicial method remains exceptional, a recent Court of Appeal decision reconfirmed the availability of this mechanism and most importantly highlighted that victims have a right to seek review (by means of complaint to the agency in breach or judicial review) of a decision not to prosecute, which is in essence the same as the right set out in the Draft EU Directive.<sup>31</sup>

For breaches related to the VPS scheme or other pledges, it is not clear whether victims have any mechanisms to challenge breaches and obtain redress—other than possible internal complaints. Since these “rights” are not specifically listed in legal or quasi-legal documents, and thus no explicit enforcement process is provided, it may well be that they are mere suggestions and guidelines without any form of redress.

## The American CVRA and Its Legal Enforcement Mechanisms

Under the CVRA, a new legal enforcement mechanism was created<sup>32</sup> which enables victims or their legal representative to first bring forward a motion for relief to obtain redress in a criminal district court in cases of breaches and subsequently, if the district court has denied relief, file a mandamus action to an appellate court. This recourse to the appellate court allows inferior courts to be held accountable and victims to access remedies provided in cases of judicial error.

The CVRA aims to provide victims with quick and robust remedies for certain breaches, directly implemented within criminal proceedings and intended to put victims back in the original position prior to the breach (to the extent that this is possible). This includes the remedy of voiding and re-opening procedures in cases where a victim’s right to be heard has been breached. For instance, in *Kenna*,<sup>34</sup> victims’ rights to be heard under the CVRA had been breached by a district court that did not allow victims to be orally heard at sentencing. Victims therefore filed a mandamus action, and the appellate court ruled that the district court should “be cognizant that the only way to give effect to Kenna’s right to speak as guaranteed to him by the CVRA is to vacate the sentence and hold a new sentencing hearing.”<sup>35</sup> The Federal District Court voided the sentence and conducted a new sentencing hearing in compliance with the appellate court’s opinion.

<sup>30</sup> See, for example, *R v DPP, Ex p. Chaudhary* [1995] 1 Cr. App. R. 136; *R. v DPP, Ex p. Manning* [2001] Q.B. 330.

<sup>31</sup> See *R. v Killick (Christopher)* [2012] 1 Cr. App. R. 10 (CA (Crim Div)). According to the EU Directive, “member states shall ensure that victims have the right to have any decision not to prosecute reviewed.” This right includes complaints to the agency in breach as well as judicial review.

<sup>32</sup> A more informal mechanism exists via the Victims’ Ombudsman, but remedies provided are not directly addressed to victims and are more a means to favour training for agencies in breach and obtain systematic changes.

<sup>33</sup> For further details on CVRA remedies, see Beloof, Cassell and Twist (2010).

<sup>34</sup> *Kenna v. United States District Court*, 435 F.3d 1011 (9th Cir. 2006).

<sup>35</sup> *Ibid.*, par. 6.

Furthermore, in *US v Monzel*<sup>36</sup>, following a district court's decision that did not award the full amount of restitution, the victim, through her attorney, challenged the award on a petition for mandamus, and the appellate court found that the victim was entitled to relief since the victim had a right to full and timely restitution. It therefore remanded the case to the district court and ordered that a new amount be calculated that would reflect her losses attributable to the defendant's offence.

### Remedial Limitations Under the CVRA

The CVRA contains several remedial limitations. They include

- (1) the inability to bring forward a cause of action in order to obtain damages for victims' rights violations;<sup>37</sup>
- (2) the explicit limitation that failures to afford rights do not provide grounds for a new trial;<sup>38</sup> and
- (3) remedies that reinstate victims in their initial position to exercise their right are not available for every type of breach under the CVRA.

Thus, for many rights, particularly for those that create positive obligations for the government, no explicit remedies are detailed in case of breach. Therefore, possible remedies are left to the discretion of the courts. In those instances, courts have generally exercised a certain level of deference in relation to the remedies provided.

For instance, in cases of notification breaches under the CVRA, remedies are generally only provided for future breaches. In *US v Rubin*,<sup>39</sup> following a breach to notify a victim of her rights, the court suggested that given the lack of any violation of substantive CVRA rights, the Court perceived the government's misstep on notice as the sort that is remediable only *prospectively* and not *retrospectively*. In *Turner*,<sup>40</sup> following a breach of notification related to proceedings, the Court directed the government to provide all alleged victims a written summary of the proceedings to date as well as notification of their rights under the statute with respect to future proceedings, including notice of the next proceedings and their right to be heard. Finally, *in re Dean*<sup>41</sup>, although the appellate court recognised that victims were not notified or consulted by the government attorney prior to reaching a plea agreement, the judge suggested that this would not have affected the plea's outcome and highlighted that the mandamus standard was not met. Consequently, it did not see fit to allow the relief of rejecting the plea.

In brief, under the CVRA, courts have generally been more inclined to provide remedies for participatory rights in criminal proceedings following court violations of rights, but have been much less inclined to provide for prosecutorial (governmental) breaches, or breaches that do not affect the outcome of proceedings.

<sup>36</sup> *United States v. Monzel*, 641 F.3d 528 (D.C. Cir. 2011). A similar outcome was also recently reached in *In re Amy Unknown*, No. 09-41238, 2012 WL 4477444, (5th Cir. Oct. 1., 2012).

<sup>37</sup> See *Crime Victims' Rights Act 2004* 18 U.S.C. § 3771. (d)(6).

<sup>38</sup> See *Crime Victims' Rights Act 2004* 18 U.S.C. § 3771. (d)(5).

<sup>39</sup> *United States v. Rubin*, 558 F. Supp. 2d 411 (E.D.N.Y. 2008).

<sup>40</sup> *United States v. Turner*, 367 F. Supp. 2d 319 (E.D.N.Y. 2005).

<sup>41</sup> *In re Dean*, 527 F.3d 391 (5th Cir. 2008).



## CONCLUSION

This brief comparative overview of rights, enforcement mechanisms, and remedies suggests that victims' rights and enforcement mechanisms have evolved very differently in both jurisdictions under analysis. Whilst rights and enforcement mechanisms in England and Wales have mainly developed outside criminal proceedings, in the federal American

jurisdiction, victims have been recognised as direct participants within these proceedings, and remedies are generally provided within these proceedings. A deeper analysis of their implementation on the ground is warranted for the understanding of these mechanisms and is currently being explored in the author's doctoral research.

Finally, common law jurisdictions such as Canada can learn from these important differences and may find inspiration in the above models. However, it is important to bear in mind that each mechanism is shaped and implemented within a specific cultural context, and thus direct transplantation of one mechanism in a different jurisdiction will not necessarily produce the same outcomes.

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# Victim-Related Conferences in 2013

## **Men Can Stop Rape – Healthy Masculinity: From Theory to Practice Training**

January 9–11

Washington, DC, USA

[http://www.mencanstoprape.org/](http://www.mencanstoprape.org/Trainings/from-theory-to-practice.html)

[Trainings/from-theory-to-practice.html](http://www.mencanstoprape.org/Trainings/from-theory-to-practice.html)

## **Innovative Approaches to Family Violence Conference: Bigger, Better 2013**

January 17–18

Dallas, TX, USA

[http://www.ncdsv.org/images/](http://www.ncdsv.org/images/DCDAO_InnovativeApproachesToFVConference_1-2013.pdf)

[DCDAO\\_InnovativeApproachesToFV](http://www.ncdsv.org/images/DCDAO_InnovativeApproachesToFVConference_1-2013.pdf)

[Conference\\_1-2013.pdf](http://www.ncdsv.org/images/DCDAO_InnovativeApproachesToFVConference_1-2013.pdf)

## **The 27th Annual San Diego International Conference on Child and Family Maltreatment**

January 28–31

San Diego, CA, USA

[http://www.sandiegoconference.org/](http://www.sandiegoconference.org/Documents/2013conf/13SDConf_Brochure.pdf)

[Documents/2013conf/13SDConf\\_](http://www.sandiegoconference.org/Documents/2013conf/13SDConf_Brochure.pdf)

[Brochure.pdf](http://www.sandiegoconference.org/Documents/2013conf/13SDConf_Brochure.pdf)

## **12th World Congress on Stress, Trauma, and Coping**

February, 19–24

Baltimore, MD, USA

[http://www.icisf.org/world-congress-](http://www.icisf.org/world-congress-articles/672-12th-world-congress)

[articles/672-12th-world-congress](http://www.icisf.org/world-congress-articles/672-12th-world-congress)

**2013 National Conference on Bullying**

February 27 to March 1

Orlando, FL, USA

<http://www.schoolsafety911.org/event05.html>

**Million Survivor March and Rally  
(Family and Friends Fighting Against  
Child Sexual Assault Foundation)**

March 2–3

Washington, DC, USA

[http://www.ncdsv.org/images/FACSA\\_MillionSurvivorMarchAndRally\\_3-2013.pdf](http://www.ncdsv.org/images/FACSA_MillionSurvivorMarchAndRally_3-2013.pdf)

**Texas Association Against Sexual Assault**

31st Annual Conference

March 4–7

Austin, TX, USA

<http://taasaconference.org/>

**27th Annual Conference on the  
Prevention of Child Abuse**

March 4–5

San Antonio, TX, USA

<http://www.preventchildabusetexas.org/pdf/27th-additional-information.pdf>

**29th National Symposium on Child Abuse**

March 18–21

Huntsville, AL, USA

<http://www.nationalcac.org/national-conferences/symposium.html>

**10th Annual Hawaii Conference on  
Preventing, Assessing, and Treating  
Child, Adolescent, and Adult Trauma**

March 19–21

Honolulu, HI, USA

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

**29th Annual Missouri Victim Assistance  
Network Conference**

March 20–22

Lake Ozark, MO, USA

<http://www.movanet.org/conferences/>

**Nuestras Voces (Our Voices) 2013:  
National Bilingual Sexual  
Assault Conference**

April 1–2

Des Moines, IA, USA

[http://www.arte-sana.com/nuestras\\_voces/2013/nuestras\\_voces.htm](http://www.arte-sana.com/nuestras_voces/2013/nuestras_voces.htm)

**2013 International Conference on Sexual  
Assault, Domestic Violence, and Stalking**

April 3–5

Baltimore, MD, USA

<http://www.evawintl.org/conferences.aspx>

**31st Annual “Protecting Our Children”  
National American Indian Conference on  
Child Abuse and Neglect**

April 7–10

Tulsa, OK, USA

<http://www.nicwa.org/conference/>

**8th Annual Conference on Crimes  
Against Women**

April 8–10

Dallas, TX, USA

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

**1st Annual Citizens Against Homicide  
Victim Awareness Conference**

April 12–13

Las Vegas, NV, USA

<http://www.citizensagainsthomicide.org/index.php/events/las-vegas-conference/>

**13th Annual International Family Justice  
Center Conference: The Power of Hope**

April 16–18

Fort Worth, TX, USA

[http://www.regonline.com/builder/site/Default.aspx?EventID=1161383&utm\\_source=2013+FJC+Conference+Advertisement+1&utm\\_campaign=FJC+Conference+2013&utm\\_medium=email](http://www.regonline.com/builder/site/Default.aspx?EventID=1161383&utm_source=2013+FJC+Conference+Advertisement+1&utm_campaign=FJC+Conference+2013&utm_medium=email)

**Sexual Assault Summit XII:  
Be the Solution**

April 16–18

Rock Springs, WY, USA

[http://www.ncdsv.org/images/WCADVSA\\_SexualAssaultSummitXIIBeTheSolution\\_4-2013.pdf](http://www.ncdsv.org/images/WCADVSA_SexualAssaultSummitXIIBeTheSolution_4-2013.pdf)

**Institute for Global Education Diplomacy**

April 17–20

Washington, DC, USA

<http://www.acei.org/programs-events/institute-for-global-education-diplomacy.html>

**3rd Annual NCVAN 5K:  
Stride for Survivors**

April 20

Raleigh, NC, USA

<http://www.nc-van.org/walkrun.html>

**National Victims of Crime Awareness  
Week 2013: We All Have a Role**

April 21–27

Ottawa, ON, Canada

<http://www.victimswweek.gc.ca/home-accueil.html>

**Association for Death Education and  
Counselling 35th Annual conference**

April 24–27

Hollywood, CA, USA

[http://conf2013.adec.org//AM/Template.cfm?Section=Annual\\_Conference\\_2013](http://conf2013.adec.org//AM/Template.cfm?Section=Annual_Conference_2013)

**Texas Victims Services Association  
14th Annual Conference**

May 7–10

South Padre Island, TX, USA

<http://www.txvsa.org/Default.aspx?pagelid=1395044>

**National Network to End Domestic  
Violence Annual Advocacy  
Conference 2013**

June 4–5

Washington, DC, USA

[http://www.ncdsv.org/images/NNEDV\\_AnnualAdvocacyConference\\_6-2013.pdf](http://www.ncdsv.org/images/NNEDV_AnnualAdvocacyConference_6-2013.pdf)

**12th Annual Crime Victim Law Conference**

June 7–8

Portland, OR, USA

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

**American Professional Society on  
the Abuse of Children  
21st Annual Colloquium**

June 25–28

Las Vegas, NV, USA

<http://www.apsac.org/event-list>

**7th Annual National Conference on Girl  
Bullying and Relational Aggression**

June 30 to July 2

Las Vegas, NV, USA

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

**2012 National Call to Action Institute and  
Conference: Collective Empowerment,  
Collective Liberation**

July 9–13

St-Paul, MN, USA

<http://events.r20.constantcontact.com/register/event?llr=m5l8wkdb&oeidk=a07e5j6uctd3b879176>

**2013 National Sexual Assault Conference**

August 28–30

Los Angeles, CA, USA

<http://calcasa.org/calcasa/save-the-date-national-sexual-assault-conference-2013-in-los-angeles/>

**18th International Conference  
on Violence, Abuse and Trauma**

September 8–11

San Diego, CA, USA

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

**Sexual Violence Research Initiative  
Forum 2013: Evidence into Action**

October 14–17

Bangkok, Thailand

<http://www.svri.org/forum2013/>



