

Criminal Justice System Review: Performance Measurement Indicators

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1. Introduction

The first, and last, comprehensive review of the Canadian criminal justice system (CJS) was completed in 1982 (Government of Canada, 1982). Notably absent from this review were criminal justice issues with respect to Indigenous people, mental health, marginalized populations, and victims. The 2015 Mandate Letter tasked the Minister of Justice and Attorney General of Canada with a review of the criminal justice system which, among other priorities, includes improvements in efficiency and effectiveness, discrete legislative reforms, addressing gaps in service, decreasing representation of Indigenous and vulnerable populations, and ensuring current provisions are aligned with the objectives of the criminal justice system.

An additional component of the criminal justice system review (CJSR) is the development of a performance measurement framework for the CJS. The Department of Justice defines performance measurement (PM) as "the ongoing, regular collection of information for monitoring how a program, policy or strategy is doing. It is a systematic way of mapping the evidence of the progress you are making towards your expected results" (Department of Justice, 2004; p. 2). The expected results or "outcomes" are measured using indicators, quantitative (and often qualitative) data that can be collected regularly over time and compared to benchmarks or targets indicating areas of success or challenge. Hatfield (1994) describes performance measurement as a process that moves from broad (CJS goals) to narrow (performance indicators) with key steps in between. According to Gannon et al (2005), the usefulness of performance indicators can be categorized in three ways (p. 49):

- 1) To assess whether the CJS is meeting its goals or achieving desired results;
- 2) To provide both public accounting of the CJS and benchmarks for assessing short-, medium-, and long-term goals; and
- 3) To assist in policy development by identifying areas of success and areas of potential improvement within the system .

The identification of indicators is integral to the development of a successful performance measurement framework, and this paper describes the challenges and next steps that may be involved in this process¹.

The key messages of this paper are below, and described under the headings that follow:

- There is a need for objectives and principles of the criminal justice system
- Stakeholders play an important role in the CJS review
- Partners play an important role in the CJS review
- Information dissemination and public access to data can demystify the CJS and boost public confidence
- Criminal justice system indicators must be varied but also measurable and manageable
- Indicators must be tied to outcomes

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¹ It is important to note that a review of the CJS and the CJSR are different, though related, concepts. The development of a framework to assess the performance of the CJS is a part of the larger CJSR and while there may be overlap with respect to outcomes and indicators, this paper relates to the development of indicators specific to the performance of the criminal justice system. When the term "review" is used in this paper, it is in relation to the development of a performance measurement framework for the CJS unless otherwise indicated.

• Benchmarks and targets must be identified in order to measure success

2. There is a need for objectives and principles of the criminal justice system

One of the identified elements of the CJSR is a re-examination and reaffirmation of the principles and objectives of the CJS. There are a number of short and medium/long term activities identified that will assist in the completion of this element of the review, including working collaboratively with Departmental officials and national consultations. The establishment of CJS principles and objectives is critical to the development of a performance framework and must be done at the outset as they act as a foundation upon which outcomes, outputs, activities and indicators are built. It is difficult to assess how a system is functioning until we identify how we *want* it to function (the desired "end state"). While indicators can still be developed, their utility and validity will not be fully realized until the goals and objectives of the CJS are finalized and related outcomes identified.

In 2005, the Canadian Centre for Justice Statistics and representatives from the federal, provincial and territorial (FPT) ministries responsible for justice and public safety identified an extensive set of justice indicators organized according to five general goals of the CJS (Gannon et al, 2005). These goals were:

- Public order, safety and national security through prevention and intervention;
- Offender accountability, reintegration and rehabilitation;
- Public trust, confidence and respect for the justice system;
- Social equity and access to the justice system for all citizens;
- Victim needs served.

These performance elements, having been developed and agreed upon by officials from all levels of the criminal justice system, represent an inclusive set of values-based goals by which we can measure the effectiveness and success of the CJS at all levels (i.e. FPT). Though over a decade old, they may act as a starting-point for the development of new goals and objectives based on contemporary values, current pressures, identified gaps, and outcomes directed within the Mandate Letter.

3. Stakeholders play an important role in the CJS review

As our PT justice partners will be primarily responsible for gathering the required data, in order for performance measurement to be viewed as helpful and not a hindrance to stakeholders the development of justice indicators should not be done in isolation or with a "top down" approach. As with the CCJS report (2005) mentioned above, FPT stakeholders should be engaged at an early stage not only to contribute to the development of goals and indicators, but also to foster an investment in the process and its outcomes. Further, as justice indicators are context-specific, Dandurand and colleagues (2015) note that they must be "chosen and developed nationally or locally by people who fully understand that context as well as the

complexity of the justice process and the outcomes it is meant to achieve." (p. 24). It is necessary to ensure buy-in from the PTs, as they implement the CJS within the regions, and some thought must be put into how this can be done. Performance measurement is only as good as the data that is collected, and positive outcomes and/or reform can only be sustained if our primary stakeholders feel some level of connection to the process and its outcomes.

Dandurand and colleagues (2015) explain the importance of mobilizing stakeholders around the performance measurement process, and the task of setting realistic expectations regarding the use of collected data:

"Stakeholders must be able to see the value in developing and systematically using indicators. Their usefulness, however, should neither be over- or under-sold. In the process, it often becomes important to address people's fears or scepticism about the value of using indicators. For example, some people may worry that the government may be tempted to use the indicators to impose its views and perhaps infringe upon the independence of the judiciary. Members of the defence bar may fear that the indicators may play into the government's focus on efficiency rather than on what they consider to be the more important goals of fairness and access to justice. The development of justice indicators therefore calls for a collaborative process that can accommodate the variety of perspectives on the performance of the justice system. In fact, there is often a need to convince people to dare to measure the hard things. Ideally, all key stakeholders should develop a strong sense of ownership over the justice indicators and their application."

In addition to our traditional stakeholders, the role of non-traditional stakeholders in the performance measurement process may be beneficial in identifying gaps and meeting the goals outlined in the Mandate Letter. For example, one of the overarching goals of the CJS is public safety. As all Canadians are implicated in this goal, it may be beneficial to the process to take into account the gaps and pressures in the system identified by Canadians. This can be done through online surveys, exit surveys, etc., and may complement data already gathered through existing methods (e.g. the General Social Survey). To illustrate, based on 2009 GSS data, confidence in the CJS is relatively low with respect to rehabilitating offenders, providing swift justice, sentencing practices and assisting victims of crime (Fraser, 2013). This information could be contextualized further with supplementary surveys in order to more clearly identify challenges within the system. The Department of Justice has produced public opinion research (POR) covering such topics as public confidence in the CJS, sentencing principles, bail and imprisonment (e.g. National Justice Survey 2008), and will be collecting new data in the 2016 National Justice Survey this summer. Updated data collection tools will assist in providing a baseline of public confidence levels at the outset of a Canadian CJS review, contextualized by the goals of the review, and will support the development of benchmarks and/or targets for change.

Some international jurisdictions include confidence indicators gathered from end-user surveys to assess trust in their criminal justice systems. New Zealand, for example, has multiple indicators that measure the fairness and responsiveness of their justice system (an outcome). One such indicator, gathered from their Court User Survey, is the proportion of respondents who agree that they were treated fairly when they attended court. While this survey was not specifically created for the CJS review framework, it provides important information about

fairness and trust in the system. A national Court User Survey does not exist in Canada, but may add value to our body of knowledge specific to access to justice, trust and public confidence.²

In addition to non-traditional stakeholder consultation through POR research, non-profit associations (e.g. John Howard), volunteer organizations, and health services can be further engaged to assist in identifying gaps in the system for vulnerable groups. Consultation with stakeholders will help in identifying the true pressure points in the system, which will aid in the development of system-wide indicators. In addition, partners and stakeholders would be in the best position to provide feedback regarding current data holdings, the type of information available, and any potential challenges that might arise in collecting new kinds of data.

4. Partners play an important role in the CJS review

Our CJS partners, like our PT stakeholders, are integral to a successful review particularly with respect to the development of a PM framework and the identification of indicators relevant to the various areas of the CJS. Internally, there are partners who may be able to assist in the review process through the sharing of expertise or advice. For example, consideration must be given to the role of the Evaluation Division and how they may assist in the process. While the Evaluation Division's main responsibilities involve program evaluation, they have expertise in the language of performance measurement as well as in developing evaluation frameworks, reporting on results, and monitoring the implementation of recommendations. This expertise may be helpful in the development of CJS indicators, tying indicators to outcomes, and in the creation of a performance measurement framework.

Externally, it may be helpful to connect with partners in the Public Safety portfolio (i.e. Correctional Service of Canada, Public Safety) and CCJS to determine if there is any work currently being done on performance measurement with respect to the criminal justice system. The Mandate Letter identified a number of areas in which a cross-Ministerial approach is to be taken to address challenges and initiate change within the CJS. The identification of performance measurement initiatives in other Departments will assist Justice in identifying specific areas of challenge and associated measures or indicators of change.

5. Information dissemination and public access to data can demystify the CJS and boost public confidence

While public opinion data on confidence in the CJS often plays an important part in CJS review work, for example in the Scottish model where half of the overarching indicators are public confidence measures,³ confidence may be tied to a number of matters unrelated to the operations of the system itself (e.g. sensational and/or high-profile cases reported in the media and personal experiences within the Justice system; Doob, 2014). Criminologist Anthony Doob

² Possible new sources of data/data collection will be discussed more in-depth in a follow-up report that will accompany a spreadsheet outlining potential indicators.

³ http://www.gov.scot/About/Performance/scotPerforms/partnerstories/Justice-Dashboard/Justice-data

(2014) recently stated that, not surprisingly, "those with the least amount of knowledge about the criminal justice system are the least confident in its operation" (p. *iv*).

Education, transparency and accessibility of information/data with respect to the CJS (operations, legal framework, expenditures, etc) should be integrated into a communications strategy or PM framework moving forward, for example as part of activities, outcomes, and/or indicators, in order to demystify the system and potentially diminish the effect of sensational media reporting on levels of public confidence. Including elements of education and information access in a PM framework or as part of a communications strategy ensures a level of systematism and regularity that would not otherwise be seen in time-limited education campaigns. In Australia, research has shown that education campaigns can have an impact on residents' general satisfaction with certain elements of the CJS, however those effects are short-lived (Indermaur, D et al., 2012). Accessibility and transparency is particularly important with respect to the dissemination of results associated with CJS performance measurement. An excellent example of this is in Scotland, where the government has created a user-friendly online dashboard for their framework, and results are available to the public for download in an excel spreadsheet.⁴

6. Criminal justice system indicators must be varied but also measurable and manageable

While there are numerous methods that may be used when developing indicators within a performance measurement framework, there are three basic types of indicators that are important in a comprehensive review of a criminal justice system (Dandurand et al, 2015). These include:

- 1- **Outcome/Strategic Indicators**: These are system-wide. They measure performance of the system against its objectives. Dandurand and colleagues (2015) argue that system effectiveness is most important when using these types indicators.
- 2- Output Indicators: These measure efficiency against objectives/benchmarks.
- 3- **Input/Activity Indicators**: These measure workload, activities and resources as well as progress on implementation of policy/reform.

While any one of these types of justice indicators may overlap with the CJSR, the input/activity indicators would be most likely to include indicators related to both the CJSR and a CJS PM framework.

It may also be helpful to categorize indicators by main area of interest or by CJS process. Gannon and colleagues (2005) categorized their indicators by three broad areas; workload, performance, and context of crime⁵. Their "performance indicators" are linked to the 5 main

⁴ All indicators are available for download in Excel spreadsheet format at: http://www.gov.scot/About/Performance/scotPerforms/partnerstories/Justice-Dashboard/Justice-data

⁵ "Context of crime" takes into account the broader social systems or conditions related to crime and criminal behaviour. These include socio-economic and demographic indicators (e.g. age of population, national economy, urbanization, family structure, divorce, education, etc).

goals of the CJS and so may be most relevant to a system-level review (see Appendix 1 for a list of these indicators and the related goals). Alternatively, grouping indicators by CJS process may look something like the following: law enforcement, courts, prosecution, criminal law and procedure/reform, victim's services, corrections, etc. The method used to classify indicators would depend on the level of specificity required, requirements of stakeholders, ease of reporting on outcomes, number of indicators, and goals of the review process. For example, if one of the goals is to systematically review every CJS process for efficiency, then efficiency indicators can be identified for every process. Solecki and Coady (2015) created a useful set of indicators by CJS process as a primer document to the 2015 National Justice Symposium. It should be noted, however, that there may be difficulty in categorizing indicators by CJS process as these institutions (i.e. police, courts) rarely function independently of each other. Their activities and outcomes are influenced by the activities of the CJS institutions with which they are connected. It would be difficult in many instances to attribute an indicator solely to one process (e.g. case processing time may depend on a number of factors including seriousness of offence, resources available, self-represented litigants, policing methods, etc). Using a flowchart or diagram of the CJS may be helpful in this case to determine what related factors or processes may be influencing outcomes and indicators.

While it is tempting to develop an exhaustive list of indicators covering all aspects and processes of the CJS, it is important to remember that a functional performance measurement framework must be sustainable, dynamic and manageable. Tracking and reporting on thousands of indicators may be cumbersome both for the PTs and the Department, and unsustainable in the long term. System-wide key performance indicators (KPIs) are most useful in providing a broad overview of the criminal justice system as a whole, rather than its individual parts. For example, the Scottish government's Strategy for Justice (The Scottish Government, 2012) includes an overarching vision, three national outcomes, eight justice system outcomes, and 24 broad indicators. These indicators are tied to the outcomes and include criteria to indicate change (benchmarking and targets with respect to performance measurement will be discussed below). Indicators and associated measures in the Scottish model include:

- Recorded crimes (Number of crimes recorded by the police in Scotland, in a given financial year)
- Crime victimization rate (Proportion of people in Scotland who have been the victim of one or more crimes in the past year)
- Perception of local crime is stable or improving (Percent of respondents who believe that crime has stayed the same or reduced in the past 2 years in their local area)
- Confident that the system brings the offender to justice (*Percentage of adults {regardless of the level of contact they have had with the criminal justice system} who were confident that the system is effective in bringing people who commit crimes to justice).*

ustice Outcome - We ex	kperience lo	ow levels o	crime			
dicator	Recorded c	rimes				
leasure	Number of crimes recorded by the police in Scotland, in a given financial year					
Source	http://www.gov.scot/Publications/2015/09/5338					
Criteria for recent change	current year trend. There the five crim Any differen likely to be cent or mor cent or mor	r compared to a series also focular groups. Index within +/ maintaining to suggests to a	to the previous on the year of the continuous of the continuous of the position the position the position	us year, as ar-on-year c suggests th ng any chanç is improving is worseninç	s recorded in well as the I hange within at the position ge. A decreas ; an increas g. All percen	ongonean on is use of
Data Data						
	2006-07	2011-12	2012-13	2013-14	2014-15	
Recorded crimes	419,257	314,188	273,053	270,397	256,350	
Chart	Rec	orded o	rimes			
400,000						
300,000						
200,000						
100,000						
2006-07	2011-12	201	2-13	2013-14	2014-15	;

FIGURE 1. EXAMPLE OF A CRIMINAL JUSTICE INDICATOR AND EXCEL INTERFACE (SCOTTISH GOVERNMENT'S "STRATEGY FOR JUSTICE") 6

In addition to the broad indicator of "recorded crimes" shown above, the framework also captures additional information in a section titled "What more do we know about this National Indicator?" that breaks down the information by type of crime. These sub-indicators provide a more nuanced representation of the key performance indicator ("recorded crimes") that would assist in identifying specific challenge areas as well as areas of improvement. In many cases, it would be useful to collect a more comprehensive set of sub-indicators based on a few system-wide KPIs to establish a clearer picture of performance and existing challenges within the system. This would also allow for a streamlined framework in which a small number of overarching indicators are chosen to measure the overall performance of the system, while the existence of sub-indicators allows for more in-depth analysis of areas of success and challenge.

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⁶ All indicators are available for download in Excel spreadsheet format at: http://www.gov.scot/About/Performance/scotPerforms/partnerstories/Justice-Dashboard/Justice-data

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The indicators reported on within the Scottish framework are clear, understandable, measurable and stable over time. They provide a foundation for interpreting performance of the system that is accessible to stakeholders and useful to decision-makers. It is important to note, however, that if the overarching vision, goals or outcomes of the framework change, the indicators must be re-examined for their validity. As indicated previously, many of the "Strategy for Justice" indicators are related to confidence in, and perception of, the justice system with data pulled from the Scottish Crime and Justice Survey.

7. Indicators must be tied to outcomes

Relevant to the CJS review specific to Canada, the Mandate letter identifies a number of outcomes that could act as a basis for indicator development for the Canadian CJS. These outcomes include:

- Increased use of restorative justice processes and other initiatives
 - o This should lead to a reduced rate of incarceration among Indigenous Canadians
- Implementation of recommendations from Ashley Smith inquest
 - o Restricting the use of solitary confinement
 - Treatment of those with mental illness (a review of the inquest recommendations will help in developing specific indicators)
- Improve the efficiency and effectiveness of the CJS, which will include:
 - o Improved/Increased use of information technology
 - o Implementation of sentencing alternatives
 - o Creation of a unified family court

A number of these outcomes are discrete and, while they may require monitoring and reporting, may either be removed from an annual performance measurement framework after completion or modified to begin measuring performance of the new program or recommendation. For example, the implementation of recommendations from the Ashley Smith inquest can be monitored in a framework and when implementation is complete, it can either be removed from the framework or altered so that its impact is measured over time. The existence of this outcome within the model, then, is important in contextualizing change in other parts of the framework.

8. Benchmarks and targets must be identified in order to measure success

The change in an indicator over time can be defined in a number of ways, based on the type of information collected and the performance outcome expected. Some indicators may lend themselves to the use of benchmarking, where an existing standard is used to measure performance. This standard may be based on past performance of an indicator within a system, performance of a similar indicator within another system (i.e. another jurisdiction), or an existing minimum requirement. Indicators can also be measured against predetermined performance

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targets. Targets are often used in situations in which issues or challenges have been identified, and present a goal for performance improvement (Dandurand, Kittayarak and MacPhail, 2015). The Mandate Letter identifies a number of challenge areas within the system that may lend themselves to linking related indicators to targets. These include:

- Addressing gaps in services to, and reducing the overrepresentation of, Indigenous people in the CJS
- Addressing gaps in services to those with mental health issues
- Improving efficiency and effectiveness of the CJS

It is important to note that CJS indicators, while useful in providing information pertaining to performance of the system, do not answer the question "why". We may gather data on case processing time, set benchmarks or targets for performance, and compare across years to measure success. However, an indicator cannot explain trends in data. If performance fails to meet a set standard of success or, alternatively, improves over time, the reasons for success or persistent challenge must be identified independent of the performance measurement framework. The consistent monitoring of trends, however, is helpful in directing attention to areas in need of improvement and may facilitate resource planning.

9. Examples of CJS indicators

The following are examples of criminal justice system indicators gathered from the literature. It may be helpful during consultations with stakeholders to present similar examples in order to initiate discussions. However, the final indicators should not be chosen based solely on those that already exist in reviews from other jurisdictions. They must necessarily be specific to the Canadian context, and relevant to the goals of the Canadian CJS review. Appendix 1 includes a list of Canadian criminal justice system-specific indicators developed by Gannon et al (2005) that may be used for the same purpose.

Table: Examples of CJS Indicators

Indicator (measure)	Justice Outcome (*defined by source)	Source/Article/Document
Percentages of Canadians who rate the accessibility of the Canadian justice system as "good" or "very good"	A fair, relevant and accessible Canadian criminal justice system*	Department of Justice Performance Measurement Framework
Canada's International ranking with respect to fairness of the justice system	A fair, relevant and accessible Canadian criminal justice system*	Department of Justice Performance Measurement Framework
Recorded crime (Number of crimes reported by police)	We experience low levels of crime*	Scottish Government (2012). The Strategy for Justice in Scotland
Crime victimization rate (Proportion of people who have been the victim of one or more crimes in the past year)	We experience low levels of crime*	Scottish Government (2012). The Strategy for Justice in Scotland
Perception of local crime is stable or improving (Percent of respondents who believe that crime has stayed the same or reduced in the past 2 years in their local area)	We experience low levels of fear, alarm and distress*	Scottish Government (2012). The Strategy for Justice in Scotland
Confidence everyone has access to justice system if needed (Percentage of adults [regardless of the level of contact they have had with the criminal justice system] who were either very or fairly confident that the system makes sure everyone has access to the legal system if they need it)	Our public services are fair and accessible*	Scottish Government (2012). The Strategy for Justice in Scotland
Number of Indigenous accused involved in restorative justice programs	A fair, relevant and accessible Canadian criminal justice system	Mandate Letter
Number of first-time youth offenders who are Aboriginal		NZ Police. (2012). The Turning of the Tide – A Whanau Ora Crime and Crash Prevention Strategy

⁺Note that this table does not include benchmarks or indicator parameters for simplicity. These, and a more comprehensive set of indicators, can be found in a separate working document, to be completed in the second quarter.

10. Conclusions and Next Steps

Performance measurement indicators provide tangible, quantifiable parameters of performance and change in the context of a criminal justice system review and are essential to identify areas of operational challenge and success. In order for indicators to be valuable to the PM process, however, one of the first steps must be to develop a set of goals and principles of the criminal justice system. These form the foundation against which performance is assessed. The utility and validity of CJS indicators will not be fully realized until outcomes can be defined against goals, principles and mandate changes.

Further, a "criminal justice system review" can be massive in scope. The criminal justice system is comprised of multiple levels of government, delivery partners, organizations, and stakeholders. A major challenge, as identified by the National Audit Office in the UK (2014), is figuring out how to persuade national and local level partners to nurture good working relationships with a focus on achieving "the overall objectives of the system, rather than optimizing the performance of their own organizations" (p. 11). National and local objectives will likely not be mutually exclusive, as the performance of the system may very well be reliant on regional performance, however the scope of a CJS review must remain national. The idea is to encourage buy-in at the operational level (provincial/territorial) early in the process so that partners, operators and stakeholders feel connected to the process and invested in the system's performance.

Moving forward, and in tandem with the development of a PM framework, a strategy for dissemination of information should also be developed. How do we inform Canadians about the performance of their criminal justice system? How do we make this data easily accessible? How do we contextualize change or lack thereof in an understandable way?

Specific to the development of indicators, there must be a coordinated cross-departmental approach to sharing information. What is already collected? What does this tell us about the performance of the CJS? What can we learn from other jurisdictions? What are we missing and should we be adding to our existing body of data? Other departments have completed internal evaluations of certain facets of the CJS (for example, CSC's evaluation of community corrections) that may be useful with respect to developing indicators and benchmarking. As a follow-up to this paper, RSD is creating a table of indicators that may be useful to consider in a high-level CJS review, that have been or may be adapted to the Canadian context. Along with this table will be a short report providing context to the indicators and additional information gathered from the literature that may assist in the indicator development process.

Appendix 1: Performance Indicators

(Adapted from Gannon et al. 2005).

Performance Indicators

Goal 1: Public order, safety and national security through prevention and intervention

- Overall cost of administering the sectors of the criminal justice system
- Number and rate of criminal incidents reported to crime victim surveys
- Overall victimization rate compared to other industrialized countries
- Use of firearms in the commission of homicide and robbery
- The prevalence of organized crime

Goal 2: Offender accountability, reintegration and rehabilitation

- Types of sentences ordered in adult court
- Types of sentences ordered in youth court
- Severity of sentences ordered in adult court
- Severity of sentences ordered in youth court
- Number of offenders participating in Restorative Justice Programs
- Canada's incarceration rate compared to other countries
- Rates of recidivism, including re-charging, re-convictions, and re-admission to correctional facilities

Goal 3: Public trust, confidence, and respect for the criminal justice system

- Public and victim satisfaction with police, courts, and correctional and parole systems
- Public satisfaction with personal safety, victims versus non-victims
- Public fear of crime, victims versus non-victims
- Processing crime through the justice system

Goal 4: Social equity and access to the criminal justice system for all citizens

- Number of applications for legal aid
- Perceptions of police, criminal courts, prison system, and parole system by Aboriginal people and visible minorities
- Experience of discrimination by police or courts on the basis of sex, ethnicity, race, religion, sexual orientation, age, or disability
- Reporting to the police, by sex of the victim
- Reporting to police by Aboriginal people and visible minorities

Goal 5: Victim needs served

- Number of services for victims of crime
- Types of services offered by victim service agencies and shelters
- Police response to victims
- Involvement of victims in the court process
- Involvement of victims in the corrections and conditional release process
- Use of peace bonds and restraining orders for offenders
- Number of clients turned away by shelters
- Number of restorative justice programs
- Number of sentences involving restitution
- Compensation for victims of crime

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