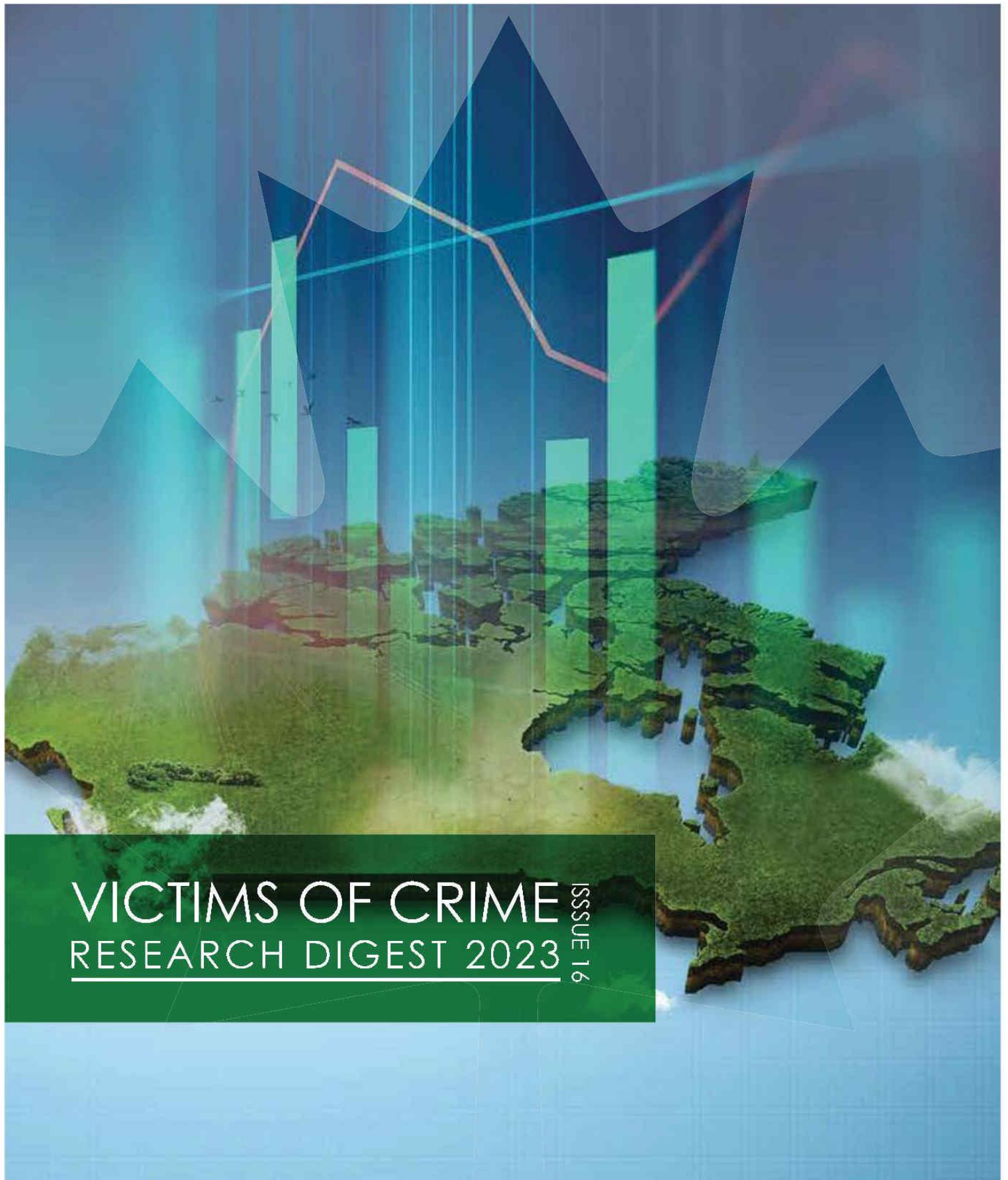




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VICTIMS OF CRIME

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INTRODUCTION

Welcome to the 16th issue of the *Victims of Crime Research Digest*!

National Victims and Survivors Week 2023 takes place from May 14th to May 20th.

The theme this year is **The Power of Collaboration**.

Behind every research project is a team of people working to collect data to address gaps in our understanding of victims’ experiences in the Canadian criminal justice system. Once again, the articles in this issue illustrate the breadth of research that the Department of Justice takes on for victim-related topics to support the goals of the Federal Victims Strategy (FVS). The FVS is a federal government initiative that involves several departments. It has two goals:

- to improve the experience of victims and survivors of crime in the criminal justice system, and
- increase access to justice for victims and survivors.

We begin with an article entitled “Hate Crimes in Canada” by Anna Ndegwa and Susan McDonald, which updates the 2007 report on the same topic. Police-reported hate crimes have increased from 2019 to 2021. As a result, a lot of work has focused on the victims of these terrible incidents. In the next article, “An Overview of Justice Canada Research on Senior Abuse,” Natacha Bourgon presents two recent research projects on senior abuse. Then in “Supporting Victims of Crime Participate in Restorative Justice,” Nadine Badets summarizes a recent survey of provinces and territories on how they help victims participate in restorative justice processes.

Next, Fatima Fayyaz and Nadine Badets present results from the 2022 National Justice Survey in “What do Canadians Know about the *Canadian Victims Bill of Rights*?” The survey also asked Canadians what they thought about support animals in the courts and the use of virtual testimony. The final article, “Understanding How Sentences of Two Years or More are Calculated,” is from the National Office for Victims, Public Safety Canada. While not a research project itself, the goal of the article is to help victims better understand how federal custodial sentences work.

We hope you find these articles interesting and, as always, we welcome your feedback.

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HATE CRIMES IN CANADA

By Anna Ndegwa and Susan McDonald

Hate crime is not new, in Canada or in other western countries. Indeed, racial tension between different groups has been a constant throughout Canada's colonial history. To address this, over the past two decades the federal government has put two plans into action:

- 1) **Canada's Action Plan Against Racism** (2006–2010) looked at responses to hate crimes, including support for victims, as well as developing new approaches to fighting racism; and
- 2) **Canada's Anti-Racism Strategy** (2019–2022) tackles online hate and uses the expertise of community organizations and Indigenous peoples to develop projects geared to their needs. Additional federal funding was announced in Budget 2022¹ to provide more ways to address racism.

These federal programs are being carried out in a context of growing hate – both online and on our streets. Canadians have read about and listened to reports about these horrendous events: the discovery of grave sites at residential schools,² an attack on Muslims in the Islamic Cultural Centre in Quebec City in 2017,³ a van attack against women on Yonge Street in north Toronto in 2018,⁴ and another attack with a truck that killed four of five members of a Muslim family in London in 2020.⁵

According to data reported by police from Statistics Canada, hate crimes have been increasing in the past few years. They are now increasingly part of public discourse. Reviewing academic and other literature, statistics, case law and results from a survey of federal, provincial and territorial victim services, this article will provide context for hate crime today in Canada, and then focus on victims of hate crimes and their needs, and how victim services could start to meet those needs. While hate can take many different forms, this article will focus on behaviours that are criminal and fall under the *Criminal Code of Canada*.

What are hate crimes?

Hate crimes are criminal acts done by a person who is motivated by an extreme bias or hatred towards a particular social group (CRRF 2020). Hate crimes may be directed at physical, symbolic targets (such as a mosque) or at individuals or groups of people. Research studies show that hate crimes cause “disproportionate harm” to individual victims as well as other members of the community belonging to the targeted social group. These crimes send a message of rejection towards both the target of the crime and their community. For example, an assault can have negative physical and psycho-emotional effects. If the assault occurs because you are a Black person (or a person with a disability or transfemale), the harm is magnified because you cannot change these characteristics of who you are and are at risk of being targeted all your life. Not only are you at

¹ See Section 8.1 of Budget 2022 at: <https://www.budget.canada.ca/2022/report-rapport/chap8-en.html#2022-0>

² See <https://www.bbc.com/news/world-us-canada-60395242>

³ See <https://theconversation.com/remembering-the-quebec-city-mosque-attack-islamophobia-and-canadas-national-amnesia-152799>

⁴ See <https://www.thestar.com/news/gta/2022/06/13/four-years-of-toronto-star-coverage-of-the-yonge-street-van-attack.html?rf>

⁵ See <https://www.cbc.ca/news/canada/london/trial-of-man-charged-in-killing-of-muslim-family-in-london-ont-to-be-held-in-different-city-1.6531656>

risk, but everyone else who looks like you, or has a disability or practices a minority religion or any other immutable characteristic in your family, your community, Canada and even beyond our borders.⁶

Across Canada, police services use a single definition of hate crime to ensure that the data they collect and report on are consistent and can be compared. The definition is found in the Uniform Crime Reporting Survey (UCR) Manual (2022, 89):

Hate crime is defined as a criminal violation motivated by hate, based on race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation or gender identity or expression, or any other similar factor.

Legislation on hate crimes in Canada

The *Canadian Charter of Rights and Freedoms* protects freedom of speech or expression,⁷ but this is subject, under section 1 of the *Charter*, to such limits as are demonstrably justifiable in a free and democratic society. In order to protect the public from extreme forms of hate speech, the *Criminal Code* also contains four hate propaganda offences:

- advocating or promoting genocide against an identifiable group (subsection 318(1));
- inciting hatred against an identifiable group in a public place that is likely to lead to a breach of the peace (subsection 319(1)) “Identifiable group”⁸ is a defined term in the *Criminal Code* (subsection 318(4));
- wilfully promoting hatred against an identifiable group other than in private conversation (subsection 319(2));
- wilfully promoting antisemitism by denying, condoning, or downplaying the Holocaust (subsection 319(2.1)); This is a new hate propaganda offence that has recently (June 23, 2022) been added to the *Criminal Code*.⁹

A specific hate crime offence addressing hate-motivated mischief committed against certain kinds of property is also found in subsections 430(4.1) and (4.101) of the *Criminal Code*. It applies to property primarily used for religious worship or for other kinds of property (such as schools, universities, or community centres) that are primarily used by an identifiable group, where the mischief is committed out of bias, prejudice, or hatred against an identifiable group.

⁶ Some peer-reviewed studies that discuss the disproportionate harms caused by hate crimes include: Benier, Kathryn. 2017. The harms of hate: Comparing the neighbouring practices and interactions of hate crime victims, non-hate crime victims and non-victims. *International Review of Victimology*, 23(2): 179-201; Gelber, Katharine and Luke McNamara. 2016. Evidencing the harms of hate speech. *Social Identities* 22(3): 324-41; Keel, Chloe, Rebecca Wickes and Kathryn Benier. 2022. The vicarious effects of hate: inter-ethnic hate crime in the neighborhood and its consequences of exclusion and anticipated rejection. *Ethnic and Racial Studies* 45(7): 1283-1303; Mills, Collen E. 2019. Hatred Simmering in the melting pot: An analysis of hate crime in New York city, 2005-2010. *Justice Quarterly* 37(3): 486-513; Perry, Barbara and Shahid Alvi. 2012. “We are all vulnerable”: The *in terrorem* effects of hate crimes. *International Review of Victimology* 18(1): 57-71; Perry, Barbara and James G. Bell. 2015. Outside looking in: The community impacts of anti-lesbian, gay and bisexual hate crime. *Journal of Homosexuality* 62(1): 98-120;; Pickles, James. 2020. Sociality of hate: The transmission of victimization of LGBT+ people through social media. *International Review of Victimology* 27(3): 311-27;.

⁷ Section 2 of the *Canadian Charter of Rights and Freedoms* states: “Everyone has the following fundamental freedoms: (b) freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication;”

⁸ The *Criminal Code* defines an identifiable group as “any section of the public distinguished by colour, race, religion, national or ethnic origin, age, sex, sexual orientation, gender identity or expression, or mental or physical disability.” (*Criminal Code*, RSC 1985, c C-46, ss 318(4))

⁹ See <https://www.parl.ca/DocumentViewer/en/44-1/bill/C-19/royal-assent>

Before December 12, 2017, this offence was defined only in subsection 430(4.1) and was restricted to property primarily used for religious worship (for example, churches, mosques, or synagogues).

In addition to the specific provisions above, any offence, such as assault or criminal harassment, that is motivated by hatred can have the fact of hate-motivation applied by the judge to determine the sentence imposed, should the accused be convicted. Specifically, before courts decide on a sentence for any crime motivated by hatred, bias, or prejudice, they must consider subparagraph 718.2(a)(i) of the *Criminal Code*. The relevant part of this section reads:

A court that imposes a sentence shall also take into consideration the following principles:
(a) a sentence should be increased or reduced to account for any relevant aggravating or mitigating circumstances relating to the offence or the offender, and, without limiting the generality of the foregoing,
(i) evidence that the offence was motivated by bias, prejudice or hate based on race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation, or gender identity or expression, or any other similar factor.

Hate as an aggravating¹⁰ factor at sentencing was included in the *Criminal Code* in 1995 and “gender identity or expression” was added in 2017.¹¹

The number of hate crimes has increased

Statistics Canada has been reporting on police-reported hate crime since 2005 via the UCR, but those data only reflect incidents that have come to the attention of the police and are then recorded as hate crimes. In 2007, Justice Canada released a report entitled An Exploration of the Needs of Victims of Hate Crimes (McDonald and Hogue 2007) that included data from Statistics Canada and also a review of research studies in Canada and the US on hate crimes. Since that report, more data – reported by both police and by victims – have become available. In general, the number of hate crimes reported to police has been increasing each year since Statistics Canada started collecting the numbers.¹² Figure 1 shows the numbers for the years 2015 to 2021. Increases in the number of reported incidents could mean that the public is more aware of hate crimes. It could also be the result of police doing more community outreach or the public being more sensitized after high-profile crimes (Wang and Moreau 2022).

The second year of the pandemic, 2021, saw the third consecutive year of increases in hate crime reported to police, as shown in Figure 1 below. Hate crimes increased 72 percent between 2020 and 2021 due to increases in hate crimes targeting religion, sexual orientation, and race or ethnicity. All provinces and territories in Canada, except for Yukon, reported increased numbers of hate crimes in 2021.

Hate crimes motivated by race or ethnicity increased by 6 percent in 2021, after increasing over 80 percent in 2020. Increases in hate crimes continue to target Asian communities. They doubled twice between 2019 and 2021 (+8 percent to +27 percent) (Wang and Moreau 2022). Outside of hate crimes statistics reported by police, Asian communities reported considerable increases in anti-Asian racism and incidents of xenophobia in 2021. The Chinese Canadian National Council reported more than 900 incidents in 2021, a 47 percent increase in reported incidents since 2020. East and Southeast Asian communities continue to report the most incidents.

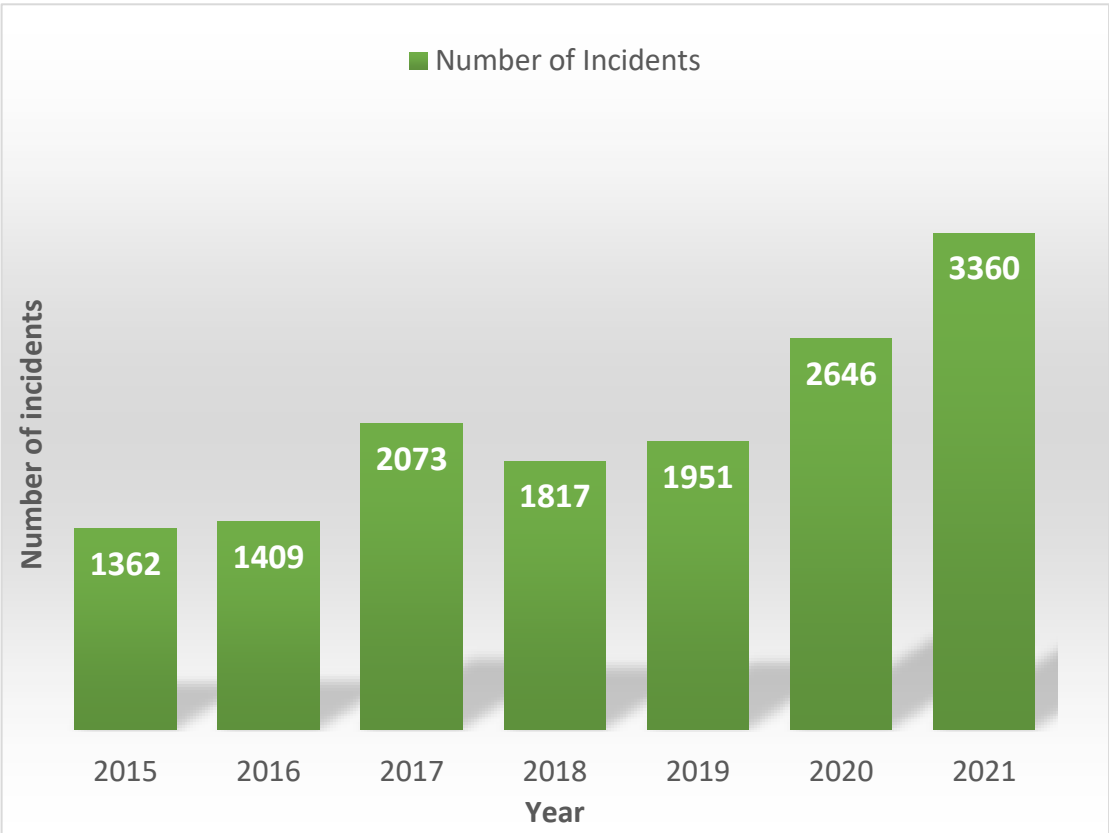
¹⁰ An element of crime that supports a harsher penalty

¹¹ Bill C-16, *An Act to Amend the Canadian Human Rights Act and the Criminal Code*, S.C. 2017, c.-13.

¹² An exception to this would be the decrease in numbers from 2017 to 2018 as seen in Figure 1.

These echo the increases in incidents reported by police (CCNC 2021; Wang and Moreau 2022). There were also increases in hate crimes that targeted Arab and West Asian populations (+46 percent).

Figure 1: Hate crime incidents reported to police, 2015 – 2021



Source: Statistics Canada. 2022c. Police-reported hate crime, number of incidents, and rate per 100,000 population.

Hate crimes targeting the Black population decreased in 2021 (–5 percent). However, this followed a 96 percent increase in 2020. Also, after unmarked graves were found on the grounds of former residential schools, hate incidents that targeted both Indigenous peoples and religious institutions were also reported (Moreau 2022). Similar to the Black population, hate crimes targeting Indigenous peoples decreased by 1 percent in 2021, but that followed an increase of 169 percent in 2020 (Wang and Moreau 2022).

Hate crimes targeting religion also increased, by 67 percent in 2021. This followed a downward trend in incidents between 2019 (–7 percent) and 2020 (–14 percent). Hate crimes targeting Islam increased by 71 percent in 2021. Between 2016 and 2021 in Canada, more Muslims were killed in targeted “hate-attacks” due to Islamophobia than in any other G7 country (NCCM 2021).

Hate crimes that target people because of their sexual orientation or gender identity have also risen considerably. Since their peak of 365 reported incidents in 2019, 423 incidents were reported in 2021. Victims of these hate crimes tend to be younger. These attacks result in the highest number of physical injuries (Wang and Moreau 2022).

Members of minorities in Canada have also experienced more hate during the COVID-19 pandemic. Many expressed that they do not feel safe in their neighbourhoods and that they have perceived an increase in how often they have been harassed or attacked based on their race, ethnicity, or skin colour during COVID-19 (Heidinger and Cotter 2020). The rise in incidents of anti-Asian hate during this period (Chinese Canadian National Council 2021) shows that these incidents can be fueled by specific events such as the onset of the COVID-19 pandemic.

Understanding Canada's history

Many papers, books, Royal Commissions and more have been devoted to understanding Canada's colonial history and this article offers only a small piece of that history. It is, however, important to understand that racial tensions have existed in Canada since it was colonized. Many laws pertaining to immigration, voters' rights and property rights¹³ during the nineteenth century and into the middle of the twentieth were motivated by racial and other prejudices. Violent and discriminatory acts were also common and few in the ruling class questioned these laws or actions. Beyond settlers' racism towards Indigenous peoples, there were other sources of racial tension, particularly with Chinese, Japanese and Black people, who worked as labourers when they first came to Canada. After the First World War, the *Immigration Act* of 1896 was amended to prohibit people who hailed from "undesirable" countries (in Asia and Africa) (Mooten 2021).

Multiculturalism became an official federal policy in 1971, committing the federal government to promoting and maintain a diverse, multicultural society, but it was only in 1988 that the *Canadian Multiculturalism Act* became law (Perry 2015). Today, Canada is one of the most diverse countries in the world. As of 2021, 26 percent of the Canadian population identified as a visible minority, 21 percent identified a non-official language as their mother tongue. As of 2018, 4 percent of the population older than 15 identified as 2SLGBTQ+ (Statistics Canada 2022a; Statistics Canada 2021b).

Despite the *Multiculturalism Act*, and the *Canadian Charter of Rights and Freedoms*, Canada is not immune to racism, sexism, or other forms of discrimination and harassment, regardless of the structures such as human rights complaints bodies, policies, and training to support diversity, inclusion, and equity (Perry 2015). In the case of hate crimes in Canada, research has shown that policies and laws for hate crime are not being enforced enough by those responsible in the criminal justice system. This includes Crown prosecutors who must balance Canadians' free speech protections against "hatred" and police officers who are hesitant to report or investigate incidents (Perry 2015, 1648). Targeted communities are then left feeling either unequal to, or less than, their White/other counterparts. That reinforces their "social and political marginality." It also undermines the policy goal of multiculturalism and equality (Perry 2015).

As discussed earlier in this article, various racial, religious and sexual minority groups in Canada are increasingly experiencing hate crimes. These groups are also likely to experience different forms of micro-aggressions that could be seen as discrimination or racism or other *-ism*. These incidents do not usually rise to the level of criminal acts. Therefore, they do not fall under police responsibility, but they do provide a context of excluding minorities by devaluing them because of the clothes they wear, or the colour of their skin, or how they express

¹³ See for example Backhouse 1988 on the history of property rights for married women. As well, the first *Immigration Act* passed in 1869 specifically discriminated against people on the grounds of class and disability. In 1885, the federal government imposed policies, like taxation, to limit Chinese immigration and, later on, the *Chinese Immigration Act, 1923*. (See Dirks 2006) On voters' rights, in 1867, when Canada is formed, only men who are 21 years of age or older and who own property are able to vote in federal elections. By 1918, many women were able to vote in federal elections, but it is not until 1948 that Asian Canadians get the right to vote, 1950 that Inuit people can vote and 1960 that First Nations people get the same right. (Elections Canada n.d.).

their faith. For example, a study of Muslim individuals living in five major Canadian cities conducted in 2019 showed that they were consistently dealing with hate incidents and micro-aggressions. These included verbal aggressions (such as threats), being chased, spat on, and other insults because of their religion or religious dress (Mercier-Dalphonf and Helly 2021).

Recent incidents of hate crime have been tragic and include:

- the Quebec City mosque shooting in 2017, which killed six people;¹⁴
- the 2018 van attack that targeted women in Toronto, which killed eight women and two men;¹⁵ and
- the 2021 anti-Muslim truck attack in London, which killed four members of the Afzaal family.¹⁶

Minorities within 2SLGBTQI+ communities also face hate crimes. These communities have worked together to protect their members from violence because police are not interested in and/or aware of the targeted violence against them (Field 2017).

Canadians are becoming more aware of and admitting that racism exists in Canada. Few people now maintain that racialized minorities like Black and Indigenous people are rarely or ever mistreated (CRRF and Environics 2021). More Canadians now believe that racialized people are treated unfairly. Based on a survey conducted in 2021 by the Environics Institute for Survey Research, one-fifth of the general population has reported that it is a common experience for them to be discriminated against or mistreated (CRRF and Environics 2021, 7). But even though Canada's public policy supports multiculturalism, equality, and inclusion, the experiences of marginalized groups suggests that Canadians are not as inclusive as they need to be.

The impacts of hate crimes

Psychological and psycho-social impacts

Hate crimes target essential parts of a person's identity (for example, race, religion, sexual orientation, gender). These crimes send a message of rejection towards both the target of the crime and their community. The harms of hate crime can thus extend beyond the immediate victim and have both direct and indirect effects on the victim's community (CRRF 2020; ODHIR 2020). People affected by a hate crime can include those close to the victim (relatives of the victim) or those who witnessed the incident and members of the identity community. This includes those who share characteristics that are similar to the targeted victim or property. It even includes people from other communities who have likewise, historically been discriminated against and/or marginalized (ODHIR 2020 10).

¹⁴ The six victims in the 2017 Islamic Cultural Centre of Quebec City were Ibrahima Barry, Mamadou Tanou Barry, Khaled Belkacemi, Aboubaker Thabti, Abdelkrim Hassane, and Azzedine Soufiane.

¹⁵ The 10 victims of the 2018 domestic terrorism van attack were Anne Marie D'Amico, Dorothy Sewell, Beutis Renuka Amarasingha, Mary Elizabeth Forsyth, So He Chung, Andrea Bradden, Geraldine Brady, Ji Hun Kim, Munir Abdo Habib Najjar, and Chul Min "Eddie" Kang.

¹⁶ The members of the Afzaal family killed in the 2021 truck attack were Salman Afzaal, Madiha Salman, Yumnah Afzaal, and Talat Afzaal. Their youngest son survived.

The effects of a hate crime on a direct victim can be powerful:

- Victims are likely to experience psychological trauma in various forms. This could include Post-Traumatic Stress Disorder (PTSD) (Awan and Zempi 2020; Bell and Perry 2015; Perry 2009, 409).
- Due to the nature of the crime, victims are likely to change their behaviour out of fear and feel vulnerable, ashamed, and angry (Bell and Perry 2015; ODIHR 2020, 12; Walters 2021).
- Victims will isolate themselves, avoid certain locations and people, and restrict certain behaviours (for example, limit public displays of affection with same-sex partners, conceal religious or cultural symbols, not speak their language) (Bell and Perry 2015; Fashola 2011; ODIHR 2020; Walters 2021).
- Research has also shown that the trauma victims feel is also felt by people who were not involved in the incident but identify with the victim and that these indirect victims may exhibit the same coping or avoidance behaviours as direct victims (Paterson et al. 2019, 996).
- People who share certain attitudes, behaviours, or beliefs may develop a sense of belonging to a community or group. So, if one of their group is attacked, other group members are likely to experience it as an attack on the whole group (Paterson et al. 2020).

Communities may feel fear and they may feel vulnerable as a group when they perceive that they may be targeted in the future (Perry 2014). Research has shown that most groups targeted by hate crime are victimized both directly and indirectly; directly by the crime itself, indirectly by seeing themselves as victims even if they haven't been the target of a hate crime (Wevodau et al. 2014, 66).

Simply knowing a person who has been a victim of a hate crime can affect a person who is a member of the targeted community. It increases the chance that they will perceive threats towards themselves that may not exist (ODIHR 2020, 12; Paterson et al. 2019, 1006). In the ODIHR report, it was noted that people had normalized their experiences as an everyday fact "by accepting devaluation, discrimination and intolerance" as "a normal state of being" (ODIHR 2020, 12). Their daily experience then is understanding that they may be randomly attacked on any given day because of their group identity (ODIHR 2020, 12; 14). Knowing this makes the violence of these crimes terrifying for many communities (ODIHR 2020, 14).

Moreover, vulnerable group members come to accept that their victimization is permanent. This is the result of both single incidents they have experienced and from what they perceive as, and/or experience as, structural or institutional apathy through secondary victimization (ODIHR 2020, 14).¹⁷ This can include police and other public officials minimizing the seriousness of a person's experience of hate crime, or denying them services, rights, or status. All of these affect both individuals and community members even more (ODIHR 2020, 14).

Hate crime can affect communities by making them feel they are alienated or separate from the general population (ODIHR 2020, 16).

Needs of victims of hate crimes

After a crime has occurred and into the medium and longer term, victims of crime need information and support.¹⁸ Victims of hate crimes may have specific needs above and beyond these. The ODIHR report, *Understanding the Needs of Victims of Hate Crime*, notes that victims of hate crime require support in multiple

¹⁷ Secondary victimization refers to "the victimization that occurs not as a direct result of the criminal act but through the response of institutions and individuals to the victim. This includes, but is not limited to, not recognizing and treating the victim in a respectful manner, an insensitive and unprofessional manner of approaching the victim and discrimination of the victim in any kind" (ODIHR 2020, 13).

¹⁸ See *Victim Services in Canada, 2018*. Available upon request at rsd.drs@justice.gc.ca

areas. These include needing help to feel safe and to have a sense of security, both physically and emotionally (ODIHR 2020, 18).

Not all communities trust criminal justice authorities, such as the police, but victims can feel safe in many other ways. These include connecting with service providers in their own communities, as well as ensuring that their family and friends support them. Communities also need supports to ensure/create safety for victims after they experience a hate crime. Creating safe spaces and supports offer a way for individuals and communities to regain their sense of safety. This resilience can lead to them feeling more confident about the criminal justice system and being more likely to use both the social and community supports available (ODIHR 2020, 18). Victims of hate crime also need practical support, such as:

- psychological support,
- legal assistance,
- medical attention,
- having someone accompany them to court or help them navigate the criminal justice process,
- compensation for money lost because of the crime, and
- other forms of material support, including information and advice (for example, legal advice) (ODHHR 2020, 18).

All victim services should treat all victims with respect and dignity. This includes:

- acknowledging their experiences and supporting victims in accessing information for their case,
- helping victims to understand the criminal justice process and to be understood within it, and
- supporting victims to voice what outcome they wish, or what “justice delivered” would look like (ODIHR 2020, 30).

Victim services in the provinces and territories

In Canada, the provinces and territories are responsible for providing victim services. Each province and territory uses different models to deliver victim services.¹⁹ These models all provide information, referrals, and support to victims of crime.

- System-based services help victims to figure out how to navigate the criminal justice system, for example by providing support and counselling and preparing victim impact statements;
- Court-based services help victims prepare for court, ask for restitution and receive updates on progress of case;
- Police-based services help victims cope with crisis, and obtain information about how court works,
- Community-based services help victims receive emotional support, practical assistance, and referrals from within the community, for example for sexual assault.²⁰

¹⁹ The Victim Services Survey (VSS) is a survey formerly conducted by Statistics Canada on behalf of Justice Canada every two years for five cycles. It was then discontinued for a number of reasons, including the burden on respondents. It was sent to all victim services organizations funded by ministries of justice and/or public safety. Victim services organizations completed the VSS with aggregated data on clients served in a given fiscal year, services provided, and funding and training. CCJCSS also chose a specific day – called a “snapshot day” – during which organizations captured detailed data on the clients they served. See for example [Victim services in Canada, 2002/03](#); [Victim Services in Canada, 2005/2006](#); [Victim Services in Canada, 2007/2008](#); [Victim services in Canada, 2009/2010](#); [Victim services in Canada, 2011/2012](#)

²⁰ For a thorough description of victim services in each province, please see *Victim Services in Canada 2018*. Available upon request at rsd.drs@justice.gc.ca

The number of hate crimes reported to police varies considerably across the provinces and territories. According to 2020 data, four provinces accounted for most incidents that were reported: Ontario (1,164), British Columbia (519), Quebec (485), and Alberta (291). Saskatchewan, Manitoba, and Nova Scotia each had between 50 and 55 incidents; New Brunswick had 19 incidents; Newfoundland and Labrador and Prince Edward Island each had fewer than 10; and the territories reported five or fewer incidents (Statistics Canada 2022b). Just because few hate crimes are reported to police does not mean that hate crimes are not occurring in these provinces. It does mean that the victims of these crimes are not connecting with the criminal justice system, and that they are not receiving support from victim services.

The next section summarizes the results of a survey sent to federal, provincial and territorial members of the Working Group on Victims of Crime.

Survey results

In the previous Justice Canada study completed in 2007, McDonald and Hogue surveyed provinces and territories to find out whether specific services for hate crime were available for victims of hate crimes. In 2007, no province or territory reported providing specific services to victims of hate crime. The provinces and territories reported that most victims of hate crimes would be eligible for and receive the same services available to all victims of crime (McDonald and Hogue 2007).

In an effort to update the landscape of services available for victims of hate crime, Justice Canada sent a new survey to the provinces and territories in 2022, asking the same questions as in 2007:

1. What types of services are available for victims of crime?
2. Are there any services specifically for victims of hate crimes in your jurisdiction?
 - a) Please provide a brief description of the services (e.g., what, where, who it serves).
3. What are the main barriers for victims of hate crimes in accessing regular victim services in your jurisdiction (e.g., language, lack of knowledge about the service, particular needs that cannot be met)?
4. Based on your experience, what are the special needs of victims of hate crimes?
 - a) What do victim services require to address these needs (e.g., resources for additional languages/culture, additional training on hate crimes, long-term counseling)?

The jurisdictions (n=7) that responded indicated that they did not have services specifically for victims of hate crimes; the services they provide are available to all victims. The very useful Justice Canada publication, *Victim Services in Canada, 2018*, provides thorough descriptions of victim services across the country.²¹

Barriers to accessing services

Survey respondents noted that victims of hate crimes who are accessing their services face the same barriers as victims of other crimes, such a lack of awareness of those services and language barriers. Those from certain groups, such as new immigrants or Indigenous people who may not trust the police, also face the same barriers. Respondents added other barriers that victims of hate crimes could face:

- not knowing what victim services and support are available;
- language barriers;
- fear of and not understanding the Canadian legal system;

²¹ The very useful Justice Canada publication, *Victim Services in Canada, 2018*, provides thorough descriptions of victim services across the country. The report is available upon request at rsd.drs@justice.gc.ca.

- mistrust and fear of police and systemic bias within the Canadian legal system;
- being reluctant to report, which may limit access to supports that address their needs;
- being poor or from remote areas;
- feelings of shame and humiliation;
- fear of reprisal;
- lack of peer or family support; and
- concerns about the victim's overlapping social identities not being understood (for example, being Black and 2SLGBTQI+).

Unique needs and challenges of victims of hate crime

The provinces and territories reported on the unique needs and challenges of victims of hate crimes. These include:

- **services that acknowledge the harm done** to victims while also recognizing the effect on the community of which they are a part;
- **client-centred services** that allow the victim to make well-informed decisions;
- **fear and insecurity** felt by the victim, their community, and other marginalized communities;
- **heightened and prolonged psychological distress** as a result of the victim's security being violated and the attack on the victim's self-identity;
- **rejection** by the victim of the aspect of themselves that was the target of the crime (for example, their sexual orientation);
- **self-blame** or victim-blaming by dominant cultural groups ;
- **increased isolation, stress, and vulnerability** for the victim, their family members, and all members of the community;

Addressing victims' needs

Once victims or third parties reported incidents to police, the survey responses from federal, provincial, and territorial victim services showed they had a strong understanding of the specific dynamics of hate crimes and the unique needs of victims. Training and awareness raising were the ideas mentioned most often, but there were also calls to add restorative justice programs to address ongoing hate.

One province noted:

I would like to see VS [victim services] collaboratively work on preparing information sheets or pamphlets as a resource that could be provided to the general public about hate crimes and added resources to support.

All the provinces and territories noted that more resources, including specialized services, training on cultural competence, and resources such as interpretation, would help them better support victims of hate crimes:

- **more resources** that consider external pressures such as the pandemic and the rise of hate crime and allow services to be able to provide supports that are culturally relevant and effective for the communities they serve;
- **more training** on hate crimes, including developing and refining training tools to further strengthen the knowledge and understanding of hate crime issues, specifically on how hate crimes may differ from other crimes and the effect it can have on the individual victim and community;
- **public campaigns** to create greater awareness about hate crimes and where victims can access services, in a variety of languages;

- **specialized trauma-informed counselling services** for those who are victims of hate crimes and for their families and community members who may also experience the effects of these crimes. These services should be culturally relevant and be made available for the long term;
- **funding** that communities can access to heal from the trauma of hate crimes and enhance their security.
- **creating a restorative justice-based approach** for hate crime and hate-motivated offences. This could help to break the cycle of hate and make the offender less likely to repeat their crime by promoting healing for the offender and the victim through
 - input from community,
 - respectful communication between victim and offender,
 - ensuring the offender truly answers for their actions, and
 - the victim forgiving the offender for their crime.

In the remaining sections of this article, highlights are presented on how victims of hate crime can participate in the criminal justice system and research about that participation.

Victim impact and community impact statements

Section 15 of the *Canadian Victims' Bill of Rights* states that every victim has a right to present a victim impact statement to criminal justice authorities (for example, police, judges, and corrections officers), as well as have the legal system consider it. The *Criminal Code* added community impact statements in 2015 for all offences (Manikis 2019).

Victim impact statements provide a description of the harms done and loss suffered by the victim.

Community impact statements describe the harms and losses suffered by the community affected. This can include a neighbourhood, business, or organization.²²

The *Criminal Code* requires victims to submit victim impact statements during sentencing. Other types of victim statements can be submitted to the relevant authorities after the offender is sentenced (for example, while offenders are in federal custody or at parole hearings). Research has shown that providing a victim impact statement can

- influence the sentencing decision,
- provide a voice for victims/communities during the criminal justice process, or
- can be therapeutic for the victim (Manikis 2019).

Academics and others have debated the effect of these statements and their use, or value, within the criminal process; some academics see impact statements as interfering with an offender's right to a fair trial. Others think these statements contribute to the process overall. Research has shown that judges have relied on victim impact statements in sentencing decisions and that they certainly give victims a voice (Manikis 2019).

The law says that victims *must* be offered the opportunity to submit a victim impact statement in Canada. But there are no data on the rate at which victim impact statements and community statements are submitted. According to a study completed by the Canadian Centre for Justice and Community Safety Statistics for Justice Canada, only five provinces report on the rate of victim impact statement submissions (Allen 2019, 13). Research

²² Community Impact Statements (*Criminal Code*, RSC, 1985, c C-46, ss 722.2(2)); Victim Impact Statements (*Criminal Code*, RSC, 1985, c C-46, ss 722(4)).

has shown that there is no significant relationship between how satisfied or involved victims are with the criminal justice system and whether they have submitted a victim impact statement (Laxminarayan et al. 2013).

A review of publicly available case law (Provost-Yombo et al. 2021) on hate as an aggravating factor in sentencing revealed that between 2007 and 2021, of the 50 sentencing decisions recorded, only a third (n=17) referred to a victim or community impact statement. Out of those 17 cases, only three cases (6 percent) included a community impact statement,²³ although in 18 cases offenders had targeted communities as their victims. At the discretion of the sentencing judge, community impact statements have always been permitted.²⁴ When the *Canadian Victims Bill of Rights* (CVBR)²⁵ and the resulting amendments to the *Criminal Code* came into force in July 2015, they included the ability to submit community impact statements for all offences. Given the harm that communities endure when an individual member is a victim, one might then assume that a larger number of them would be submitted in cases of hate crimes. Note though that most of the 50 sentencing decisions reviewed were issued before 2015 – before the amendment to the *Criminal Code* on community impact statements.

Using restorative justice

Growing research has been exploring the potential use of restorative justice (RJ) for victims and those who commit hate crimes. Restorative justice offers an avenue to educate and challenge the prejudice of the offender as well as a space to support and empower the victim by having their voice heard in a safe environment.²⁶

The Federal-Provincial-Territorial Working Group on RJ has defined RJ as:

An approach to justice that seeks to repair harm by providing an opportunity for those harmed and those who take responsibility for the harm to communicate about and address their needs in the aftermath of a crime.

RJ could help respond to the needs of hate crime victims by reducing their trauma and improving their sense of security and fear and anger levels (Walters 2014). If offenders and victim/stakeholders²⁷ are able to talk with one another, offenders could get a first-hand look at the harm they caused (Walters 2014). Restorative Justice Victoria, a non-profit community-based organization in British Columbia has used this approach successfully in dealing with hate crime.²⁸

²³ *R v Brazau*, 2017 ONSC 2975, 139 WCB (2d) 429; *Paramount Fine Foods v Johnston*, 2021 ONSC 6558; *R. v. Kroeplin*, 2021 ONCJ 19.

²⁴ See <https://www.justice.gc.ca/eng/cj-jp/victims-victimes/factsheets-fiches/pdf/community-collectivite.pdf>

²⁵ S.C. 2015, c. 13, s.2.

²⁶ Recent studies, evaluations, and papers on the use of restorative justice include: Szontagh, Veronika. 2021. The chances of restorative justice in hate crime cases. *Hungarian Journal of Legal Studies*, 61(3), 313–24; Andrew, Ben. 2019. *Making Restorative Justice happen for hate crime across the country*. Why-me.org. Available at: <https://why-me.org/access-to-justice-delivering-restorative-justice-for-hate-crime/>; Kazi, Tehmina. 2022. Restorative justice, hate crime and migrant integration. European Forum for Restorative Justice. Available at: <https://www.euforumrj.org/en/restorative-justice-hate-crime-and-migrant-integration>; European Forum for Restorative Justice. 2022. *Promising Strategies of Restorative Justice in Anti-LGBT Hate Crime cases*. Available at: https://www.letsgetbytalkin.eu/wp-content/uploads/2022/05/Booklet_long_EN_digital.pdf; Gavrielides, Theo. 2012. Contextualizing Restorative Justice for Hate Crime. *Journal of Interpersonal Violence*, 27(18), 3624–43.

²⁷ Stakeholders include advocacy groups or community groups that represent the identity community. For example, in the case of a hate crime against a Jewish person, B'nai Brith or the Canadian Jewish Congress might be involved, or the local Jewish community.

²⁸ Restorative Justice Victoria. <http://www.rjvictoria.com/> See <https://www.theglobeandmail.com/canada/british-columbia/article-a-hate-crime-that-opened-a-path-to-redemption/>

The Ottawa Parkdale United Church's used RJ provides another example of using this approach to successfully deal with a hate crime. . In this case, a youth who was found guilty of spray painting anti-Semitic and racist symbols on the church and agreed to participate in the Collaborative Justice Program at the Ottawa Courthouse. The youth wrote a 500-word essay about the members of the communities he had targeted and shared his work with those communities.²⁹ Although RJ may not be appropriate in all cases of hate crimes, these processes have great potential to address the harms caused.

In conclusion

This article has provided a brief review of the literature and statistics on hate crimes, case law on the use of victim and community impact statements at sentencing, and survey results from federal, provincial and territorial victim services on the needs of victims. Understanding the context of colonialism in Canada is important to understand feelings of devaluation by specific minority groups. Of note, respondents to the survey of victim services were very conscious of the gaps in their services and the lack of awareness about hate crimes and their impact on the public, victims, and service providers.

Other efforts are underway to better understand how to support victims of hate crimes. A research project funded by the Social Sciences and Humanities Research Council entitled *Finding the Gaps: Criminal Justice Processing of Hate Crimes* will be drawing on case studies of restorative justice processes that have been used with hate crime cases.³⁰ Also, the Canadian Centre for Justice and Community Safety Statistics is developing comprehensive training for police and victim services on responding to hate crimes. The training will also incorporate community organizations. This will ensure that everyone with a stake in the outcome will work together to best support victims while accurately recording the details of hate crimes they report to police.

Much more – improve the general public's understanding of hate crimes, provide multiple ways to report hate to authorities, increase transparency on why crimes may not be prosecuted as hate crimes – can be done to better support victims of hate crimes. It is past time to move forward.

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²⁹ See <https://www.insidehalton.com/news-story/7544127-punishment-of-ottawa-hate-monger-offers-hope-for-rehabilitation/>

³⁰Principal Investigator: Dr. Barbara Perry, Ontario Tech University Director of the Centre on Hate, Bias and Extremism. For more information, please contact Dr. Perry directly at Barbara.perry@ontariotechu.ca

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AN OVERVIEW OF JUSTICE CANADA RESEARCH ON SENIOR ABUSE³¹

By Natacha Bourgon

Seniors' safety and healthy aging is an important global priority.³² Ensuring their safety involves eliminating all forms of neglect, abuse, and violence against older persons (hereafter referred to as "senior abuse"). Though Canada uses several definitions to identify senior abuse, the definition of the 2002 Toronto Declaration on the Global Prevention of Elder Abuse remains key (Beaulieu and St-Martin 2022). It defines the issue as:

A single or repeated act, or lack of appropriate action, occurring within any relationship where there is an expectation of trust which causes harm or distress to an older person. (World Health Organization [WHO] 2002)

Senior abuse can include

- physical abuse, such as assault,
- financial abuse/misuse of property, such as fraud,
- psychological/emotional abuse, such as threats and harassment, and
- sexual assault.

It can also include

- mental cruelty,
- irresponsible medication practices (overmedication, withholding medication),
- humiliation,
- intimidation,
- censoring,
- invasion of privacy,
- denial of access to visitors,
- violation of human/civil rights,
- self-neglect,³³ and
- spiritual, religious, or cultural forms of abuse. (Beaulieu and St-Martin 2022)

Seniors represent an increasing proportion of the population in Canada. In 1996, 12 percent of the Canadian population was aged 65 and older³⁴ compared with approximately 19 percent in 2021. This proportion is

³¹ There are various terms currently in use in Canada to identify the problem of senior abuse. For example, the term "elder abuse" is used in the 2021 Ministers of Justice and of Seniors mandate letters (see [Minister of Justice and Attorney General of Canada Mandate Letter \(pm.gc.ca\)](#) and [Minister of Seniors Mandate Letter \(pm.gc.ca\)](#)), whereas "mistreatment of older persons" is the term recommended by Beaulieu and St-Martin (2022). This article uses the term "senior abuse" to align with the language currently used by Justice Canada.

³² The United Nations Decade of Health Ageing 2021–2030 (the Decade) provides a global collaborative forum for governments, civil society, international agencies, professionals, academic, the media and the private sector to improve the lives of seniors, their families and the communities in which they live. See [Tackling abuse of older people: five priorities for the United Nations Decade of Healthy Ageing \(2021–2030\) \(who.int\)](#) for more information. The safety and health aging of seniors also aligns with the United Nations sustainable development objectives (2015–2030; see for example Goal #16 Peace, Justice and Strong Institutions).

³³ According to HealthLink BC, self-neglect is defined as behaviour of an older adult that threatens his or her own health or safety. This can be present when an older adult refuses or fails to provide himself or herself with adequate food, water, clothing, shelter, personal hygiene, medication, and safety precautions. See [2.3 Policy - Legal Definitions of Elder Abuse and Neglect \(justice.gc.ca\)](#).

³⁴ There is no nationally agreed upon age demarcation used to define a senior. Unless noted otherwise, this report refers to "seniors" as individuals aged 65 or older, as that is the typical starting age for retirement and certain social services, either through federal (e.g.,

predicted to further increase to 25 percent by 2060 (Statistics Canada 2019). The growth of the senior population is not unique to Canada. Many countries report rapidly aging populations.³⁵ Alongside this growth, senior abuse is also predicted to increase substantially.³⁶

Although senior abuse is a significant public health and justice issue, it is hard to know how widespread it is because of gaps in data. There are three reasons for this:

- Terms and definitions for senior abuse are not consistent. This limits researchers' ability to compare findings from different areas and understand the problem.
- Data is not collected from some of the most vulnerable people and certain living environments, such as those living in long-term care homes. This leads to underestimating the kind of abuse and how often it happens.
- There are not enough tracking and reporting processes, or guidelines for gathering data in care homes for older adults. This also contributes to underestimating the problem.

Furthermore, Canada's constitution states that the provinces, territories, and federal governments share responsibility for the issue of senior abuse. This makes it harder to agree on a single definition or a national approach to preventing or responding to the issue, a challenge that has also been identified by experts and stakeholders around the world.³⁷ Canada aligns itself well with global priorities in this area. For example, the 2021 mandate letters commit the Minister of Justice and Minister of Seniors to invest in collecting better data on senior abuse.

Producing quality data is not easy, particularly when there are so many barriers to identifying and reporting the issue. To inform and guide work in this area, Justice Canada did two research studies: *Enhancement of Canadian Data on the Abuse of Older Persons: An exploratory study* and *A Case Study of Edmonton Police Service's Response to Senior Abuse*. This article presents an overview of these two research projects to further knowledge, understanding, and responses to senior abuse.

Enhancement of Canadian data on the abuse of older persons: An exploratory study by Beaulieu and St-Martin (2022)

In 2021, Justice Canada contracted with subject matter expert Marie Beaulieu, Research Chair on Mistreatment of Older Adults from 2010 to 2022, via the University of Sherbrooke, to explore and further document the challenges of producing national data on senior abuse and how to address these challenges.

Methods

Beaulieu and her colleague Kevin St-Martin thoroughly reviewed the literature, giving special attention to Canadian work over the last 10 to 15 years. They also interviewed 42 key national and international experts and provincial and territorial government representatives working in this area.

Canada Pension Plan, Old Age Security and Guaranteed Income Supplement) or provincial programs (in Alberta for example, the Alberta Seniors Benefit).

³⁵ The World Health Organization [WHO] via <https://www.who.int/news-room/fact-sheets/detail/abuse-of-older-people>

³⁶ Ibid.

³⁷ See Tackling abuse of older people: five priorities for the United Nations Decade of Healthy Ageing (2021–2030) (who.int) for more information.

Findings

The results of this study highlighted two types of key challenges to generating national-level data on senior abuse:

1. *Conceptual*: All the terms and definitions being used to identify and define senior abuse frame the problem differently. There are also differences in the types and forms of abuse that are recognized. To make the research even more challenging, the terms and definitions also vary considerably in French and English.
 - How is the problem of senior abuse framed? Hall and colleagues (2016) note differences in one or more of the following components of abuse:
 - intentionality (did the abuser intend to act or to not act?);
 - single or repeated actions (how many incidents must take place for it to be considered abuse?);
 - trust relationship (was the action or inaction committed by someone in a presumed relationship of trust with the victim?);
 - consequences (did the action or inaction result in, or was it at a high risk of, affecting the victim's overall well-being in the short and long term?); and,
 - vulnerability.³⁸
 - What types and forms of abuse are recognized? This typically includes physical abuse, as well as psychological or emotional abuse.³⁹ Most regions in Canada also include financial or material abuse, sexual abuse, and neglect. Other types and forms are self-neglect, organizational abuse, abuse of power by agents (e.g., power of attorney) those wit), spiritual or religious or cultural abuse, and others.
2. *Methodological and operational*: There are two types of data collection methods: population surveys and administrative or operational data. Each presents its own unique gaps and challenges:
 - **Population surveys**, such as the General Social Survey on Victimization, are based on self-reports from individuals. Gaps and challenges include, for example,
 - a lack of validated measurement scales and tools; and,
 - certain people or living environments are excluded, such as First Nations people living on reserves, older persons living in long-term care homes, in one of Canada's territories, in prisons, or speaking neither English nor French.
 - **Administrative or operational data** is collected from agencies or organizations such as police services, courts, or shelters. Gaps and challenges include, for example,
 - different laws and policies for adult protection services across regions;
 - the lack of guidelines both for gathering data and for tracking and reporting processes; and,
 - the lack of a centralized data repository, which ultimately affects the compatibility and accessibility of data.

The study also included a series of proposals to help address these gaps in the data on national senior abuse. They state that any future work in this area must align with the five priority areas the World Health Organization (WHO) identified in June 2022 as part of the work for the Decade of Healthy Ageing. These are to:

³⁸ According to Schroeder and Gefenas (2009) "to be vulnerable means to face a significant probability of incurring an identifiable harm while substantially lacking ability and/or means to protect oneself." (p. 117)

³⁹ Referred to as "mental cruelty" in New Brunswick.

- combat ageism;
- generate more and better data on prevalence, risk, and protective factors;
- develop and scale up solutions that are cost-effective;
- invest in generating data on the costs of abuse and on the cost-effectiveness of solutions;
- raise funds for both research and for interventions. (World Health Organization [WHO] 2022)

For more information, please refer to the full report: [Enhancement of Canadian data on the abuse of older persons : an exploratory study : final report \(lac-bac.gc.ca\)](#)

[A case study of Edmonton Police Service's response to senior abuse by Natacha Bourgon \(forthcoming\)](#)

Starting in 2021, Justice Canada worked with the Edmonton Police Service (EPS) to examine and better understand police data the EPS had collected on reported incidents of senior abuse, as well as how the police responded to such incidents. This case study was intended to recreate an earlier study called *An Empirical Examination of Elder Abuse: A review of files from the Elder Abuse Section of the Ottawa Police Service* (Ha and Code 2013).

[Methods⁴⁰](#)

The study examined incidents of senior abuse that came to the attention of the EPS from 2015 to 2021. It used two sources: the Seniors Protection Partnership's (SPP)⁴¹ database⁴² and the Edmonton Police Reporting and Occurrence System (EPROS), a record management system. The case study also used two group interviews with a total of 10 key informants. These included officers from the Edmonton Police Service, as well as other partners and community service providers who are members of the Elder Abuse Consultation Team.⁴³

[Findings](#)

The findings showed that incidents or suspicions of abuse come to the attention of the EPS in one of two ways:

- directly from victims, families, or witnesses via either the police line or filtered through the Elder Abuse Intake line,⁴⁴ or
- referrals from community organizations and agencies, as well as service providers.

The EPS find out about incidents or suspicions of senior abuse primarily from someone other than the senior victim themselves:

- direct reports by a family member of the senior;

⁴⁰ There were significant limitations experienced throughout this study. First and foremost, the findings of this study are limited to incidents of senior abuse reported to the police and are not generalizable to other jurisdictions. And second, there were significant methodological and operational challenges in the quality and accessibility of data.

⁴¹ The Seniors Protection Partnership (SPP) is a collaborative community partnership that provides support, assessment and referrals to seniors who are at high risk of experiencing abuse. The SPP involves a partnership between the City of Edmonton, Catholic Social Services, Covenant Health, the SAGE Seniors Association, as well as the Edmonton Police Service (EPS). See: [Elder / Senior Citizen Abuse Support \(cssalberta.ca\)](#).

⁴² A database managed by Catholic Social Services, an Edmonton based non-profit that includes information on all senior abuse cases coming to the SPP's attention, which may or may not include police.

⁴³ The Elder Abuse Consultation Team (EACT) is a broader community group that meets monthly to network and collaborate, as well as to discuss complex senior abuse cases requiring assistance, supports, guidance and intervention.

⁴⁴ A public hotline managed by Catholic Social Services, an Edmonton based non-profit. Cases are triaged according to their risk level and then referred either to the Elder Abuse Resources and Supports (EARS) team or the Senior Protection Partnership (SPP). See footnotes 9-10.

- a healthcare or social service provider (for example, a doctor, nurse, physiotherapist, or social worker); or
- others (for example, a bank teller or neighbour).

The study identified various barriers to reporting. The most common one was the victim's desire to protect their relationships. For example, many seniors want to protect the alleged abuser – who may be a family member (a child or grandchild) or a friend – from any legal consequences. Other reasons why the victim, or others, may not report an abusive situation or seek help include:

- fear and distrust of the police;
- fear that their abuser will retaliate, fear that the situation will get worse, fear of what will happen to the abuser, fear of conflict;
- feelings of shame, embarrassment, and guilt;
- not knowing abuse is occurring; this was identified by interviewees as particularly common in financial abuse cases, where the abuse can go undetected for years; and,
- not being aware of or know the signs and results of senior abuse and the community supports and services that are available.⁴⁵

Of the reports that did come to EPS's attention, they found that senior-abuse victims were often females with low incomes and with some level of diminished cognitive capacity as a result of dementia for example. Abusers were predominately men. They were often the victim's adult children or grandchildren who were struggling with a variety of personal issues, such as mental health and addiction. Though data gaps exist with respect to the ethno-cultural identity of the victims and the accused, interviewees noted serving victims they've identified as White, Indigenous and Asian.⁴⁶

Senior abuse cases often involved multiple types of abuse. As a result of the complexities in senior abuse cases as well as the unique needs and vulnerabilities of the victims, most incidents of senior abuse are resolved outside the justice system, such as through other services provided via the SPP (e.g., health services or services relating to housing or financial issues). Only one-fifth of all EPS senior abuse cases from 2015 to 2021 resulted in charges being laid (most of these involved at least some type of physical abuse related charge), and only a little over one-third of those resulted in a finding of guilt. Of these, the majority received a custodial sentence as the most serious sentence in the case. Most of the sentences were under one year.

The findings highlighted two things: 1) that senior abuse responses are multifaceted; and 2) that the criminal justice system is only one way of dealing with them. Though many challenges still exist, interviewees identified many promising ways of responding to senior-abuse incidents. These include applying a people-centred approach, having dedicated senior-abuse professionals, training, and peer-support groups for seniors. Furthermore, according to EPS, the findings from this study also indicated the importance of revising data collection processes and practices.

For more information, please refer to the full report, which is planned for a Summer 2023 release.

⁴⁵ More information on the various barriers to reporting can also be found in Beaulieu and St-Martin (2022).

⁴⁶ Though the victims were, according to interviewees, mainly White, there are various barriers to reporting incidents of senior abuse. These may be worse among the most vulnerable groups, such as those of ethno-cultural minorities. For example, an immigrant senior sponsored by their (abusive) family may be scared to report the abuse for fear of being deported back to their country. See Beaulieu and St-Martin (2022) for an overview of the data limitations in the area of senior abuse among ethno-cultural minorities.

Conclusion

The results from these two research projects highlight the need for agencies to work together to prevent and respond to senior abuse, including investing in data. Future work in this area should be framed as both a public health issue and a legal issue, and it should be informed by the latest up-to-date evidence, such as the findings in the two research studies summarized above.

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SUPPORTING VICTIMS OF CRIME PARTICIPATE IN RESTORATIVE JUSTICE

by Nadine Badets

This article explores how federal, provincial and territorial governments in Canada are working to increase and improve victims' of crime participation in restorative justice (RJ) processes.

What is Restorative Justice?

RJ addresses the harm that crime causes to people, relationships, and communities. It does this by bringing the victim, the offender, and the community together to talk about the causes, circumstances, and effects of the crime, and to address their needs. There is no standard RJ process; RJ is flexible with multiple options for participation. The goals of RJ processes are to:

- bring closure to everyone affected by the crime;
- allow the offender to make amends for their crime; and
- enable the offender to reintegrate into the community. It also tries to prevent them from causing harm in the future (Federal-Provincial-Territorial Ministers of Justice and Public Safety 2018).

Victims and survivors of crime often report feeling excluded and isolated by the criminal court process (Justice Canada 2019). Using RJ processes, victims and survivors of crime, as well as their families and communities, can work towards healing. Victims and survivors who have taken part in RJ processes often report feeling empowered because RJ provides an opportunity for them to participate in decision-making (Abramson, Giesbrecht, and Palfreyman 2019). Although victims and survivors are not always satisfied with RJ processes, RJ can provide victims and survivors with support for closure and healing (Bargen, Lyons, and Hartman 2019; Evans, McDonald, and Gill 2018).

There is limited use of RJ in the Canadian criminal justice system (CJS) to address crime. For example, in 2018–19, 28,603 adult and youth cases were accepted into RJ processes (Federal-Provincial-Territorial Working Group on Restorative Justice 2021). In contrast, in 2018–19, adult criminal and youth courts processed and completed 340,104 cases (Statistics Canada, n.d.-a.; Statistics Canada, n.d.-b.).⁴⁷

In 2018, the Federal-Provincial-Territorial (FPT) Ministers responsible for Justice and Public Safety set a goal to increase the use of RJ processes across Canada by at least 5 percent by 2022–23 (FPT Working Group on Restorative Justice 2020; FPT Working Group on Restorative Justice 2021). To accomplish this, we need to better understand how victims and survivors of crime access RJ, so that gaps in services and the systemic and procedural barriers that impede access to RJ can be identified.

This article explains how FPT governments are working to increase and improve victims' and survivors' of crime access to RJ processes.

The survey

Between January and February 2022, Justice Canada distributed a survey called *Facilitating the Participation of Victims of Crime in Restorative Justice Processes Survey* ("the survey"). Justice Canada sent the survey to representatives of FPT governments who work with victims of crime and who support, fund, or implement RJ

⁴⁷ Please note that it is not possible to determine if cases that were accepted into restorative justice (RJ) processes were also completed in the courts. These numbers are therefore not necessarily mutually exclusive.

programs. This includes members of the FPT Working Group on Victims of Crime. The primary goal of this survey was to gather information about activities, policies, research, and partnerships that increased and improved victims' participation in RJ programs across Canada.

The survey questionnaire was divided into eight themes:

- raising awareness among victims of crime;
- raising awareness among CJS professionals;
- key messages;
- engagement;
- partnerships;
- research;
- policies, regulations, procedures, and protocols; and
- tools, documents, and resources.

Questions in each theme asked respondents to report on activities their jurisdiction does to raise awareness on the availability of RJ processes, challenges encountered and lessons learned, as well as suggestions or future plans for improving victims'⁴⁸ participation in RJ. Representatives from four federal departments, eight provincial governments, and the three territorial governments completed the survey, for a total of 19 respondents.⁴⁹

The following section summarizes survey results by the survey themes. It also identifies several challenges jurisdictions face in improving victims' access to RJ. The final section provides promising practices and ideas to be considered for the future.

Key activities

This section summarizes the analysis of survey responses into seven subsections based on the survey themes.⁵⁰ Each subsection describes the main activities and tools that FPT governments are using to help victims of crime participate in RJ processes.

1. Raising awareness of RJ among victims of crime

Close to 70 percent of respondents reported that their jurisdiction is currently conducting activities to raise victims' awareness of RJ programs and services. One of the survey's key findings is that most RJ programs in Canada do not do direct outreach with victims; victim services usually does initial outreach. Victim services play a critical role in communicating about RJ because they are often victims' main point of contact in the CJS. In the territories, Crown Witness Coordinators provide support to victims in court and provide information on RJ processes.

RJ programs and victim services have close working relationships in many jurisdictions. This is because victim services can relay important information to victims and support them through the referral process and the RJ process. Also, CJS partners, such as Crown prosecutors and police who have a mandate to make referrals to RJ programs, are also frequently in contact with victims about the availability of RJ processes.

⁴⁸ The survey questions and materials referred to victims of crime, not to survivors. The rest of the article will refer to victims of crime to align with the language used in the questionnaire.

⁴⁹ There were eight federal respondents in total representing different teams from four federal departments.

⁵⁰ The survey themes of engagement and partnerships were combined in the analysis due to similarities in the responses.

Respondents indicated that most jurisdictions are focused on building their relationships with organizations that serve victims, both inside and outside the CJS, as well as with CJS professionals, to improve victims' access to RJ. One respondent noted that their jurisdiction promotes the use of RJ by having their RJ program staff work with victim services staff to identify potential cases for RJ. Many respondents reported that they often use presentations, training, and committees to develop policies and guidelines for RJ. This work helps to ensure that CJS professionals know when to make RJ referrals and when to contact victims about RJ processes.

Government websites and social media accounts frequently provide public education and outreach on RJ. RJ program staff work with community-based organizations, leaders in the community, and Indigenous governments to help to raise awareness of RJ programs among community members and victims of crime. RJ program staff also work with communities, Indigenous governments, and non-government organizations to develop RJ programs that are culturally appropriate.

2. Raising awareness among CJS professionals

All survey respondents reported that they are working with other CJS professionals in their jurisdiction to raise awareness of RJ processes. Most identified three key CJS partners for RJ programs: Crown prosecutors, police, and victim services. Police and Crown prosecutors play an important role in improving access to RJ for victims because they can make referrals to RJ in certain jurisdictions. Other CJS professionals mentioned by respondents include correctional services staff and the judiciary.

Survey respondents emphasized how important it is to build relationships between RJ programs and CJS professionals because that is critical for increasing the number of referrals made to RJ processes. Many RJ programs provide training on RJ to CJS professionals and share information on RJ processes through committees, working groups, and meetings. Training can take various forms, from classroom learning to internal training manuals. One respondent's jurisdiction published prosecution directives online for Crown prosecutors and the public, and to also inform victims that RJ is available to them.

Training is also important. It ensures that police, Crown prosecutors, the judiciary, and victim services get current and accurate information on the principles of RJ, as well as the availability of local RJ services and how RJ processes function.

CJS professionals in some jurisdictions, such as police in northern and remote areas, have a high turnover rate. Without consistent and regular training, knowledge of RJ programs is lost. This has been found to negatively impact the number of referrals to RJ processes.

In some jurisdictions, the decision to refer someone to a RJ process is up to individual Crown prosecutors and police officers. These professionals will be more likely to make referrals to RJ if they have experience with RJ programs. Referrals to RJ processes will also depend on the culture of an organization. One respondent noted that many Crown prosecutors fear they will be blamed if an offender who is diverted to RJ re-offends. The respondent reported that it is important to ensure that CJS partners who are able to divert cases to RJ understand the RJ programs in their jurisdiction (such as principles, benefits, limitations, and services), which will increase their confidence in using RJ and address concerns such as re-offending.

Another jurisdiction noted that some CJS partners push back on the use of RJ for particular crimes, such as victim services advising against the use of RJ processes for sexual offences.

Many respondents noted that sharing information and training between RJ programs, CJS partners, victim services, community-based organizations, and Indigenous groups are other important activities for raising awareness among CJS professionals.

3. Key messages

The majority (63 percent) of survey respondents provided a few examples of the key messages their jurisdiction shares with victims of crime about RJ programs and processes. Most jurisdictions' key messages emphasize that RJ processes are voluntary as well as flexible, in that victims have many different options for how to participate because there is no standard RJ process. For example, victims can send a surrogate to attend the RJ process on their behalf, and/or they can submit written or verbal feedback to the RJ facilitators.

Many RJ programs focus on educating the public and victims about RJ. This includes the restorative principles on which RJ is based, for example:

- empowerment;
- healing;
- respect;
- empathy;
- non-judgment; and
- self-determination.

Other examples of key messages emphasize the use of a trauma-informed approach in RJ processes. This approach takes into account the physical, social, and emotional effect of trauma on the victim. Another example of a key message is that RJ provides victims of crime with opportunities to have a voice in the justice process and the opportunity to learn more about the crime and the offender.

4. Engagement and partnerships

Almost 90 percent of those who responded to the survey said that they are engaging and working with partners to help victims have better access to RJ processes.⁵¹ The main activities listed for engagement were organizing committees and working groups about RJ within their jurisdiction's CJS. RJ programs also spend a lot of time developing training for CJS professionals, and presentations for community outreach.

Training on RJ is delivered to CJS professionals primarily to equip them with the knowledge and resources they need to refer victims for RJ, which in turn promotes access to justice for victims and promotes victims' rights.

As mentioned earlier, some of the key CJS partners that RJ program staff often work with include victim services, police, prosecution, and corrections. Important relationships outside the CJS for RJ programs include community leadership, such as Indigenous governments and immigrant community leaders, crime prevention programs, and non-profit organizations that serve victims of various types of crime.

5. Research

The questions on research had the lowest response rate in the survey: only 42 percent of respondents reported that their jurisdiction is working on research related to victims of crime and participation in RJ processes. Federal departments conducted most of the research that survey respondents presented. One respondent noted that although their jurisdiction collects extensive quantitative data, their capacity to analyse and publish data is limited.

In 2017–18, data were collected from FPT governments who fund, support, or implement RJ processes to create baseline data on the RJ processes these governments support (FPT Working Group on Restorative Justice 2020).

⁵¹ In the survey, these were separate sections with their own sets of questions. However, due to overlap and similarities in responses, these sections were combined for the analysis.

The results showed that in 2018–19, 30,658 cases were referred to RJ processes, of which 93 percent (28,603 cases) were accepted (FPT Working Group on Restorative Justice 2021). These reports also present data on the number of offenders and victims who participated in RJ processes, and recommended a few ways to increase the number of victims participating in RJ processes.

Other research has focused on the experiences and perceptions of victims who have participated in RJ processes, to better understand their perspectives and their needs when engaging with RJ (Bargen, Lyons, and Hartman 2019; Ha 2019).

Some other examples of studies include a 2021 study that explored the use of RJ in gender-based violence cases (Ending Violence Association of BC and Just Outcomes 2021). A 2018 study on victims' experiences in RJ processes looked at community-based justice programs supported by the Indigenous Justice Program (Evans, McDonald, and Gill 2018).

6. Policies, regulations, procedures, and protocols

About three-quarters (74 percent) of respondents reported their jurisdiction has policies, regulations, procedures, or protocols to support victims' participation in RJ. The responses for this theme varied a great deal: they referred to national resources such as the *Canadian Victims Bill of Rights*⁵² and the Public Prosecution Service of Canada's Deskbook,⁵³ to jurisdictions' internal resources.

One respondent noted that their jurisdiction has developed a set of RJ guidelines to decide who is eligible for RJ. These guidelines set out the types of crimes and offenders that are considered eligible for RJ processes, for example, offences that are considered "minor"⁵⁴ and first-time offenders. The guidelines also emphasize using RJ, and diverting cases more generally, for youth accused of crime. Another respondent noted that their jurisdiction is considering changing the eligibility criteria for RJ processes to include a wider array of offences. Another respondent reported that their jurisdiction has specific policies for using alternative measures and extra-judicial sanctions, which include provisions for victims' participation in RJ processes.

7. Tools, documents, and resources

Close to 60 percent of survey respondents provided an example of a tool, document, and/or resource they use to promote and help victims' access to RJ processes in their jurisdiction. Respondents noted several internal resources within their jurisdictions' CJS, and external resources for victims and the public. Internal resources were often described as training materials, such as manuals on how to make referrals to RJ programs, or manuals to guide RJ facilitators in dialogue with victims at the different stages of a RJ process.

The external resources listed by survey respondents were usually governments' public-facing websites and social media accounts, as some jurisdictions have webpages and brochures about RJ. They also have documents targeted directly to victims of crime. One respondent noted their jurisdiction has an online form victims can use to ask for information on RJ.

⁵² Available at the following website: [Canadian Victims Bill of Rights \(justice.gc.ca\)](https://www.justice.gc.ca)

⁵³ Available at the following website: [Public Prosecution Service of Canada Deskbook \(ppsc-sppc.gc.ca\)](https://www.ppsc-sppc.gc.ca)

⁵⁴ These are crimes that are considered little or no threat to community safety. Some examples of "minor" crimes include property crimes, traffic violations, and offences without physical or sexual violence.

Challenges and lessons learned

For many jurisdictions across Canada, the use of RJ still depends on the accused's or the offender's participation. Often it is only after the accused or offender has accepted that they are responsible for the harm caused by the crime and have agreed to participate in a RJ process that the victim is made aware of the possibility to participate in a RJ process. Some jurisdictions have developed criteria to determine if offenders (such as first-time offenders) and offence types (such as "minor" offences) are eligible for RJ. In a few jurisdictions, victims may request a RJ process.

It can be challenging to provide information about RJ processes to victims. Responses to the COVID-19 pandemic have resulted in significant barriers to public and community outreach. Physical distancing and lockdown restrictions have made it harder for RJ program staff, victim services, and local communities to meet in person with each other, with victims, and with community members. The shift to virtual meetings was particularly difficult for communities and individuals with limited access to the internet. Respondents also noted that some communities face a number of emergencies, including natural disasters, such as flooding and fires, and other types of crises, such as the opioid crisis. These factors make it more difficult to reach these communities.

Providing information on RJ processes to CJS professionals can also be challenging. For example, privacy regulations limit the police's ability to share details with victim services. If victim services staff have very little or no information about the crime, they are more likely to err on the side of caution and not recommend that those cases be referred to RJ.

One respondent noted that professionals who have deep-seated negative stereotypes about certain groups, such as Indigenous peoples, may be less likely to make referrals to RJ processes. This internalized stigma is harmful because it limits access to RJ for certain victims, accused/offenders, and limits their access to justice. This respondent's jurisdiction co-developed mandatory training with the local Indigenous communities to address these stereotypes, and to ensure the training was culturally accurate and respectful. This course taught CJS professionals about Indigenous peoples and the history of Canada, and provided participants with a better understanding of Indigenous RJ programs. The course was considered to be successful, and by the end of the course, even participants who had initially resisted the mandatory training reported a change in their perspectives.

Other challenges noted throughout survey responses include a lack of resources, high staff turnover and burn-out among staff in RJ programs and among CJS partners. These issues have an impact on the number of RJ referrals being made, as the loss of knowledge often results in less referrals. One key lesson learned is that when CJS partners are provided with regular training on RJ programs, they can ensure the knowledge is not lost when staff leave. This is particularly true for regions with high staff turnover, such as police services in northern, rural, and remote areas.

Future plans and concluding thoughts

Survey respondents noted several promising ideas and practices. One respondent suggested that jurisdictions should have a "RJ Champion." This would be an important role to promote RJ processes, as well as advocate to ensure that RJ is more visible within the jurisdiction. Another respondent reported that their jurisdiction is working on a RJ Action Plan to develop a vision and future for RJ including victims' participation in RJ. One jurisdiction conducted an ecosystem mapping exercise to better understand the roles of all RJ stakeholders, especially those in contact with victims, and to identify barriers to victims being referred to RJ processes.

The survey responses shared rich information about how FPT governments are working to increase and improve victims' of crime participation in RJ processes across Canada. However, several areas still need to be explored in more detail. These include a more in-depth review of policies that support victims' participation in RJ processes, and best practices for supporting victims during and after RJ processes. Another iteration of this survey could provide updates to the information in this report, while the periodic administration of this survey could identify trends and changes over time, as well as gaps.

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WHAT DO CANADIANS KNOW ABOUT THE *CANADIAN VICTIMS BILL OF RIGHTS*?

By Fatima Fayyaz and Nadine Badets

Introduction

The *Canadian Victims Bill of Rights* (CVBR) became law in 2015.⁵⁵ It recognizes the rights of victims at a federal level. It also requires consideration of victims' rights during each step of the criminal justice system (CJS) process. These rights include:⁵⁶

1. **The right to protection**, which includes security and privacy;
2. **The right to information**, about the CJS, the status and outcome of one's case, and services available to victims, including restorative justice programs;
3. **The right to seek restitution**, which requires the offender to pay the victim for financial losses the victim suffered because of the offender's crime; and
4. **The right to participate**, to ensure the victim's views are considered (for example, by presenting a victim impact statement at sentencing).

The National Justice Survey 2022

The National Justice Survey (NJS) is an annual public opinion survey led by Justice Canada. Justice Canada uses the results from this survey to inform the development of its policies and programs. In 2022, the NJS surveyed Canadian citizens and others living in Canada about what they knew, what they thought, and what they experienced about different aspects of Canada's justice system.

The NJS collected its findings from a random sample of 4,949 people aged 18 years and older. The survey was about 18 minutes long. Respondents were selected from a pre-profiled database, which originally recruited respondents through random-digit dialling. For the 2022 NJS, respondents were recruited by telephone, email, or SMS invitation. It collected information on age, gender, region, income, employment status, education, place of birth (in Canada or outside of Canada), and ethno-cultural identity. Indigenous participants in this survey self-identified as First Nations, Inuk (Inuit), Métis, or with multiple Indigenous groups. The survey results were weighted to represent the Canadian population as a whole.

This article presents key findings from the 2022 NJS, such as how aware Canadians are of the CVBR. It also presents what Canadians think about victims and witnesses using support animals as testimonial aids and virtual testimony.

Results

How aware are Canadians of the Canadian Victims Bill of Rights?

The 2022 NJS asked respondents to describe how aware they were of the CVBR before taking the survey. It measured responses on a five-point scale: from one (1) meaning "not aware at all" to five (5) meaning "very aware." Respondents who selected four or five on the five-point scale are considered "aware." Overall, less than

⁵⁵ *Canadian Victims Bill of Rights*, S.C. 2015, c. 13, s.2.

⁵⁶ See <https://www.justice.gc.ca/eng/cj-jp/victims-victimes/rights-droits/index.html>.

one-fifth (17 percent) reported that they were aware of the CVBR before taking this survey. Indigenous peoples were more likely to report being aware of the CVBR (21 percent) than White people (17 percent).

Adults aged 45 to 54 (19 percent) and 55 to 64 (18 percent) were more likely to report that they were aware of the CVBR than younger adults aged 25 to 34 (13 percent).

The NJS questions also asked respondents how important they think it is for people in Canada to know about the CVBR, on a five-point scale: from one (1) meaning “not important at all” to five (5) meaning “very important.” Most people reported that they believe it is important (four or five on the five-point scale) to know about the CVBR (81 percent). Age and gender affected these results. Older adults, aged 65 years or older (85 percent), were more likely to say that it is important to know about the CVBR than younger people aged 25 to 34 (74 percent). Women (85 percent) were more likely to report that knowing about the CVBR is important than men (76 percent).

Respondents with incomplete high school education were more likely to agree that it is important to know about the CVBR (90 percent) than those with:

- a registered apprenticeship or other trades certificate (75 percent);
- incomplete post-secondary education (80 percent);
- a bachelor’s degree (79 percent); and
- a postgraduate degree (78 percent).

Results also varied by Indigenous and ethno-cultural identity. First Nations people and Métis⁵⁷ (86 percent each) were more likely to respond that it is important to know about the CVBR than White people were (80 percent). Black people⁵⁸ (91 percent) were also more likely to indicate that it is important to know about the CVBR than White people (80 percent). Southeast Asian people⁵⁹ (90 percent) were more likely to report that knowing about the CVBR is important compared with East Asian⁶⁰ (76 percent), White (80 percent), and South Asian⁶¹ (83 percent) people.

Support animals as testimonial aids

Canada has not passed a law on the use of support animals in the criminal justice system. Service dogs, however, have legal status and their use⁶² has become legal in each province and territory (McDonald and Rooney 2014;

⁵⁷ There were very few responses from Inuit due to many factors such as limited Internet access in Inuit Nunangat, the Inuit homeland, and language barriers.

⁵⁸ Black includes African/African descent, Afro-Caribbean, and Afro-Latino/Afro-Latina/Afro-Latinx, for example.

⁵⁹ Southeast Asian includes Filipino, Vietnamese, Cambodian, Laotian, and Thai, for example.

⁶⁰ East Asian includes Chinese, Japanese, and Korean, for example.

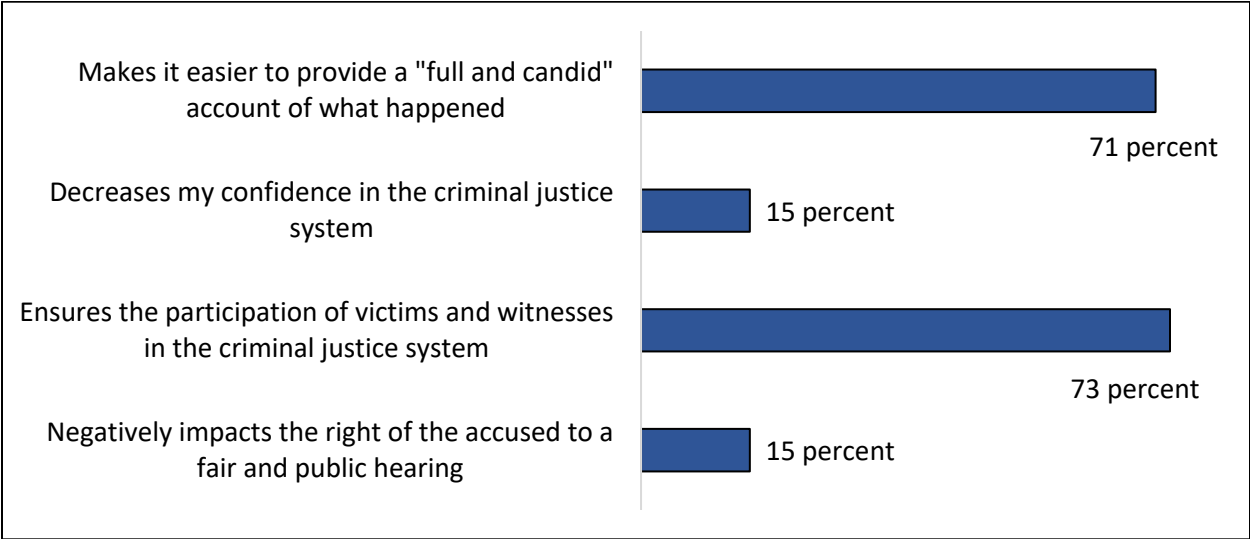
⁶¹ South Asian includes Indian, Pakistani, and Sri Lankan, for example.

⁶² The 2022 National Voluntary Standard CAN/HRSO – 500.01 - 2022 ([Published Standards \(hrso-onrh.org\)](https://www.hrso-onrh.org/)), states that a service animal is “A dog or possibly another animal that is individually task trained to assist, work with, and benefit a person with a visible or invisible disability or life-altering injuries such as physical, sensory, psychiatric, intellectual, or other mental disability, injury, or disorder. This is different from an ESA. An Emotional Support Animal (ESA) is “A companion animal (pet) that may provide comfort and emotional support to its owners but is not specifically task-trained for a disability or evaluated for community engagement.” The term “support animal” is not recognized in the CAN/HRSO – 500.01 – 2022, but it has been used to encompass the range of animals that have been allowed in courtrooms and to match the “support person” provisions found in the *Criminal Code*.

McDonald and Poulin 2022). The *Criminal Code* does provide support for people testifying in a criminal trial⁶³ but only for a support *person* for a child witness (emphasis added, *Ibid.*).

Little research has been conducted on the use of support animals in courts. However, the existing research shows that support animals have many benefits for vulnerable people, including that the animals are able to comfort and calm them (McDonald and Rooney 2014; McDonald and Poulin 2022).⁶⁴ The 2022 NJS had four questions⁶⁵ for respondents' opinions on the use of support animals as testimonial aids in courtrooms. The results show that overall there is a significant amount of support in Canada for the use of support animals as testimonial aids for victims and witnesses. Opinions differ by gender, age, ethno-cultural identity, labour force status, and level of education (Figure 1).

Figure 1: Percentage of people who agreed with the following statements on the use of a support animal as a testimonial aid by victims and witnesses in a courtroom, Canada, 2022



Source: Justice Canada, National Justice Survey, 2022.

About seven in ten (71 percent) respondents agreed that support animals are an important aid to help victims and witnesses provide a “full and candid” account of what happened (Figure 1). About the same proportion (73 percent) agreed that support animals are an important tool for the courts to support victims and witnesses

⁶³ Sections 486.1(1) and (2) of the *Criminal Code* permit an application to be made for a support person “to be present and to be close to the witness while the witness testifies.”

⁶⁴ Some results are inconclusive, this may be because of limitations in research design. For a fuller discussion of research on support animals, please see McDonald and Rooney (2014).

⁶⁵ Respondents were asked to agree or disagree with the following four statements on a five-point scale, from one (1) meaning “strongly disagree” to five (5) meaning “strongly agree”:

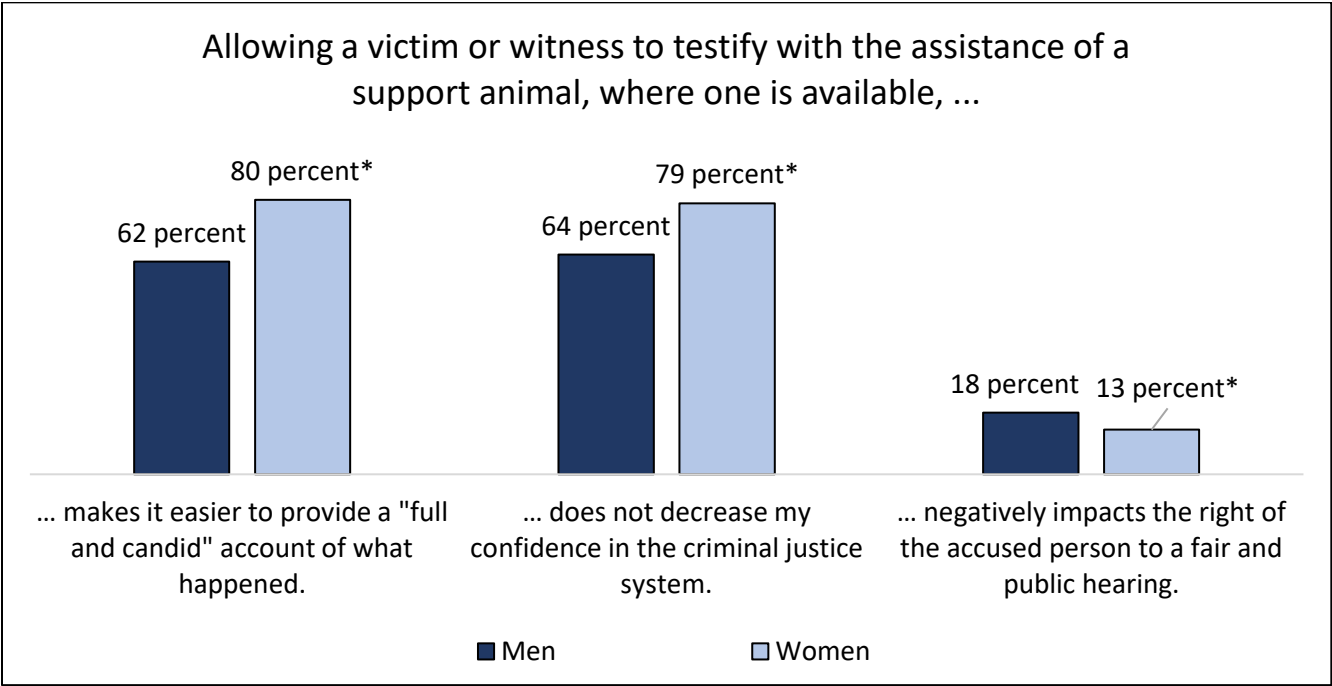
“Allowing a victim or witness to testify with the assistance of a support animal, where one is available: 1) Is an important tool for the courts to make it easier for a victim or witness to provide a “full and candid” account of what happened; 2) Decreases my confidence in the criminal justice system; 3) Is an important tool for the courts to support the participation of victims and witnesses in the criminal justice process. ; and 4) Negatively impacts the right of the accused person to a fair and public hearing.”

participating in the CJS. People were less likely to agree that using support animals decreases their confidence in the CJS (15 percent), and that it harms the right of the accused to a fair and public hearing (15 percent).

Differences in opinion were observed by gender.⁶⁶ Men were less likely than women to support the use of support animals as testimonial aids for victims and witnesses. Eight in ten women (80 percent) supported the idea that allowing a victim or witness to use a support animal would help them provide a “full and candid” account of what happened, whereas 62 percent of men agreed with this statement (Figure 2).

Women (79 percent) were also more likely than men (64 percent) to indicate that allowing a victim or witness to testify using a support animal does not decrease their confidence in the CJS. Men (18 percent) were more likely than women (13 percent) to report that they think the use of a support animal for victims and witnesses harms the accused person’s right to a fair and public hearing.

Figure 2: Percentage of people by gender who agreed with the following statements on the use of a support animal as a testimonial aid by victims and witnesses in a courtroom, Canada, 2022



Note: * indicates a statistically significant difference from men at the 95 percent level.

Source: Justice Canada, National Justice Survey, 2022.

Differences in opinions on the use of support animals were observed by ethno-cultural group and by place of birth (inside and outside of Canada). This could be because different religions and cultures have different attitudes towards animals, in particular dogs.

⁶⁶ Please note that although data were collected for respondents who selected “Another gender,” i.e., neither male nor female, the sample size was too small to be used.

White people (74 percent) were more likely than members of racialized groups (65 percent) to agree that using a support animal helps victims and witnesses to provide a “full and candid” account,⁶⁷ with the exception of Latinx⁶⁸ people (75 percent). Also, people who were born in Canada (73 percent) were more likely than those born outside Canada (65 percent) to express support for the use of support animals as testimonial aids.

White people (76 percent) were more likely than members of racialized groups (61 percent)⁶⁹ to report that using a support animal would not decrease their confidence in the CJS. Latinx (79 percent) and White (76 percent) people were also more likely to agree that allowing a victim or witness to use a support animal helps victims and witnesses participate in the justice system than Middle Eastern and North African⁷⁰ (61 percent), South Asian (63 percent), Black (65 percent), and East Asian (65 percent) people.

White people (71 percent) were more likely than members of racialized groups (54 percent) to report that they do not think the use of support animals as testimonial aids infringe on the accused person’s right to a fair and public hearing. However, racialized and ethno-cultural groups had different opinions. Latinx people (62 percent) were more likely than Southeast Asian (46 percent), East Asian (51 percent), and Middle Eastern and North African (51 percent) people to think that the accused’s right to a fair and public trial would not be affected if a victim or witness had a support animal with them while testifying in court.

A higher proportion of people born in Canada (70 percent) than people born outside Canada (55 percent) reported that using a support animal does not negatively affect the accused’s rights.

Students attending school full-time (86 percent) were more likely to agree that the use of support animals in the courts helps victims and witnesses to participate in the CJS than people who are unemployed (68 percent), working full-time (30 hours or more a week) (70 percent) or part-time (less than 30 hours a week) (76 percent), and retirees (75 percent). Full-time students (84 percent) were also more likely to say that using support animals as testimonial aids for victims and witnesses will not negatively affect the accused in a trial.⁷¹

Young adults aged 18 to 24 years (82 percent) were more likely than older adults aged 25 to 44 (71 percent) to report that support animals are an important tool for supporting victim and witness participation in the CJS.

Finally, responses by annual household income showed large differences in opinion.⁷² People in the highest income group (\$120,000 and more) (72 percent) were more likely than people in the lowest income group (less than \$40,000) (62 percent) to disagree that the use of support animals by victims or witnesses harms the rights of the accused to a fair and public trial.

⁶⁷ When presented by ethno-cultural group it was 59 percent among Southeast Asian people, 59 percent among Middle Eastern and North African people, 60 percent among East Asian people, 61 percent among Black people, and 65 percent among South Asian people.

⁶⁸ Latinx is used for respondents who self-identified as of non-white Latin American descent, also known as Latina/o or Latine. Latinx, like Latine, is a gender-neutral term.

⁶⁹ When presented by racialized group, the responses were 58 percent among Black people, 59 percent among East Asian people, 59 percent among Southeast Asian people, 59 percent among Middle Eastern and North African people, 61 percent among South Asian people, and 69 percent among Latinx people.

⁷⁰ Middle Eastern and North African includes Afghans, Iranians, Lebanese, Egyptians, and Algerians, for example.

⁷¹ When compared with the self-employed (59 percent), the unemployed (66 percent), retirees (69 percent), people working full-time (65 percent) or part-time (71 percent), and those who are not currently in the labour force (70 percent).

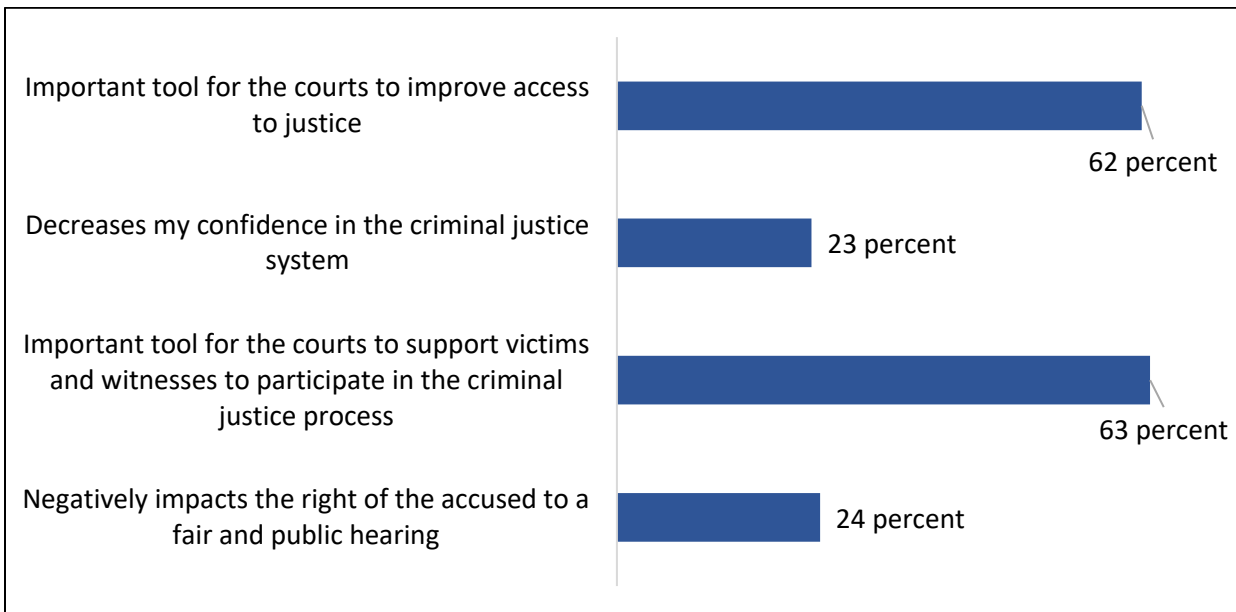
⁷² Annual household income refers to the total income of every member in a respondent’s household before taxes.

Virtual testimony by victims or witnesses

The role of technology in courts across Canada significantly increased in 2020 when people had to physically distance due to the COVID-19 pandemic (Justice Canada 2022). Videoconferencing became essential as it ensured that criminal courts could continue to process cases even though no one could gather in person. The 2022 NJS included four questions⁷³ to measure people in Canada’s opinions on the use of virtual testimony.

Six in ten people (62 percent) agreed with the statement that virtual testimony is an important tool the courts can use to improve access to justice, and a similar proportion (63 percent) agreed that allowing a victim or witness to testify virtually is an important tool for the courts to support their participation in the CJS (Figure 3). In contrast, almost a quarter (23 percent) of people reported that allowing a victim or witness to testify virtually, from outside the courthouse, decreases their confidence in the CJS, and 24 percent agreed that the use of virtual testimony by a victim or witness would negatively impact the right of the accused person to a fair and public hearing.

Figure 3: Percentage of people who agreed with the following statements on the use of virtual testimony by victims and witnesses, Canada, 2022



Source: Justice Canada, National Justice Survey, 2022.

Most people in Canada appear to support the use of virtual testimony by victims and witnesses in the courts, but there were several differences in opinion observed by age group. For example, older adults expressed more support for virtual testimony than younger adults. Adults aged 65 years and older (18 percent) were less likely

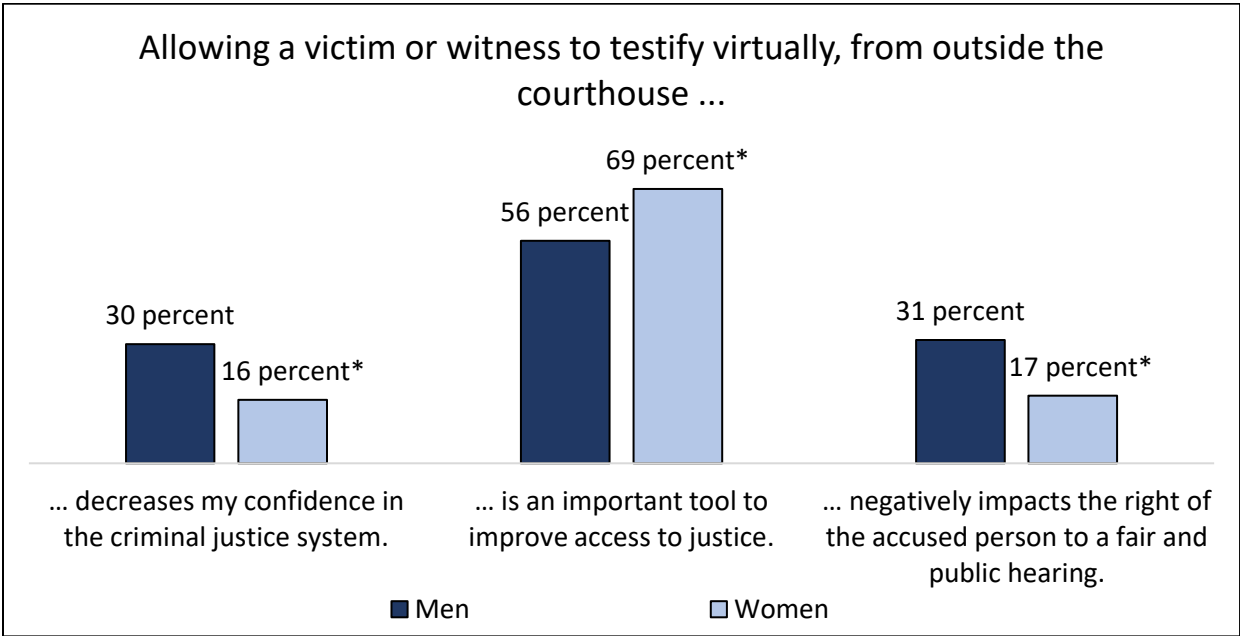
⁷³ Respondents were asked to agree or disagree with the following four statements on a five-point scale, from one (1) meaning “strongly disagree” to five (5) meaning “strongly agree.”; “Allowing a victim or witness to testify virtually, from outside the courthouse: 1) Decreases my confidence in the criminal justice system; 2) Is an important tool for the courts to improve access to justice; 3) Is an important tool for the courts to support the participation of victims and witnesses in the criminal justice process; or 4) Negatively impacts the right of the accused person to a fair and public hearing.”

than younger adults aged 25 to 54 (25 percent) to report that the use of virtual testimony by victims and witnesses decreases their confidence in the CJS.

Similarly, younger adults aged 25 to 54 (26 percent) were more likely than older adults aged 65 and older (19 percent) to believe that allowing a victim or witness to testify virtually has a negative effect on the right of the accused person to a fair and public hearing.

Gender also affected differences in opinion on virtual testimony. The survey results show that women were more likely than men to support the use of virtual testimony (Figure 4). Three in ten men (30 percent) said that victims and witnesses using virtual testimony would decrease their confidence in the CJS, while less than 20 percent of women expressed a similar opinion.

Figure 4: Percentage of people by gender who agreed with the following statements on the use of virtual testimony by victims and witnesses, Canada, 2022



Note: * indicates a statistically significant difference from men at the 95 percent level.

Source: Justice Canada, National Justice Survey, 2022.

Women (69 percent) were also more likely than men (56 percent) to support the use of virtual testimony as a tool to improve access to justice for victims and witnesses of crime. Men (31 percent) were also more likely than women (17 percent) to say that they believe allowing victims and witnesses to testify virtually harms the accused person’s right to a fair and public trial.

Ethno-cultural groups showed some differences in opinion on virtual testimony. There could be a wide range of reasons for this. White people (64 percent) were more likely than East Asian (56 percent) and Middle Eastern and North African (54 percent) people to say that they believe that virtual testimony is an important tool to improve access to justice for victims and witnesses. Black people (62 percent) were more likely than East Asian people (51 percent) to say that virtual testimony is an important tool to support victim and witness participation in the CJS.

Middle Eastern and North African people (31 percent) were more likely to say that a victim or witness testifying virtually harms the right of the accused to a fair and public hearing than East Asian (19 percent), Latinx (22 percent), and White (23 percent) people, and those who identify as belonging to more than one ethno-cultural group (16 percent).

When the survey used level of education achieved to compare responses, those with a bachelor's degree (68 percent) were more likely to see virtual testimony as a way to improve access to justice than those with registered apprenticeships or other trades certificates or diplomas (49 percent) and those with some post-secondary education (61 percent).

Perceptions of victims and survivors of crime

Three percent of the 2022 NJS respondents self-identified as victims or survivors of crime over the past two years.⁷⁴ About 61 percent of victims and survivors reported that they believe it is very important for people in Canada to know about the CVBR. However, 42 percent said that before taking this survey, they had not been aware of the CVBR.

Most victims and survivors of crime (65 percent) strongly disagreed with the statement that the use of a support animal as a testimonial aid by victims and witnesses would decrease their confidence in the CJS. Nearly half (48 percent) of victims and survivors strongly disagreed that having victims and witnesses testify virtually (from outside the courtroom) would decrease their confidence in the justice system.

Victims and survivors of crime strongly disagreed when asked if victims and witnesses being allowed to use a support animal (59 percent) or virtual testimony (42 percent) negatively impacts the accused's right to a fair and public trial.

Limitations

The responses of this survey are weighted to represent the Canadian population, but the sample has several limitations. Data from this survey only gathered responses from those with internet access and a phone (cell phone or landline). Response rates from Inuit were considerably lower than other communities, which may be due to many factors such as limited internet access in Inuit Nunangat, the Inuit homeland. Secondly, the survey was only collected in English and French, so it is possible that language barriers prevented some Inuit and other respondents from completing the survey.

Conclusion

The responses to the 2022 NJS show that Canadians' opinions on the CVBR and the use of testimonial aids in the courts vary by gender, age, ethno-cultural identity, place of birth, level of education achieved, labour force status, and income.

Just over half of Canadians reported that they had not been aware of the CVBR before they took the survey, however, most Canadians believe it is important to know about the CVBR. Black and Indigenous people were more likely than White people to emphasize the importance of knowing about the CVBR. This may be due to Indigenous and Black people's experiences and treatment as victims of crime in the Canadian CJS. More research

⁷⁴ Respondents were asked: "Have you been involved with the criminal justice system in the past two years?" One of the response categories included was: "As the victim/survivor of a crime."

is needed to present a better portrait of Indigenous and Black people's experiences as victims of crime in the Canadian CJS, and how those experiences are informed by settler-colonialism, racism, and discrimination.

The survey results showed that there is a great deal of support in Canada for the use of support animals as testimonial aids and for the use of virtual testimony. Some differences in opinion were observed by socio-demographic characteristics. For example, White and Latinx people were more likely than other ethno-cultural and racialized groups to agree that if victims and witnesses use support animals as testimonial aids, it would help them to give a "full and candid" account of what happened and support them to participate in the CJS. Women and young adults were more likely than men and older adults to support the use of support animals in the courts. However, older adults aged 65 and older were more likely than younger adults to support the use of virtual testimony by victims and witnesses.

Respondents who self-identified as victims and survivors of crime strongly supported the use of support animals and virtual testimony by victims and witnesses. More research can help us to better understand the benefits and limitations of using support animals and virtual testimony in Canada's criminal courts.

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UNDERSTANDING HOW SENTENCES OF TWO YEARS OR MORE IN CUSTODY ARE CALCULATED⁷⁵

By the National Office for Victims

When an offender is sentenced to serve a period of incarceration, those who have been harmed, directly or indirectly, expect that the offender will serve the full length of a custodial sentence, or at least most of the sentence, behind bars. This mistaken belief often causes victims, survivors, and the general public to feel that the sentence handed down by the courts is inconsistent with what actually happens.

Background

The federal corrections and conditional release system can be challenging to find your way around. Public Safety Canada's National Office for Victims (NOV) acts as a central resource that works to improve victims' experience with the system when an offender has been sentenced to two or more years in federal custody. To do this, NOV:

- provides a "victims' lens" on correctional policy development to help victims exercise their rights to be informed, to participate, and to be protected within this system;
- develops brochures, guides, and booklets to help victims and the general public better understand and navigate federal corrections and conditional release;
- complements the work of the Policy Centre for Victim Issues at Justice Canada using the Public Safety Portfolio to coordinate and engage with victims, their advocates, and other key stakeholders; and
- considers the unique needs of victims in vulnerable communities or sub-populations, including Indigenous peoples, when doing the work outlined above.

Between 2016 and 2020, the NOV held national roundtables⁷⁶ to discuss how federal corrections and conditional release work in the *Canadian Victims Bill of Rights* (CVBR) with victims, their advocates, and victim service providers. These discussions made it clear that victims have a right to clear and simple guidelines so they can fully understand and exercise their rights under the CVBR and so they can understand federal sentences administered by the Correctional Service of Canada (CSC):

- for time offenders have spent in custody,
- the types of release for which an offender serving a federal sentence may be eligible, and
- when offenders become eligible for those releases.

In response to this feedback, the NOV publicly released several information products in November 2021, to help victims and the general public understand how federal sentences are calculated and how the timing of eligibility for conditional release works.⁷⁷

⁷⁵ The contents of this article has been pulled from information previously developed by the National Office for Victims in collaboration with CSC (Correctional Service of Canada) and PBC (the Parole Board of Canada). See <https://www.publicsafety.gc.ca/cnt/rsrscs/pblctns/2021-sntnc-clcltn/index-en.aspx>

⁷⁶ Copies of the roundtable summary reports can be found at [2016-2017: National Victims Roundtable on the Right to Information](#); [2017-2018: National Victims Roundtable on the Right to Participation](#); [2018-2019: National Victims Roundtable on the Right to Protection](#); [2019-2020 National Victims Roundtable on the Right to Information](#).

⁷⁷ [Sentence Calculation: An Explanation of the Basics of Sentence Calculation with Examples \(publicsafety.gc.ca\) Offender Serving a Single Fixed Sentence with Long Term Supervision; Offender Serving a Life Sentence for 1st Degree Murder; Offender Serving an Indeterminate Sentence; Offender Serving Multiple Concurrent Sentences; Offender Serving Multiple Consecutive Sentences](#)

How are Sentences Calculated?

To decide an appropriate sanction in each case, the courts are guided by several different purposes and principles:

- proportionality: the sentence should fit the crime
- denunciation: the offender should be punished for violating society's code of values
- deterrence: the sentence should deter the offender from committing another crime
- incapacitation: the offender must be removed from society and lose their freedom
- rehabilitation: the sentence should provide training for the offender so they can return to society
- reparation: an offender should bear the consequences of their crime. This principle also provides some justice to the victim.
- accountability: the offender takes responsibility for their actions, decisions, and consequences⁷⁸

These principles provide judges with some discretion to tailor a sentence to the circumstances of the case before them.

Judges use the *Criminal Code* (CC) and the *Corrections and Conditional Release Act* (CCRA) to decide how to calculate sentences of two years or more. The CCRA recognizes that victims and survivors have an important role to play in the criminal justice system. So it outlines what types of information can be disclosed to victims who have been harmed by offenders supervised by the Correctional Service of Canada (CSC) and the Parole Board of Canada (PBC). The CSC manages offenders of various security levels in federal institutions and supervises them when offenders have been conditionally released into the community. The PBC is an independent body that makes quality decisions on conditional release. In 2019–20, 13,720 people were serving their sentences in a CSC facility.⁷⁹ They represented about 60 percent of the offenders CSC was responsible for. The other 40 percent were being supervised in the community. Of that 40 percent, 7,062 had been released on either day parole or full parole from a federal institution or Healing Lodge into the community, and were supervised by the CSC.⁸⁰

The CCRA defines a victim as someone who has suffered physical or emotional harm, property damage, or economic loss as the result of an offence being committed. If a victim has died, is ill, or is otherwise unable to act for themselves, the victim's spouse, common-law partner, relative, dependent, or anyone who has custody, is responsible for caring or supporting the victim, or is a dependent of the victim, may ask for and receive information about the offender on behalf of the victim.

The CCRA provides victims with information about the offender when they ask for it so they can follow the offender through the correctional system.⁸¹ This information includes the dates an offender will be eligible for release and what progress they are making to meet the objectives of their Correctional Plan.⁸²

Victims may also provide information that would be considered in decision-making (submit a victim statement (separate from the victim impact statement they may have submitted to the Court at sentencing)) and be told of the CSC and PBC's decisions about the offender. In 2019–20, 8,857 victims received information about 5,045

⁷⁸ Section 718 of the *Criminal Code*.

⁷⁹ This number represents offenders "in custody in a CSC facility." This includes all active offenders incarcerated in a CSC facility, offenders on temporary absence from a CSC facility, offenders who are temporarily detained in a CSC facility, and offenders on remand in a CSC facility.

⁸⁰ 2020 Corrections and Conditional Release Statistical Overview (publicsafety.gc.ca)

⁸¹ Sections 26 and 142 of *Corrections and Conditional Release Act*

⁸² For more information, see [Infographic: Correctional Plan Progress Report \(csc-scc.gc.ca\)](https://csc-scc.gc.ca)

offenders who had harmed them. Victims are most likely to register to receive information about the offender when they have suffered serious personal harm, for example as a result of offences causing death or sexual offences.

Understanding Conditional Release

The purpose of conditional release is to contribute to maintaining a just, peaceful, and safe society. This is done by making decisions on the timing and conditions of release that will best help offenders to rehabilitate and to reintegrate into the community as law-abiding citizens.⁸³ In the federal corrections and conditional release system, sentence calculations determine two things:

- a) the total combined length of all sentences to be served as handed down by the courts, and
- b) at what points the person serving a sentence of two or more years will be eligible for parole and other forms of conditional release.

Types of conditional release include:

- *Work Release* (WR) allows an offender to leave the institution every day to work and gain skills that will help them when they are released.
- *Escorted Temporary Absences* (ETA) allow an offender to be away from the institution, with an approved escort, for medical, administrative, community service, family contact, rehabilitation (participate in correctional programs) or compassionate reasons (to attend a funeral).
- *Unescorted Temporary Absences* (UTA) allows offenders to be away from the institution for longer periods to take part in programs and reintegration activities.
- *Day Parole* (DP) allows offenders to serve part of their sentence in the community, while supervised, as long as they return to an approved facility or institution each night and abide by the conditions of their release.
- *Full Parole* (FP) permits offenders to serve part of their sentence living and working independently in the community, while supervised, as long as they abide by their conditions of release.
- *Statutory Release* (SR) entitles offenders to be released into the community when they have served two-thirds of their sentence, unless they are serving a life sentence or an indeterminate sentence (that is, the courts have designated them a Dangerous Offender (DO)) or they are subject to a PBC order called a warrant expiry. That order detains them until the end of their sentence. Offenders may be detained beyond the date they are eligible for SR if they are likely to:
 - i. commit an offence causing death or serious harm;
 - ii. commit a sexual offence involving a child; or
 - iii. commit a serious drug offence before the warrant expiry date.

Parole is a privilege rather than a right. Being eligible for parole does not mean an offender is automatically released. Except for full parole and statutory release, offenders must apply for all types of conditional release. WR, ETA, and some UTAs require a warden's decision. All other decisions require a Parole Board decision.

Except for those serving a life sentence for murder or an indeterminate sentence because they have been named DOs, most people serving federal sentences are serving a definite sentence, which has a fixed length of time of two or more years. Those serving life and/or indeterminate sentences represented 25 percent of CSC's

⁸³ Purpose and Principles of the correctional system, *Corrections and Conditional Release Act*, s. 100.

total population of offenders in 2019–20. Most offenders serving federal sentences return to the community at some point.

Victims can submit a statement at any time during an offender's sentence. This can describe the effect the crime has had on them, their family, or the community; outline their safety concerns; and/or present their views on the offender's risk to reoffend for decision makers to consider. It can also include a request for specific release conditions (a no-contact order or restrictions on where the offender can go) to be placed on the offender's release. Information from victims is helpful when it is:

- relevant to assessing the conditions, and
- is necessary to manage a particular risk that an offender might present when developing a release plan, especially if the offender lives close to the victim.

If the decision is one the PBC has made and a victim has asked for specific conditions, Board members are required to provide written reasons if they do not impose all of the conditions requested. Written reasons are not required if they impose some, but not all conditions. If the offender does not abide by the conditions of release, the Board can revoke their parole and return them to custody. Success rates in 2019–20 were 91.1 percent on DP and 88 percent on FP. About 8 percent of offenders on DP and 10 percent of offenders on FP had their parole revoked for breaching their conditions. The parole of less than 1 percent of offenders released on DP and 2 percent on FP was revoked for an offence.

NOV released a booklet designed to help the reader better understand the various types of release and how public safety is maintained.⁸⁴ It also released several fact sheets that outline the timing of release decisions for:

- a) a single fixed sentence with a long-term supervision order,
- b) a life sentence for first-degree murder,
- c) an indeterminate sentence,
- d) multiple concurrent sentences, and
- e) multiple consecutive sentences.

The PBC has discretion over whether or not to grant parole. This is based on a thorough risk assessment of all relevant information available. When they decide whether or not to grant parole, Board members carefully review the information provided by victims, the courts, correctional authorities, mental health professionals, and the offender. In arriving at a decision, the PBC considers a number of factors, but above all, it considers the protection of society.

Informing Victims about the Offender's Release

When an offender is released, it can be stressful for victims who continue to have safety concerns. However, victims can take steps to ensure they are supported and to increase their sense of safety. Victims have a right to certain information (when an offender is eligible for parole and review dates). If the victim's interest outweighs the invasion of the offender's privacy, they can receive more information about the offender who harmed them, when they ask for it. For example, victims can ask for:

- the location where the offender is being supervised or held;

⁸⁴ The booklet and accompanying fact sheets can be found at [Sentence Calculation: An Explanation of the Basics of Sentence Calculation with Examples \(publicsafety.gc.ca\)](https://publicsafety.gc.ca) Offender Serving a Single Fixed Sentence with Long Term Supervision; Offender Serving a Life Sentence for 1st Degree Murder; Offender Serving an Indeterminate Sentence; Offender Serving Multiple Concurrent Sentences; Offender Serving Multiple Consecutive Sentences

- information about the offender's progress in meeting the objectives of their Correctional Plan;
- a recent photo of the offender at the time of their release;
- release conditions; and
- if the offender is under a removal order, confirmation that the offender has been removed from Canada.

How is parole eligibility calculated for certain types of sentences?

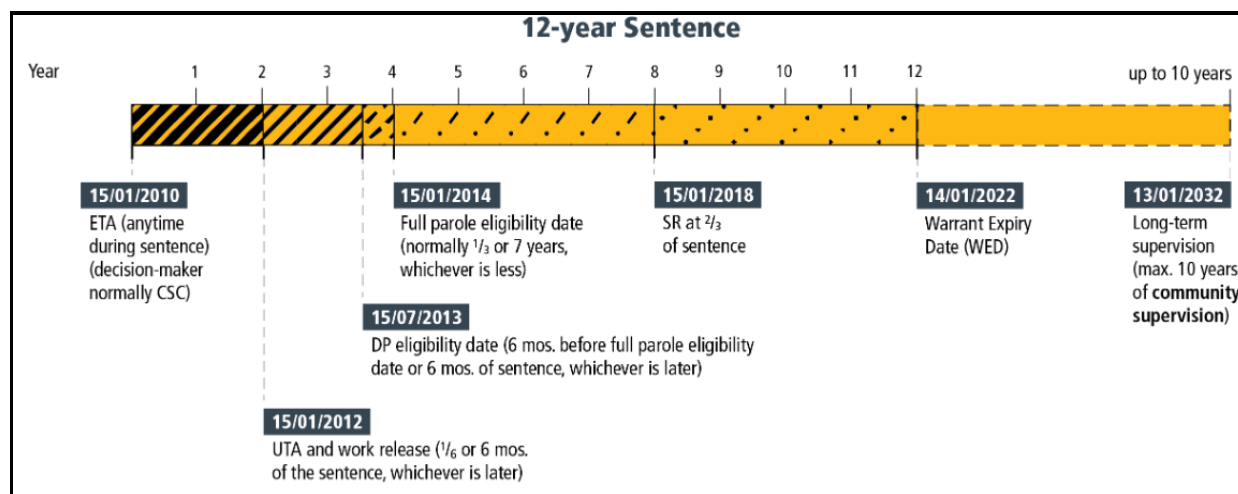
The following examples illustrate when offenders become eligible for certain types of release.⁸⁵ These examples are only estimates. For exact eligibility dates, victims must register with CSC or the PBC and keep their contact information up to date to receive accurate information.

1. Single fixed sentence

Single fixed sentence: Normally, the full-parole eligibility date is one-third of a definite sentence or seven years, whichever is less. For example, an offender serving a 12-year sentence would be eligible for full parole four years after their sentence was imposed. However, just because an offender is eligible does not mean they will be automatically released. Offenders must apply for all types of conditional release except for full parole statutory release. Only the PBC can grant that.

A court may also impose long-term supervision when it judges that the risk presented by the offender can be managed in the community through the right kind of supervision for certain types of offenders (Figure 1).

Figure 1: Single 12-year sentence with Long-Term Supervision Order (LTSO)



Source: Public Safety Canada 2021.

The procedures for designating an offender as a Long-Term Offender (LTO) (s.753.1 of the CCC) and a DO are similar (s.753 of the CCC). An application to the court for a finding that an offender is a DO or a LTO may be made where individuals are convicted of sexual offences such as sexual assault, forcible confinement, invitation

⁸⁵ This is not an exhaustive list of examples.

to sexual touching, sexual exploitation, aggravated sexual assault, and sexual assault with a weapon or procuring. The same procedure is used for a person who committed another offence with a sexual component (e.g., break and enter with the intent to commit a sexual assault).

Every offender under long-term supervision remains under CSC supervision and is subject to standard conditions: they must report any change in their financial situation to their parole supervisor, and they must follow special conditions imposed by the PBC. These include being required to reside in a community-based residential facility or a psychiatric facility.

The timeline in Figure 1 illustrates a 12-year sentence with an LTSO and the dates an offender is eligible for various types of release. Assume the sentence began on January 15, 2010 and lasted 12 years until the warrant expiry date on January 14, 2022. The date an offender is eligible for an ETA would then be any time during the sentence. In this case, the date an offender is eligible for an ETA is the same date the sentence began, on January 15, 2010.

The date an offender is eligible for a UTA and work release is January 15, 2012, two years into the sentence. This date is one-sixth, or six months of the sentence, whichever is later. The date an offender is eligible for a DP is July 15, 2013, three and a half years into the sentence, six months before full parole or six months of the sentence, whichever is later. In this case, the offender is eligible for FP on January 15, 2014, four years into the sentence, one-third of the sentence or seven years, whichever is less. The SR date is January 15, 2018, eight years into the sentence, after the offender has served two-thirds of the sentence. The long-term supervision order begins on the warrant expiry date, January 14, 2022, and lasts ten years, until January 13, 2032.

2. Merged multiple sentences

Multiple sentences: Combining types of sentences, sentencing dates, and possible interventions, such as suspending, ending, or revoking a release, can make calculating when an offender is eligible for parole and other forms of conditional release very complicated. When multiple sentences merge, dates an offender is eligible for release are recalculated on the basis of the new single sentence. However, there are two important rules for imposing additional sentences.

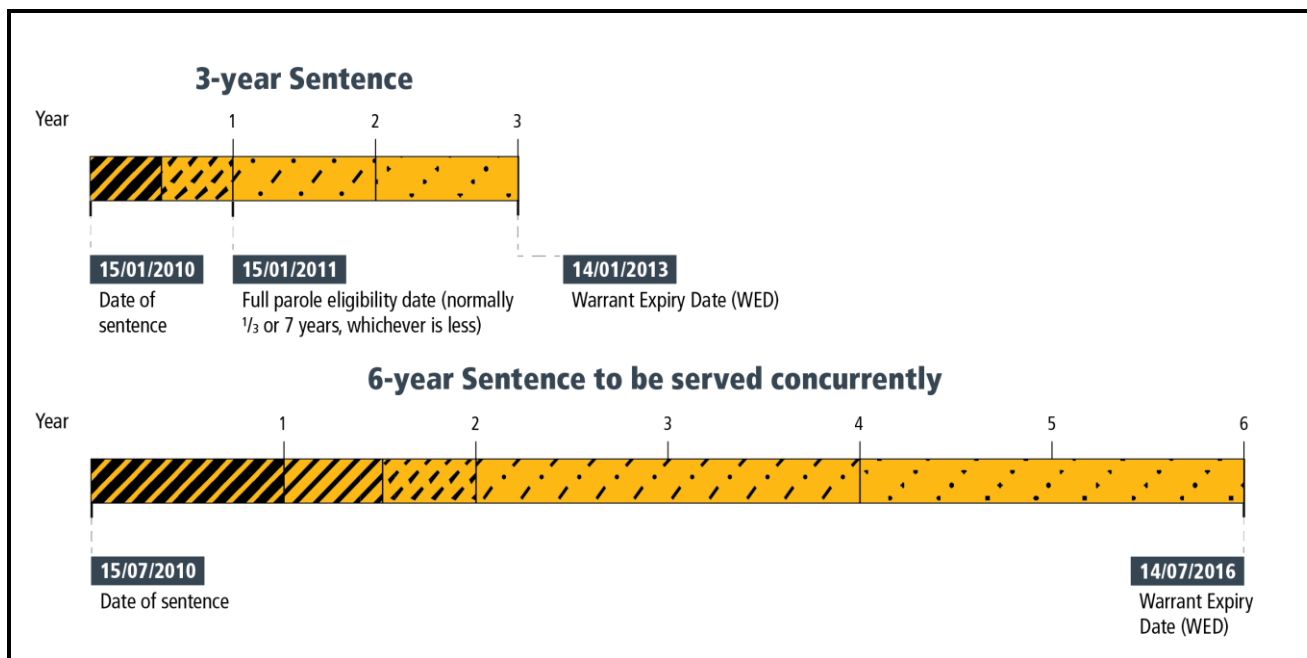
First: An offender who receives a new consecutive or concurrent sentence will have that sentence merged with the current sentence. From the date the new sentence is imposed, before they become eligible for parole, the offender must serve the remaining period in which they are ineligible for parole onto the existing sentence. To that they must add a period that is equal to the period they are ineligible for parole for the new sentence.

Second: Under Canadian law, any definite sentences imposed in addition to a life sentence or indeterminate sentence must be concurrent rather than consecutive. However, the principle of adding parole ineligibility periods also applies when an offender serving a life sentence receives an additional definite sentence. This ensures that the new sentence directly affects the period during which the offender is not eligible for parole. However, when the sentence is for an offence other than murder, the period during which offenders are ineligible for parole may only be added to a maximum of 15 years from the date of the last sentence imposed (s.120.3 of the CCRA).

2 a) 3-year sentence + 6-year sentence to be served concurrently

In this case, the offender was sentenced to 3 years (36 months) in custody on January 15, 2010. Six months later, on July 15, 2010, the same offender was sentenced to 6 years (72 months) in custody (Figure 2).

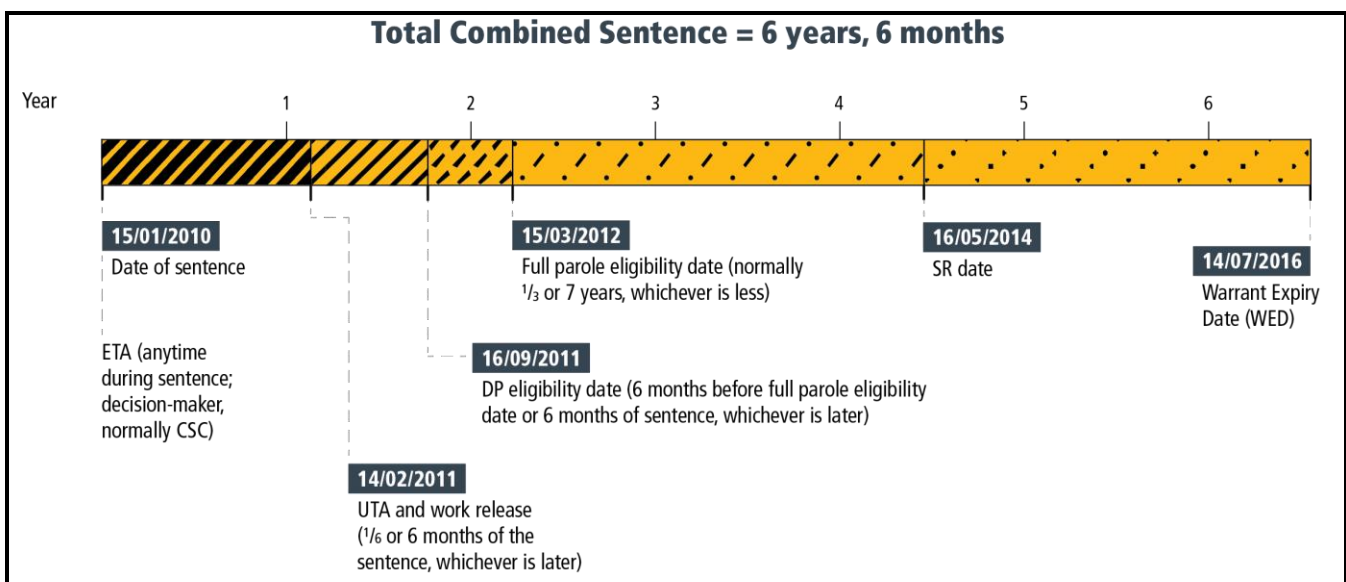
Figure 2: Single three year sentence + 6-year sentence to be served concurrently



Source: Public Safety Canada 2021.

The second sentence is to be served concurrently with the first sentence. In other words, the two sentences run at the same time. Under subsection 139(1) of the CCRA, the first and second sentences are combined into one sentence. The combined sentence begins on the start date of the first sentence (January 15, 2010) and ends on the expiration date of the second sentence (July 14, 2016). In this case, both sentences combined results in a sentence of six years and six months (Figure 3).

Figure 3: Total Combined Sentence = 6 years, 6 months



Source: Public Safety Canada 2021.

The timeline set out in Figure 3 illustrates a total combined sentence of six years and six months, and the dates offenders are eligible for various types of release.

The offender is eligible for FP on January 15, 2011 of the first three-year sentence, one year after the start of the sentence (one-third of the three years), and they are eligible for DP on September 16, 2011. This date is six months before the date they are eligible for full parole or six months of the sentence, whichever is later.

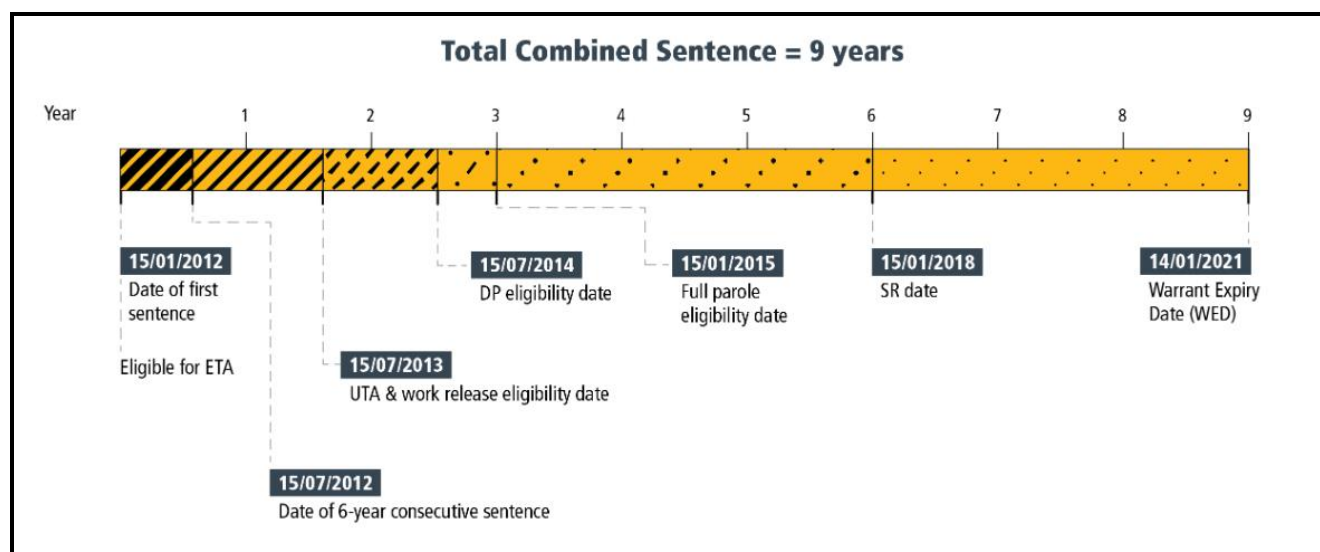
However, since the two sentences must be merged, the overall length of the sentence the offender must serve becomes six years and six months. This changes the date the offender is eligible for FP of the combined sentence to two years and two months (one third of six years and six months) after the start of the sentence. Therefore, the offender is eligible for FP of the combined sentence on March 15, 2012, the later of the two dates.

Conditional release on DP and FP is not automatic. It is decided by the PBC.

Other dates in this example that offenders become eligible for parole include:

- an ETA at any time during the sentence;
- a UTA and WR on February 14, 2011 (one-sixth or six months of the sentence, whichever is later);
- a SR on May 16, 2014 (two-thirds of a sentence).

Figure 4: 3-year sentence + 6-year sentence to be served consecutively



Source: Public Safety Canada 2021.

The timeline set out in Figure 5 illustrates a three-year sentence and a six-year sentence when they have been merged, consecutively, for a total combined sentence of nine years, and the dates an offender is eligible for the various types of conditional release.

The first sentence began on January 15, 2012, and lasted three years until the warrant expiry date on January 14, 2015. The date an offender is eligible for an ETA is at any time during the sentence, beginning on January 15, 2012.

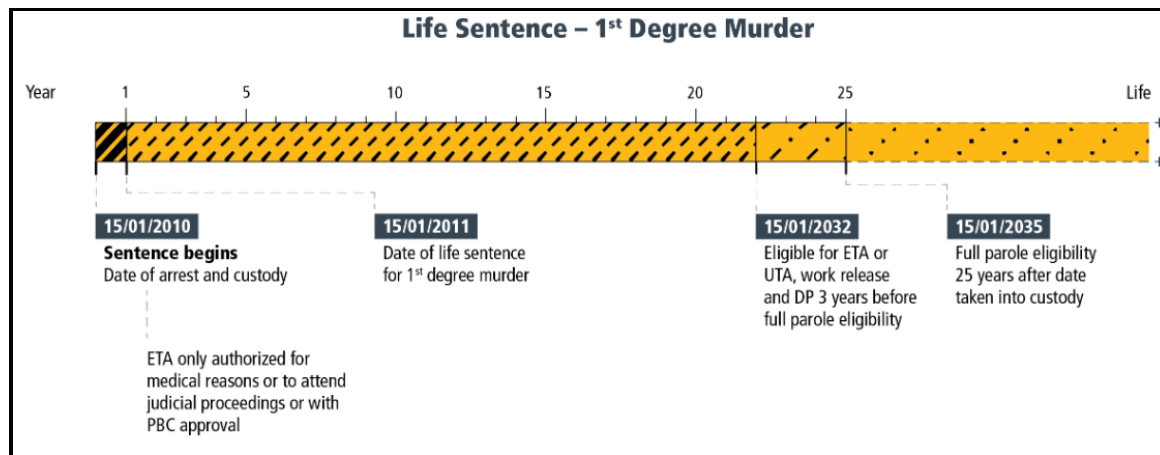
The six-year consecutive sentence was imposed by the court on July 15, 2012. It is consecutive because it follows the existing three-year sentence. The six-year sentence starts the day after the offender has completed the three-year sentence. The start date of the six-year sentence is therefore January 15, 2015. In the merged overall sentence of nine years, the date an offender is eligible for an unescorted UTA and work release is July 15, 2013. The date they are eligible for day parole is July 15, 2014. Full parole is January 15, 2015 and the statutory release date is January 15, 2018.

3. Life Sentence

When the courts hand down a life sentence for first-degree murder, many equate this with 25 years in custody. However, that is only the date the offender is eligible for full parole. If the offender is granted parole, they continue to be supervised in the community to ensure they abide by the conditions of their parole. Figure 6 illustrates a life sentence for first-degree murder as well as the dates the offender is eligible for an ETA, UTA, WR, DP, and FP.

Life sentences begin on the date the offender is arrested and is taken into custody. In this case, it begins on January 15, 2010. The offender is eligible for an ETA on January 15, 2010, as soon as they are sentenced by the court. A CSC warden may only grant an ETA for medical reasons, to attend court proceedings, or, at any time, with PBC approval.

Figure 5: Life sentence for 1st degree murder



Source: Public Safety Canada 2021.

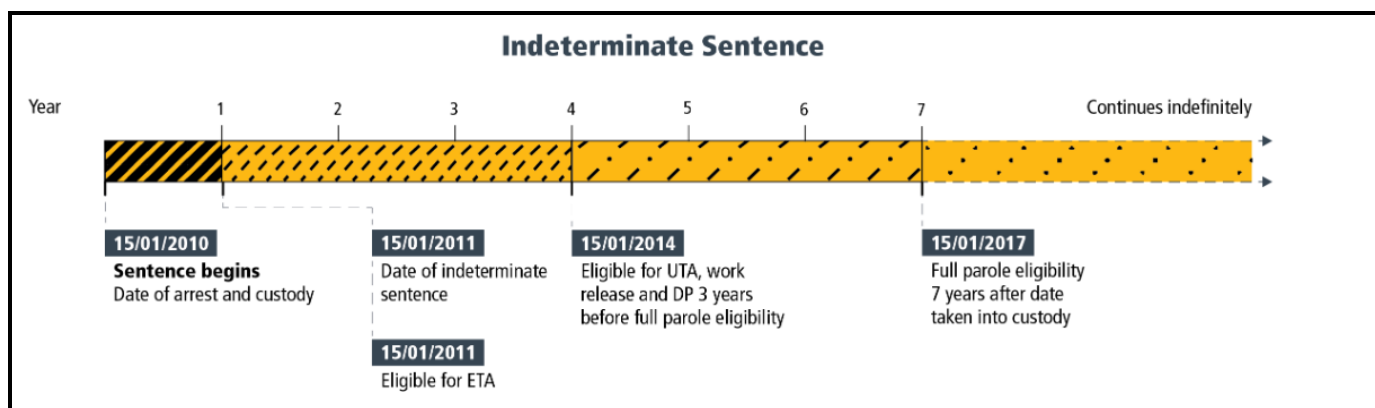
Since the life sentence for first degree murder was imposed on January 15, 2011, the date the offender is eligible for a UTA, WR, and DP is January 15, 2032, 22 years into the sentence. This date is three years before the offender is eligible for full parole. The offender is eligible for full parole 25 years after the date they were taken into custody. In this case, the date they are eligible for full parole is January 15, 2035.

4. Indeterminate sentence

When the court finds the offender to be a Dangerous Offender, it may impose an indeterminate sentence (Figure 7). This sentence has no fixed end date. The timeline above illustrates the dates an offender who has been given an indeterminate sentence is eligible for conditional release. In the above timeline, the offender was arrested on January 15, 2010, and not released. They received an indeterminate sentence on January 15, 2011.

The date the offender is eligible for a UTA, WR, and DP is January 15th, 2014, four years into the sentence, and three years before they are eligible for full parole. In this case, the period of seven years that the offender is not eligible for full parole begins on January 15, 2010, the date they went into custody. That means the offender is eligible for full parole on January 15, 2017. Again, being eligible does not mean automatic release. Only the PBC can grant full parole.

Figure 6: Indeterminate Sentence



Source: Public Safety Canada 2021.

Conclusion

Some victims and survivors no longer feel they need to stay involved with the criminal justice system once an offender has been convicted and sentenced for the crime they have committed. Others feel they need to continue to protect themselves and others from future harm and to have their voices heard throughout the offender's sentence. One way victims can do this is to submit a statement to decision makers that details the effects the crime has had on them, their family, or their community; that outlines their safety concerns; and/or that presents their views on an offender's risk of reoffending.

This statement can be kept on file throughout an offender's sentence and correctional and parole officers can consider it at various decision points, especially when the PBC is assessing the risk of an offender returning to the community and the conditions that would be required to safely manage any risks as they reintegrate back into the community.

A victim may update their statement at any time while the offender is in a federal jurisdiction or when decisions are being made about the offender's release (for example, at a parole hearing). Another way victims may choose to have their voices heard is to prepare a victim statement and present it at the offender's parole hearing where it would be considered by Parole Board members.

Victims who understand how a sentence of two years or more is managed and know the date at which an offender is eligible for consideration to be conditionally released back into society can then know when they will likely be notified.

Victims can then ensure that they are not caught unawares, which can often give rise to significant emotional distress. Most often, when people are able to prepare themselves for upcoming events they expect to be stressful, they can anticipate their needs and prepare to manage the emotional effect. This does not necessarily lessen the grief or emotional toll. But it can help them to manage their stress as the event approaches, during the event itself, and afterwards.

Victims of federal offenders who register to receive information about an offender while they are under sentence can empower themselves when they

- know the progress the offender has made in achieving Correctional Plan objectives,
- understand how the dates the offender is eligible for conditional release work, and
- submit statements to be considered in the decisions made for an offender's release.

For more information about how sentences are calculated and how to stay informed, as well as the *Canadian Victims Bill of Rights*, visit the [National Office for Victims \(publicsafety.gc.ca\)](https://www.publicsafety.gc.ca/cnt/rsrct/pblctns/2021-sntnc-clcltn/index-en.aspx).

References

Public Safety Canada. 2021. *Sentence Calculation: An Explanation of the Basics of Sentence Calculation with Examples*. Public Safety Canada, Ottawa. Accessed at: <https://www.publicsafety.gc.ca/cnt/rsrct/pblctns/2021-sntnc-clcltn/index-en.aspx>