

**DEVELOPING A STRATEGY TO PROVIDE SERVICES AND SUPPORT
VICTIMS OF UNSOLVED, SERIOUS CRIMES**

FINAL REPORT
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Research Report (Phase 2)
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In November 2004, Public Safety and Emergency Preparedness Canada and the Policy Centre for Victim Issues provided a research grant to the Canadian Resource Centre for Victims of Crime (CRCVC) to develop strategies to provide services and support victims in cases of unsolved serious crime.

In recent years, unsolved serious crimes, or “cold cases” as they are often referred to, have gained national and international attention. With the increased use of DNA evidence and other advances in investigative and forensics techniques, police are solving more and more crimes that may never have been solved otherwise. The trend is occurring across the country. More and more law enforcement resources are being put into solving these crimes, which are a serious public safety issue. Rarely does a week go by that a cold case is not profiled in the media or a case is not solved.

From the current task force in Edmonton, Project Kare, which has become the largest such task force Canada has ever seen, to the recent conviction of a murderer in BC for two murders that went unsolved for decades or the recent identification of the murderer of 21 year old Lynda Shaw in Ontario who was killed in 1990 - criminals who have gone unpunished for years are getting nervous.

As outlined in the research proposal, the project is divided into two phases. The first phase included the research, formulation and distribution of a detailed questionnaire to examine the needs of victims in unsolved crime and existing services for this population. During this initial phase, the CRCVC also hosted two roundtable meetings with key stakeholders to further discuss the needs of victims and create potential policy recommendations.

QUESTIONNAIRES¹

The CRCVC formulated three detailed questionnaires; one for police investigators, one for victim services professionals and one for victims/families in cases of serious, unsolved crime. This included the translation of the questionnaire for victims into French in order to have as many families from Quebec and other French-speaking parts of the country partake in our research.

The questionnaires were mailed to 279 Canadian victim service providers (excluding Quebec-based agencies) as the service provider questionnaire was not translated into French. Alberta’s police-based victim services (80 groups) received and completed their questionnaires via email. The questionnaires were promoted online on the CRCVC’s web site and through Victim Assistance Online. We also encouraged the completion of the questionnaire through e-promotion in our monthly newsletter and distribution through the Canadian and International Victim Assistance Networks (provided by vaonline.org).

The CRCVC also joined Yahoo’s online cold case discussion group to promote completion of the questionnaires by victims and survivors, of which 28 survivors thoroughly completed the questionnaire.

¹ See each version of the questionnaires in the attached Appendix.

It was more difficult to obtain police participation. We did receive assistance from the Canadian Professional Police Association in promoting our research. In the end, four very experienced cold case investigators (both homicide and sexual assault) and a Sergeant in charge of missing persons completed the questionnaire.

To date, we have received and analyzed a total of 85 responses to the questionnaires we have distributed across Canada and around the world.

ROUNDTABLE MEETINGS

The CRCVC organized and hosted two day-long Roundtable discussions in Ottawa to consult with law enforcement officers involved with investigating unsolved serious crimes, victim service providers and victims and families in cases of unsolved crimes.²

The first meeting included law enforcement officers (homicide, missing persons and sexual assault) and victim services providers. The second meeting involved families of homicide victims.

The compilation of data from the surveys and the Roundtables meetings has provided sufficient information to draw some conclusions and make several recommendations regarding services to families of homicide and missing persons.

GENERAL OBSERVATIONS

What was clear from the very beginning of our research, and throughout this process was the incredible amount of pain and suffering families of homicide victims and families of long-term missing persons experience. The pain is the same whether a case is solved quickly or not, but when a case remains unsolved, victims seem less able to move past the initial stages of grief, or their journey through the grief process is much slower. A resolution to the case, the arrest or conviction of a suspect does not make the pain go away, but it can allow someone to continue on their healing journey.

It was clear that although a resolution to the case would not “take away the pain,” it was identified by most as their number one need. Thus, we have included in this report observations/recommendations from law enforcement on tools they need to help solve more crimes.

At the same time, we heard from some victims where the case was solved after many years that the trial process brought a different kind of pain. While they all felt better after a conviction because it meant the offender could not hurt anyone else, it may not have brought them the relief they expected.

We were impressed with the level of commitment from law enforcement officers. While they often must keep their distance from families and victims, these men and women also

² For more information on the Roundtable meetings, please see the Phase 1 report.

suffer when they are unable to solve a case. One investigator told us that cases remain unsolved because they are difficult to solve, not because the investigators do not care. It does not matter to them who the victim is, what the victims' profession was or the colour of their skin. They want to solve these cases. They know that some cases are more difficult to solve, such as those involving marginalized populations, and they are often unjustly accused of not working as hard on these cases.

With respect to the officers we dealt with in this project, they never forget the cases they could not solve and if they could solve them, they would. They talked about their own frustration over the lack of attention paid to unsolved homicides. People remember the high profile cases where a middle class young woman might go missing but soon forget the teenage sex trade worker who is murdered. They see unsolved homicides as a public safety issue - each murderer they do not catch is a murderer walking the streets, free to kill again.

We are also pleased to report that as a result of this project, we were able to connect two families with the appropriate investigators. In both cases, the families had not heard from any police in several years and officers were more than pleased to make contact with the victims.

UNSOLVED SEXUAL ASSAULTS

Unfortunately, there was insufficient participation from victims of sexual assault to draw any conclusions.³ Several in-person meetings were held with victims of sexual assault, but their issues were markedly different from those in cases of unsolved homicides/missing persons. With the unsolved homicides, and a lesser extent missing persons, police were investigating but simply had not solved the crime. With sexual assaults however, the issue was that while the victims were able to identify their alleged offenders, police did not lay charges.

Victims felt this was because they were not believed or police did not care. Although the views of the police in these cases were not sought, possible explanations include a lack of evidence to lay a charge or secure a conviction and the difficulty of securing convictions in sexual assault cases that often have no independent witnesses or physical injuries.

Given the complexity of sexual assault investigations and the fact that there is a lot of discretion involved, the issues facing victims in cases of unsolved sexual assault are quite different than cases of unsolved homicides. In most homicide cases, it is clear that a crime has occurred, however the investigation may not always lead to a swift conclusion. This is not to suggest that victims of sexual assault are not to be believed. In fact, the true number of unsolved sexual assaults may possibly be quite high, given the historically low statistical rates of reporting this crime under any circumstances.

³ A representative from the local rape crisis centre did indicate an interest in participating in the Roundtable for victim services/law enforcement, but cancelled due to illness.

A cold case sexual assault investigator who works on sexual predator type cases was present at the roundtable. These crimes may be more stranger-type offences as opposed to the above-noted cases where victims had some knowledge of their offenders. He indicated that the reaction of sexual assault victims to the news that an offender has been arrested in a cold case is not always positive. Some victims have moved on, gotten married, had children, etc., and are not prepared to relive their attack and go through the court process. These victims have often learned to cope and move forward each day. The revelation that an offender has been found can be totally devastating to their lives and their coping strategies. This was very different than the reaction from families of victims in cases of homicides, who often desperately want charges laid and a criminal trial to begin, not only to seek justice for their loved one, but to also ensure the killer cannot harm anyone else.

MISSING PERSONS

Missing persons present other unique challenges to law enforcement. Thousands of people go missing every year, but most are located or return on their own within a short time. Other people willingly go missing. Law enforcement generally cannot spend a lot of time working on a report of a missing person, especially if the person is an adult, unless there is some reason to suspect foul play.

That being said, some of the needs and issues families face when a person is reported missing and police suspect foul play, are similar to those for families of unsolved homicide cases.

THE NEEDS OF VICTIMS/FAMILIES OF UNSOLVED CRIMES

In their literature review on restorative justice, Jo-Anne Wemmers and Marisa Canuto found the need for information was consistently identified as a reason why victims take part in restorative justice programs.⁴

“Victims want to be included in the criminal justice process. In particular, they often want to be notified of the development of their case...victims of violence...feel neglected and angry about the lack of information they are given regarding the progress of their case.

Information is probably the most common need that can be found in the literature. Victims want information on the development in their case and feel they have a right to it given the time and effort that they gave police. For many victims, their need for basic information centered on simple explanations about key decisions related to their cases. Information may

⁴ *Victims' experience with, expectations and perceptions of restorative justice: A critical review of the literature*, Jo-Anne Wemmers and Marisa Canuto. Department of Justice. March 2002.

be the most important thing the system can provide to reduce victim fear and enhance victim coping skills.”⁵

The European Forum for Victim Services *Statement of Victims’ Rights in the process of criminal justice* says, “Victims should have the right to inspect the case files by appointment. As far as possible, information should be given to victims by the authorities who were responsible for the decision, as they will have clearer information about the reasons.”⁶

In a literature review on victim trauma, Dr. James Hill found information seeking is a coping mechanism for some crime victims.⁷

Wilma Derksen, the mother of a murdered child and national victim advocate argues, “We (victims) have a better chance of survival if we confront the horror and learn to understand it. Understanding dispels frustration and conflicts. It can empower us.”⁸ She goes on to say that, “The more details we uncover, the better we will be able to put it into context.”⁹

Sometimes the need for information becomes secondary to the denial of information. For example, if the information has been provided, it may or may not be of any assistance to the victim. But if it is denied, victims can, “become stuck in the quest to know...” and “might spend a great deal of time researching the crime, trying to understand...”¹⁰ By denying the information, police may slow down or stall the victim’s healing journey.

For some victims where the crime has gone unsolved for some time, it is important to know that police are still working on the case. However, the longer a case goes unsolved, the greater the risk of other more immediate cases taking precedence and there may be little proactive work done. This is not an access to information issue, but a policing issue and there is no easy solution. If there is nothing to report, a victim may interpret it as the police not doing anything. It may be that police have a suspect(s) or are following leads that they cannot talk about. It may be they have no suspect and have exhausted all leads. Victims may become frustrated if they think the police are not trying to solve the offence committed against them or their loved one.

“By virtue of the crime, homicide victims may be the most common to want to see the file and the pictures – most of them were not present and can’t talk to the victim so they want to see the file. It is not an uncommon request.”¹¹

⁵ *Victims’ experience with, expectations and perceptions of restorative justice: A critical review of the literature*, Jo-Anne Wemmers and Marisa Canuto. Department of Justice. March 2002. p. 3.

⁶ European Forum for Victim Services “*Statement of Victims’ Rights in the Process of Criminal Justice.*” 1996. p. 6.

⁷ *Victims’ Responses to Trauma and Implications for Interventions: A Selected Review and Synthesis of the Literature*, Dr. James K. Hill. Department of Justice. 2003.

⁸ *Confronting the Horror: The Aftermath of Violence.* Wilma L. Derksen. Amity Publishers. 2002. p.11.

⁹ *Confronting the Horror: The Aftermath of Violence.* Wilma L. Derksen. Amity Publishers. 2002. p.29.

¹⁰ *Confronting the Horror: The Aftermath of Violence.* Wilma L. Derksen. Amity Publishers. 2002. p.138

¹¹ email from Deborah Spungen, August 11, 2003.

The following is an excerpt from the Commissioner's 1999 Annual Report:

*"In 1999, the IPC undertook a study on the impact of the legislation on individuals seeking access to information about deceased loved ones. We surveyed appellants for their experience and view of the legislation; contacted professionals with expertise in the field of bereavement counselling...Professionals working in the field of bereavement counselling and appellants who are seeking information about deceased loved ones speak with one voice about **the negative impact that being denied access to information about the deceased has on the grieving process...access to this type of information is recognized to be extremely important by those who study or practice in the area of the psychology of death, dying and bereavement.**"¹²*

Because the cases remain unsolved, families in these situations may not be able to get information about their loved ones that they would get if the case were solved. For example, families of homicide victims can often get a coroner's report. They may have to wait for the police to determine that the release of such a report will not interfere with an investigation, which delays the release, but families in unsolved cases may never get it.

The *Coroner's Act* says the report shall be available to families, which suggests the release of the information is mandatory although there may be delays if the death is suspicious (i.e. homicide, suicide).¹³ If the police have concerns about jeopardizing an investigation, the Coroner will abide by police requests not to share reports and may not release the report until after a trial.

The 2002 report done by Focus Consultants, *No End to the Pain: Consultation with Families* focused on the needs of families of victims of homicide/sudden deaths. The report included some families of unsolved homicides who were concerned about the lack of contact with the police. It emphasized the need of victims for information and ongoing contact with police to receive information. The families of those killed in the Air India terrorist attack, for example, had no communication from the police for 10 years even though an investigation was underway.¹⁴ One of the recommendations of the report was that police establish a protocol in "slow to resolve cases" that ensures "regular contacts with an updates to families."¹⁵

In her book, *Homicide: The Hidden Victims*, Deborah Spungen, writes "A no-arrest case presents the co-victim with a number of complicated issues that are difficult to resolve or many never be resolved."¹⁶ She goes on to say, "most co-victims never give up the belief that an arrest will be made. For many years, they may live thinking that they have come

¹² Information and Privacy Commissioner Annual Report. 1999.

¹³ Section 18(2) of the *Coroner's Act* (R.S.O. 1990 Chapter C.37)

¹⁴ Focus Consultants (BC), *No End to the Pain: Consultation with Families* p.40.

¹⁵ Focus Consultants (BC), *No End to the Pain: Consultation with Families* p.42.

¹⁶ Deborah Spungen, *Homicide: The Hidden Victims*, Sage Publications. 1998. p.101

to some resolution about the case. Then some external event may serve to trigger all their earlier hopes and anxieties.”¹⁷

Spungen believes “Police, especially homicide detectives, tend not to understand the need to return telephone calls if they have nothing new to report. Co-victims, however, would rather hear ‘I’m sorry that I have nothing new to tell you’ than to receive no return call.”¹⁸

Victims told Spungen that it was the not knowing who that made things difficult. Others wanted to know the details of what happened, including how their loved one died and why. Victims often feel that no one cares about their deceased loved one and being ignored by police “only exacerbates these feelings.”¹⁹

Spungen said existing victim services “often provide no special services or outreach to no-arrest co-victims...”²⁰ She also warns that families should not be led to believe everything will be better if an arrest is made. They may not get all the answers or explanations they were waiting for. Victims may not be prepared to face other challenges in the justice system (i.e. character defamation during a trial).

Victims/families may need to put a face on the offender, know more about the kind of person who did this or to know if the offender is someone they know. They wonder if they might bump into the offender in the grocery store. They may want to know if he is remorseful.

Some people in the Roundtable put their lives on hold for a while waiting for that call, for example. Another person was scared to change jobs or move in case police could not get a hold of her if they arrested someone.

The reaction of victims to a case being re-opened or a suspect being identified after many years may not always be positive. Some victims do not want the case re-opened as they may have found some level of peace; it can re-open old wounds or make new wounds for family members too young to remember the event.²¹ Sexual assault victims, as mentioned, may react different than the family of a murder victim.

¹⁷ Deborah Spungen, *Homicide: The Hidden Victims*, Sage Publications. 1998. p.102

¹⁸ Deborah Spungen, *Homicide: The Hidden Victims*, Sage Publications. 1998. p.103

¹⁹ Deborah Spungen, *Homicide: The Hidden Victims*, Sage Publications. 1998. p.103

²⁰ Deborah Spungen, *Homicide: The Hidden Victims*, Sage Publications. 1998. p.103

²¹ Sheryl McCollum, Bauder College, Atlanta, GA; 2005 NOVA conference workshop, *Cold Cases: The Role of the Victim Advocate and The Investigator*, August 9, 2005.

RATES OF UNSOLVED HOMICIDES IN CANADA

Most homicides are relatively straightforward to solve because the murderer is most likely someone known to the victim. Women are most often killed by their spouses. Children are most often killed by a parent. Men are most often killed by a friend or associate.

The reality remains that most homicides are solved. The public watches popular television shows such as *CSI* and *Law and Order* where all murders are solved in an hour. They generally underestimate the number of unsolved homicides there are in Canada. The Ontario Provincial Police has over 200 unsolved homicides, Toronto has 400 unsolved homicides,²² Montreal has over 500 and British Columbia has over 400.

In 1966, the national clearance rate was 95%. In 2003, almost one quarter of homicides were classified as unsolved. This is keeping place with a trend both Canada and the United States are experiencing.

YEAR	NUMBER OF UNSOLVED ²³	NUMBER OF HOMICIDES	PERCENTAGE OF HOMICIDES NOT CLEARED ²⁴
1974	84	552	15
1975	124	632	20
1976	100	614	16
1977	83	638	13
1978	68	619	11
1979	74	579	13
1980	70	509	14
1981	89	617	14
1982	93	606	15
1983	89	630	14
1984	111	609	18
1985	103	653	16
1986	67	530	13
1987	92	600	15
1988	75	543	14
1989	95	578	16
1990	122	614	20
1991	156	703	22
1992	117	667	18
1993	117	597	20

²² Toronto also has 350 outstanding predatorial sexual assaults

²³ These numbers may not be completely accurate as some homicides may have been solved since these statistics were gathered.

²⁴ Approximate percentage. Other homicides are indicated as cleared although no convictions were rendered, i.e. accused died, committed suicide, under the age of 12, etc.

1994	96	557	17
1995	99	559	18
1996	118	575	21
1997	113	536	21
1998	107	530	19
1999	117	505	23
2000	127	516	25
2001	113	514	20
2002	129	558	22
2003	141	548	26

Given that the homicide rate has been declining for several years,²⁵ we would expect more homicides to be solved. Yet, investigators have not been able to gain any ground. Although we were not able to find any Canadian figures, there is some suggestion there is a general decline in solving serious violent crimes.²⁶

One possible explanation may be that the nature of homicide is changing. Although most murders remain family related, there has been a drop in family related killings. At the same time, there is a rise in gang, drug and organized crime related murders, which are more difficult to solve. BC and Quebec represent the highest number of unsolved homicides, due largely to the drug problem in BC and the organized crime problem in Quebec. Witnesses are less likely to come forward in these kinds of cases, especially if they see police are not solving these kinds of cases.

Another possible contributing factor that was emphasized by police investigators both current and retired at the Roundtable meeting, is the increasing complexity of criminal investigations, especially homicide. It used to be much simpler to get warrants, interview suspects, etc. Police today are required to prepare extensive reports, possibly hundreds of pages in length, in order to secure a search warrant. Investigations often have boxes and boxes of evidence.

ISSUES RAISED BY LAW ENFORCEMENT

It became quite obvious, from data gathered from questionnaires and roundtable meetings, that the single greatest need of victims is the need for resolution. They want the police to solve the crime. Police understand that message quite well. As a result, law enforcement raised several issues related to tools they have or do not have at their disposal.

Unsolved crimes are a public safety issue – police were adamant in their belief that unsolved serious crimes are a major public safety issue. For every unsolved murder or sexual assault, a violent offender is walking the streets free to commit

²⁵ Homicide Survey, Policing Services Program, Canadian Centre for Justice Statistics, Statistics Canada, October 2003

²⁶ Wendy Regoeciz and Laura Walker, “Examining Alternative Explanations for the Decline in Homicide Clearances in the United States,” November 2004. , p.6.

another serious crime. The public's fear of crime and public safety are affected, which may impact a potential witnesses decision to come forward or not, or a victim's willingness to report the crime or not.

Cold Case Squads – More and more police services across the world are setting up their own cold case units. Yet, resources and personnel remain an issue for all police services. For example, we spoke with a detective from the police service in one of Canada's largest cities about how he cannot keep a partner due to burn out. He is the lone detective working long hours in the city's cold case squad. He currently has approximately 30 historical homicides to clear. Given the difficult cases he is working on and the complexity of the investigation process, this cannot be conducive to clearing unsolved homicide cases. Some services have hired experienced, retired homicide detectives to assist. It may be difficult for police services to justify resources going to unsolved crimes as new crimes continue to happen (i.e. take resources from solving current homicides to solve old ones).

National DNA Databank - Law enforcement spoke unanimously about their support for the national DNA Databank and the need for its application to be expanded. DNA has become an essential tool in helping law enforcement solve cases that may be decades old.

Some of the issues they raised, particularly the need to expand the retroactive provisions of the legislation and the need to collect more samples from offenders convicted of primary and secondary offences have been addressed with the passage of Bill C-13. The bill expands the retroactive scheme to include offenders serving sentences for one murder, one sexual assault and one manslaughter. It also removes the discretion of judges to not require an offender convicted of some of the most serious offences as well as expands both the primary and secondary list.

There was support expressed for the UK approach to DNA, which is much broader than the Canadian approach. In the UK, they take DNA at the time of arrest for virtually any criminal charge. Not surprisingly, the UK model is far more successful in helping solve crimes than here in Canada.

Missing Persons Index – Law enforcement also expressed support for the creation of a National Missing Persons Index, preferably attached to the National DNA Databank. They felt this would assist them in their investigations into missing persons and provide some solace to the families.

“CPIC figures indicate that 20-30 new or partial sets of human remains are discovered each year in Canada. In some cases, these relate to the victims of crimes, but more often to victims of accidents or people who have died of natural causes. CPIC currently records a total of 286 sets or partial sets of unidentified

human remains. Given that a small number of identifications are made each year, this total has remained relatively stable for the last number of years.²⁷

There appears to be support at all levels of government for such an initiative. The issue has been discussed at the FPT Ministers meeting. Minister McLellan and Minister Cotler released a discussion paper on this issue.

Resources - Policing resources is a huge issue. Reference has been made to the increasing complexity of investigations and trials, especially homicide cases. Increased technology, like the DNA Databank, while welcomed by law enforcement, also means another drain on resources. Bill C-13 will require thousands more offenders currently in prison to submit their DNA, which will undoubtedly help solve crimes. But police must identify which offenders are priorities²⁸ and then prepare the necessary paperwork to support a court application. One major police service had to hire 80 people to deal with the extra work created by the databank and are only now catching up. They must now face the additional work created by Bill C-13.

In November 2004, the *Debbie Smith Act* became law in the United States (as part of the *Justice for All Act*). Under that legislation, federal funds are made available to states to re-examine old sexual assault cases (test rape kits). Debbie Smith was raped near her home in 1989. For six and a half years, Debbie lived in fear that her attacker would return to kill her. Only on the day that her husband told her that the man who had raped Debbie, who had been identified because of DNA evidence, already was in prison, was Debbie able to live without fear.

ViCLAS – ViCLAS (Violent Crime Linkage Analysis System) was started in 1995 with the intent to share information between police services and identify serial crimes/criminals. The ViCLAS centre is run through the RCMP and helps police link cases, identify possible suspects, etc.

Police officers are required²⁹ to complete a 168-question booklet and send it to Ottawa where the information is input into the computer system. Included offences are: solved/unsolved homicides, solved/unsolved sexual assaults, missing persons, unidentified bodies, child pornography and non-parental abductions. The questionnaire should be completed within 30 days of the offence.

Cases are then interpreted and analyzed by trained specialists. The system looks for patterns or similarities in victim selection (Victimology), offender description, vehicles, scene, offence details, weapons, etc.

²⁷ DNA Missing Persons Index (MPI): A Public Consultation Paper; March 2005

²⁸ For example, officials may not seek a court order to take the DNA of all offenders convicted of manslaughter.

²⁹ Police officers in Ontario and Quebec are legislated to submit cases to ViCLAS and RCMP policy requires their own officers to participate.

In the beginning, some law enforcement officers did not pay much attention, seeing the booklet as just more paperwork they had to do. Police were (and some remain) concerned about releasing information about their “hold back” evidence.³⁰ Protections are in place to ensure information provided does not become public.

The Paul Bernardo case and the Campbell investigation/report highlighted how important it was for police to share information. Since then, ViCLAS has become more accepted. There are over 220,000 cases in the system. Cases are continually compared against each other and new cases entered into the system. In the first 3 years, over 3000 linkages were made, suggesting that there were a large number of serial offenders committing crimes on a regular basis.

POLICE RESPONSE TO NEEDS OF VICTIMS

Law enforcement recognizes an overall lack of services for crime victims, but especially for this population. Some law enforcement officers told us their own victim services offer no help in this area and the task falls to investigators.

Generally, police are open to victims contacting them but they often do not know if they should contact victims unless they have something concrete to report. They do not want to re-victimize people. Police believe victims should let police know if they want ongoing contact and that victims should call them when they want information.

Law enforcement is focused on solving the crime, which they feel addresses the most important need of victims. They are genuinely sympathetic to the ongoing needs of crime victims, but there seems to be confusion about what their role is. They often simply do not know what to do. They do not want to make things worse for victims, for example by re-opening old wounds unless there is something new to report.

Some families request ongoing contact from law enforcement. While police say they understand this need for information updates, they often lack the training and time to meet this need. They often also lack assistance from victim service providers who could serve as an intermediary.

In order to ensure that the victims’ needs are met, it is essential that victims and police communicate to ensure both parties clearly understand what victims need and what information/assistance/support police can or cannot provide.

It does not appear that most cold case units have special protocols regarding contact with victims or utilize victim services when making contact with victims (i.e. may not exist in all police services, too busy with current cases, etc.). Some police services are recognizing the unique challenges cold cases may present.

³⁰ Hold back evidence is evidence that police do not make public so they can avoid false confessions - only the guilty person would know about evidence that has not been made public.

The OPP has a “notification of next-of-kin” protocol for cold cases. “Upon initial review of a ‘Millennium’ case, an identified next of kin will be notified both personally and by correspondence that a review of a deceased family member’s case is being undertaken. The notification will also contain an explanation concerning the mandate of ‘Project Millennium.’ This notification will be made by the Provincial File Coordinator upon identification of the next of kin by the Regional File Coordinator. Notification and results of the review will not apply where a family member is considered a suspect or person of interest in the investigation. If a case is reassigned for further investigation, notification of the reassignment to the next of kin will be at the discretion of the assigned Criminal Investigation Branch case Manager.”

The York Regional Police submitted a proposal for a specialized victim service worker to work with victims in cold cases. York Regional Police became aware of the unique needs of cold case victims after discussions with Mrs. Janet Jessop, whose daughter Christine was murdered and remains unsolved. The York Regional Proposal says,

“Janet Jessop brought forward her family’s experience of dealing with the abduction and murder of her daughter Christine and the experiences of other families dealing with tragic crime and incidents. Once this group of special victims moves beyond the initial crisis and possible court attendance, contact and support from police, community and victim service agencies drops off significantly with the passage of time. These families are confronted by highly devastating situations that requires long-term support that recognizes their unique needs. These victims are also re-victimized at anniversary dates, holidays and whenever new similar cases occur in the community.”³¹

As noted previously, there are some challenges for police in giving too much information to victims. These risks contribute to their reluctance to reach out to victims. Overall, police are concerned about disclosure issues regarding conversations with victims, especially in cases that go on for many years. There may be many discussions with families, and they are concerned about making a victim a witness by telling them too much. Defence lawyers will use this openness to cast doubt on the police case.

Police generally supported the efforts of victims to keep their cases active so long as they do not interfere with the investigation. One officer wrote, “Surviving victims and relatives of deceased victims can help motivate departments, supervisors and investigators in a positive way without becoming a ‘thorn in their sides’. Letters to the Chief of Police, Police Commissioner, Police Board, the media, etc. can all fall into this category.”

³¹ Janet Jessop, Sgt. Ricky Veerappan & P.C Ron Axamit, “*Providing Light To The Darkness*,” York Regional Police -Enhanced Victim Support Proposal, January 22, 2004., pp. 3.

All police however expressed concerns that victims should have no role in the investigation itself. This can seriously jeopardize the case, which may make it more difficult for police to solve.

When asked what information police think victims want, many of the responses were consistent with those provided by victims – to know the case has not been forgotten, to know that someone is working on the case, to know that someone cares.

Police recognized the importance of some kind of resolution for victims. They also recognized the importance of sharing as much information as possible with victims. This did not always mean they could share all the information victims wanted, but they should make efforts to share all that they can.

Police were frustrated by the lack of specialized victim services for cold cases. There does not seem to be dedicated victim services workers who can commit the necessary resources to work with a victim over a lengthy period of time. This means it is often left to the investigator to deal with the emotional needs of victims, which can be difficult for investigators who lack the time and specialized training.

The 2003 Canadian Statement of Basic Principles of Justice for Victims of Crime says, “Victims should be given information, in accordance with prevailing laws, policies and procedures, about the status of the investigation...” Some provinces/territories have victims of crime legislation that specifically makes reference to a victim’s ability to get information from police about the progress or status of an investigation.

Section 6(1) of the *BC Victims of Crime Act* says, “Subject to the *Youth Criminal Justice Act* (Canada) and insofar as this does not prejudice an investigation or prosecution of an offence, justice system personnel must arrange, on request, for a victim to obtain information on the following matters relating to the offence: (a) the status of the police investigation.”

Section 7 of the *Manitoba Victims’ Bill of Rights* says, “If a victim requests information about the investigation of the offence, the head of the law enforcement agency must ensure that the agency gives the victim the following information, unless doing so could unreasonably delay or prejudice an investigation or prosecution or affect the safety and security of any person: (a) the status of the investigation.”

Section 2(1) of Ontario’s *Victims Bill of Rights* says, “Victims should have access to information about (iv.) the progress of investigations that relative to the crime.”

Section 2 (d) of PEI’s *Victims of Crime Act* says victims “should be informed about the progress of the investigation...”

Section 5 of Quebec’s *Act Respecting Assistance and Compensation for Victims of Crime* says, “On request, the victim has the right to be informed, if not inconsistent with the public interest, of the progress and outcome of the police investigation.”

Unfortunately, little guidance is given to law enforcement about what “progress” or “status” of an investigation means in practical terms. Victims of crime do not know what they can reasonably expect to receive.

The Ontario *Police Services Act* (R.S.O. 1990, CHAPTER P.15) highlights the importance of providing assistance to victims and keeping them informed. Section 1 includes, “the importance of respect for victims of crime and understanding of their needs” as a principle of policing. Section 41(1.2) says disclosures may be made to keep “victims of crime informed of the law enforcement, judicial or correctional processes relevant to the crime that affected them.”

Police must always be concerned about providing too much information and threaten the integrity of the case or jeopardize an investigation. They do not know what the victim may do with the information. A common concern is that victims may unwittingly talk to the media and divulge sensitive details. Police depend a lot on information coming in from the public and if certain facts are given to the media, the public may recycle the information police already have and “corrupt that information.” Victims may also unwittingly give information to other family members or people who may be of interest to police. The sharing of this information, which may be completely unintentional, may jeopardize the investigation since a potential suspect may know what evidence the police have.

Disclosure to defence is always an issue and police officers expressed the concern that victims may be cross-examined about anything they tell the victim, and how this might impact the prosecution. Crown and police are concerned that the investigator could leave himself/herself open to accusations of leading or manipulating witnesses. Police officers must keep an open mind and not prejudge a case. A person initially presenting as a witness could become a suspect.

Victims expressed that they did not want to harm an investigation, but did want/need to know how things were going. Updates they seek may be as simple as having the investigator tell the victim that they are following up some leads, but they do not have much to go on or do not have any suspects. It may be as simple as being assured police are doing something. Investigators find the restrictions on the flow of information to be a frustrating issue as well. They would like to be able to tell victims more than they can, but they must err on the side of caution.

If more detailed explanations were provided, it may make the lack of information easier for victims to accept. Sometimes the difference is in how victims are told “no.” If the investigator tells the victim what he/she can, but also explains why he/she cannot provide any more details, most victims will understand.

In some cases, victims perceived that the police did not want to share information about an investigation because mistakes were made that police were covering up. While all

victims consulted expressed respect for the police and recognized the good job most police officers do, some victims believe the police were concealing mistakes.

ISSUES RAISED BY VICTIMS

If there was one main point highlighted in the questionnaires, meetings and interviews, it was that families want ongoing contact from police, even if there is nothing to report. It is absolutely essential that families know their case has not been forgotten, even if it is not actively being investigated. This came through over and over again – people simply wanted to know the case is still open.

In her research, Wemmers found that victims were more critical of police for not keeping them notified than failing to catch the offender.³²

There was a feeling that while police officers are generally sensitive, they do not understand the impact of cold cases. They do not understand impact of no communication and feeling that a loved one has been forgotten.

Most people want the police to be proactive in contacting victims, as opposed to simply responding to victim inquiries. Families prefer police to contact them because they do not want to “bother” investigators or pull them away from their loved one’s case. It was suggested that families and police should work out a time line for ongoing contact. Contact should be more frequent initially, but will understandably become less so as time goes on.

Different family members have different needs with respect to communication and information. One family whose daughter was murdered 18 years ago (and have not heard from police in a decade) suggested once a year would be sufficient. Another family said they were comfortable calling police and police were always happy to respond. Police must also consider family dynamics. In some cases, both parents may be interested in receiving updates, while in other cases, it may be a sibling, cousin or aunt/uncle or a handful of relatives who need to be contacted regularly. Police must be sensitive to the unique communication needs of each family they provide updates to.

Some victims had very positive interactions with the police and others less so, but almost all families said the only support they received was from the police. Few of them received any support or assistance from formal victim services.

Some cases may pre-date police-based victim services. Other police services may not have victim units or such units may be under-resourced with most of their efforts going to sexual assault and domestic violence. Even those services that do exist, most are not geared for long-term support and involvement.

³² *Victim Notification and Public Support for the Criminal Justice System*. Jo-Anne Wemmers. International Review of Victimology. 1999. Volume 6. p.169.

Many families who attended the Roundtable meetings reiterated being emotionally affected by similar cases that occurred in the community. We learned that families often collect newspaper clippings of other unsolved cases that are reported in the media, which likely causes painful memories of their own to resurface.

Other important findings include:

- Some families had to harass police to re-open cases or get a file review. In some cases, families approached police several years after the murder to ask that the file be reviewed. The original response was negative and the family persisted (they report they were threatened with criminal charges). They went to the Chief, to politicians and to the media before a case was re-opened and eventually solved.
- The media is a “double-edged sword” – it can be helpful, but can be hurtful. For example, some media may misreport facts or paint victims in a negative light. Media may dwell on negative facts of a persons’ life, such as being a sex trade worker. In other cases, the media is not interested and this can be equally hurtful. The media will report extensively and follow up frequently on the unsolved disappearance/murder of an attractive, middle class woman (i.e. Ardeth Wood in Ottawa) but not on a low income male (unless there is something unique, such as being the victim of a serial killer or a hate crime). Also, the media will move on to a new story at some point. This can be emotional for victims.
- Some victims were not notified when the investigator changed. It is crucial that victims be notified when the officer in charge of the file changes – this was heard over and over.
- In cases that were resolved, some victims said it did not make things better for them, but there was a sense of relief the killer is off the streets.
- Victims need/want long-term emotional support, counselling and compensation. These services are lacking, especially in unsolved cases.

As previously mentioned, the questionnaires provided a wealth of information about the experiences and insights of crime victims.

- Almost half (42%) of respondents said that police were not immediately responsive or were not appropriate in their responses when the crime was reported by family members. This refers mainly to families of missing persons. They complained that the missing person was treated as a runaway or someone who left on their own, not as a victim of foul play.³³ While this may be an understandable position from a law enforcement view, it is difficult for families to accept. Many felt that they were not important, felt alienated, angry and foolish. They could not understand why police did not believe them.

³³ This is not an unusual complaint. Most of the missing persons cases police receive are resolved on their own.

- Two thirds (64%) of victims were unsatisfied with the police investigation. Many felt there was a lack of action taken as soon as missing person was reported, lack of sensitivity and a lack of communication. It may be that victims are not aware of all that police were doing, perhaps because police do not feel they can share those details or are too busy to do so.
- Respondents overwhelmingly (74%) said police did not keep them regularly informed of what they were doing. This was by far the most consistent complaint during the personal interviews, the questionnaire and the Roundtable meeting. If there was ongoing contact in the beginning of the investigation, it subsided as time went on and often stopped altogether. Victims felt they had to initiate the contact. One family member said, “Nothing to report **is** something to report.”
- Almost everyone (93%) agreed that having no news was worse than having bad news; that nothing the police could tell them was as bad as what they were imagining.
- Almost all respondents indicated the need for counseling but few benefited from it. They also expressed an interest in support groups with others who have been through the same thing. We felt it was important to note how positively the Roundtable meetings were received by survivors. It was, for many, the first chance they had ever had to meet other survivors in similar circumstances and share stories and understanding. It was very powerful for all participants, including us, as organizers.
- The most common emotions/feelings were: forgotten, frustrated and unimportant. The lack of resolution does affect people’s ability to mourn and move on. Many survivors noted at the Roundtable that it took them 10 years or longer to be able to speak about the crime and its effects on them personally.
- Victims almost unanimously expressed frustration that there were either no victim services or they were not made aware of them. Victims felt that existing victim services do not currently provide services to this population.³⁴

Victims need a flexible and sensitive approach. Some may not be happy the case is re-opened where as others may be fighting for it to be re-opened. Some may not want any contact from police unless there is an arrest where others want regular contact even if no progress is made.

Some victims expressed a need for counselling if a case is re-opened. They are not only dealing with current feelings, but feelings that may be 20 years old. There may be a need for provincial governments to re-examine their compensation legislation to ensure victims of cold cases can access counselling as necessary.

³⁴ This was supported by the responses from police and victim services .

VICTIM SERVICES

Based on the responses received from the service provider questionnaire, there seems to be very few victim service agencies that provide assistance to victims in unsolved cases. Victim services appear to be an under-utilized resource in cold cases. Crown-based service programs logically have little to do with victims unless charges are laid and the case proceeds to court.

There was, unfortunately, a low response rate from victim servicing agencies. The Roundtable did have a representative from a police-based victim service unit and several non-profit missing persons support groups, so much insight was gained from their experience. The lack of response to the questionnaire can perhaps be attributed to groups feeling they had little to add due to a lack of experience or mandate to provide services in unsolved cases.

Of the 279 questionnaires mailed out, 52 organizations responded. The majority were police based (21), non-profits (7), community/volunteer groups (6) and other health care service providers (9). It is not surprising that Victim Witness Programs did not respond since cases usually only get to VWAP once charges have been laid.

Sixty-seven percent of respondents stated that they did assist victims in cases of unsolved serious crime. Seventeen did not respond, 15% said they did not assist victims in cases of unsolved crimes and 2% were unsure.

There is a broad recognition among service providers that the needs of victims in unsolved cases differ from victims who have seen some form of resolution or closure in their case. One person wrote, "Victims of unsolved crime have told us that it is difficult living with the knowledge that someone responsible for this violent act is at large, there is no closure, no answers to what happened and why."

Another person stated, "The impact remains on open emotional wound. These victims are delayed in beginning the healing process." Finally, another person stated, "Victims of unsolved serious crime always present as having unfinished business as they are searching for answers. These victims have trouble believing in the system and trusting that the investigation is still continuing. They see police, courts, and lawyers as giving up on them. They feel less of a priority as there is little evidence to proceed and feel like a "nag or a bother" when asking questions about the case status."

Victims of unsolved crimes have expressed a need for services that are not provided, such as grief counseling, long-term support and support groups.

Most respondents felt the active involvement³⁵ of a victim in their case helpful to them. Respondents felt it may help keep the case active, or it may help victims feel they are

³⁵ By involvement, we meant that victims stay in contact with the officer, advocating to get their case re-activated, etc., not that victims should be actively taking part in the actual investigation.

doing something that can help with the recovery/healing process and may be in empowering.

They confirmed what others said about the importance of communication from police. There was agreement that the lack of resolution/active investigation does have a detrimental effect on the victim's healing or recovery. Some of the responses were:

- "Victims with unsolved cases may find it harder to deal with issues such as regaining control and safety and may need services for longer periods."
- "Yes, it slows recovery and prevents healing. There is a constant question about what happened and how their loved one may have suffered. They also continue to blame themselves."
- "Yes, some victims are unable to move on. Some get angry with the police as they don't believe they are doing enough to solve the case."
- "Possibly. No sense of conclusion. Feeling that no one is really looking out for their interests."

There was no clear consensus on whether reopening/reinvestigation of a case would benefit the victim's healing/recovery because it may only get their hopes up without any promise of a resolution.

When asked how services for victims of unsolved crimes could be improved:

- "Better communication between police investigators about what they are doing to solve the case. For example they could say we have conducted ten interviews but still have no suspect without naming the interviewees and this would be better than 'we have nothing yet.'"
- "More money for compensation, better counseling options."
- "Changing mandate and protocols of agencies. Just because no offender has been charged or matters are not resolved does not mean the victims are not affected and need support and service."
- "Keep them informed of any progress or even no progress. Keep in touch."
- "Independent legal counsel/advocates."
- "In the criminal justice system, crime victims are seen as a piece of evidence. Victims of unsolved serious crime are not even that! If the file is not under investigation, there is no new information which can be shared and the victims and families feel discarded, forgotten and unimportant."

Another interesting point we heard from victims where there was some resolution was that it did not magically make everything all right and that they were confused the justice system did not meet their expectations. Victims may not understand how difficult a trial process can be, or that it may not answer the questions they may have. Victims did express satisfaction that they did know who did it and that he would not be able to do it again.

Other victims in cases where there was no resolution wanted the offender caught so he could not hurt anyone else, but they did not think a conviction would have a big impact on their life. They expected a trial would drag their loved one's memory through the mud and the offender would not truthfully address any answers they needed, if he spoke at all.

In the questionnaire, respondents were asked which meant more – just knowing what happened or seeing an arrest/conviction. The majority of respondents reported that both were equally important to them. Some thought things might be worse if the offender was caught because of all the other challenges victims face in the justice system.

BEST PRACTICES

While the focus of the project was identifying gaps in services, we did find many victims who felt they were well served. In those cases, the key appeared to be ongoing contact with law enforcement. It was not the same arrangement for everyone, but there had been some agreement between both parties.

In one case of a woman whose daughter has been missing for over a decade and foul play is suspected, the investigator(s) call once a month whether they have something to report or not. When they call, they often leave a message. They make sure to make it clear they are just making their regular call, there is nothing new to report, etc. to ensure she does not get her hopes up.

In another case of a missing person where foul play is also suspected, police will call the family if a body is found even though it is not the body of their loved one. This is done to ensure they do not get their hopes up upon hearing the news that a body has been found.

In another case, the mother of a murdered child wrote a letter to her daughter's killer, which was published in the local newspaper. Police asked her to write another letter nine years after the murder. Police used the letter in other cases to show suspects and share it with victims. The mother felt like she was useful and was a part of the investigation in some way.

We also wanted to pay special tribute to groups like the Doe Network³⁶, ChildFind and the Missing Children Society of Canada. These groups and agencies do important work with families of missing people. We heard from both police and victim services that little support is offered to families of missing persons.

³⁶ Perhaps not well known as the other groups, the Doe Network in Canada has helped police solve over 30 cases. The Doe Network is a volunteer organization devoted to assisting Law Enforcement in solving cold cases concerning **Unexplained Disappearances** and **Unidentified Victims** from North America, Australia and Europe. The DOE Network can give cases exposure on their website, have volunteers search for clues on these cases as well as making possible matches between missing and unidentified persons and lastly through attempting to get media exposure for these cases that need and deserve it.

In 2000, the government of New South Wales established the Families and Friends of Missing Persons Unit (FFMPU). The unit offers counselling to families, advice and information on how to make a report, advocating on behalf of families that feel the police are not doing enough, assistance with the media, etc.

EMERGING ISSUES

Although it is currently more of an issue in the United States than Canada, thought should be given to victim services in cases where a conviction is reviewed or overturned. If a conviction is overturned,³⁷ cases once again become unsolved and victims have to once again live with unanswered questions, not to mention the feelings they may have about the wrongfully convicted person, the authorities, the justice system, etc.

Although different, the needs of victims in these cases may be similar to those in unsolved cases: notification if a conviction is being reviewed/overturned, information about those decisions, information about any new investigation, dealing with the media, books, inquiries, compensation/counseling, etc.

RECOMMENDATIONS:

Law Enforcement Tools/Resources:

1. All levels of government and law enforcement agencies recognize unsolved cold cases are a public safety issue.
2. The federal government should begin discussions with the provinces to assist with the financial burden associated with the increased workload of Bill C-13.
3. The federal government should proceed with its legislated review of DNA legislation in the fall of 2005.
4. The federal government, in cooperation with the provinces, proceeds with efforts to create a Missing Persons Index (preferably as part of the National DNA Databank to help identify unknown human remains).
5. All provinces should legislate the completion of the ViCLAS form (i.e. as Ontario and Quebec have done).
6. All police services should examine their policy on reviewing cold cases and the criteria for reopening/reinvestigating cases.
7. All police services should examine the option of specialized and dedicated cold case units within police forces.
8. Specific government funding should be available for police services to establish a cold case unit.

Police:

9. Law enforcement services should develop protocols covering the following issues:
 - o how to contact victims when conducting a case review of re-opening an investigation;

³⁷ An example of this is the murder of Christine Jessop. Guy Paul Morin was convicted of her murder but it was overturned through DNA evidence. No one has been charged or convicted of Christine's murder.

- when dealing with cold case victims, police should utilize victim services where possible;
 - ensure media is not notified of developments until victim/family is;
 - process for victims/families to make an official request for case review;
 - victims/families are notified when a file changes hands;
 - agreement with victims about how often contact should be made (once a month, twice a year, when there is something to report; etc.);
 - in cases of missing persons, proactive notification (when appropriate) if a body is found so tell the victim it is not their loved one;
 - when leaving a message for victims as part of the regular contact, make it clear there is nothing to report; just making contact;
 - when a case is being reviewed/re-opened or is no longer being actively investigated, victim services should be involved;
 - police should notify victims/family when case is no longer being actively investigated;
10. Law enforcement officers dealing with cold cases should receive training to assist in dealing with victims in unsolved homicide cases to understand their specific needs.
 11. Police should work in conjunction with groups such as the Doe Network, Child Find and Missing Children's Society of Canada, where possible and appropriate, in supporting families.
 12. The RCMP should create a specific information pamphlet for victims in cold cases explaining ViCLAS, the DNA Databank and Sex Offender Registry. This information may help families understand their cases are always being compared against new information. The pamphlet should also explain the limitations police must respect when sharing information and when police might re-open an investigation;
 13. All police services should create a contact checklist in order to document the contact person(s), method, and frequency the victims prefer, while trying to recognize/respect family dynamics. The contact method/frequency should be updated as necessary.
 14. Police should use their web sites to post information about cold cases, missing remains, etc.

Meeting victim needs:

15. Special victim services units should be created in jurisdictions where numbers warrant to provide ongoing services to victims of unsolved homicides/missing persons/sexual assaults.
16. In smaller areas, existing victim services should be given training and resources to work with families/victims, including ongoing information and support, assistance with media, liaison with police, etc.
17. Every cold case unit should have a dedicated victim service worker where numbers warrant.
18. Government funding should increase to allow rape crisis centres and sexual assault therapy groups to provide long-term, unlimited counselling to survivors.

- Many service providers have limitations of a year or two on accessing services. Most victims cannot afford to access private therapy resources.
19. Provincial governments should review funding for missing persons groups, such as the DOE Network, and consider a model based on the NSW Families and Friends of Missing Persons Unit.
 20. Provincial governments should review their provincial compensation legislation to provide victims of unsolved cases to apply for financial assistance for victims to attend counselling as needed and without limits.
 21. Provincial government should amend their victims' rights legislation to include a victims' "right" to obtain information about the progress or status of an investigation.
 22. Create a national database of victims who would like to be a support for other victims who have been similarly victimized. This support service should be victim initiated and may be especially important for victims in cases of unsolved homicides, as the benefits of connecting with others who truly understand is crucial.
 23. Creation of a national clearinghouse for missing persons.

Future Research:

24. More research should be done on the needs of victims of unsolved sexual assaults.
25. More research should be done on the needs of victims in wrongful conviction cases.