

**CANADIAN RESOURCE
CENTRE FOR VICTIMS
OF CRIME**



**CENTRE CANADIEN DE
RESSOURCES POUR LES
VICTIMES DE CRIMES**

**Submission with respect to the interpretation and application of section 19 of the
Compensation for Victims of Crime Act, RSO 1990, c. C. 24 as amended**

June 6, 2018

Context and Recommendation

The Criminal Injuries Compensation Board (thereafter, %CICB+) has invited the Canadian Resource Centre for Victims of Crime (thereafter, %CRCVC+) to provide a written submission with respect to the interpretation and application of section 19 of the Compensation for Victims of Crime Act, RSO 1990, c. C. 24, as amended (thereafter, the %Act+).

With respect to the events of April 23, 2018, the CRCVC respectfully recommends that the CICB not deem the acts referred to in the current and all future claims as a single occurrence. The CRCVC will delve into the complex nature of the events that unfolded on April 23, 2018, including the gravity, extent, and scope of the crime and its victims; examine the intricacies of victimization, both in its effects and needs; comment on the particular issue of mass victimization; and survey the legal framework, providing legal precedent.

Background on the CRCVC

The Canadian Resource Centre for Victims of Crime (CRCVC) provides support and guidance to individual victims and their families in order to assist them in obtaining needed services and resources, and advances victims' rights by presenting the interests and perspectives of victims of crime to Government, at all levels. We also strive to foster heightened public awareness of victims' issues, conduct research in the field of victimology and promote exchanges between professionals at the local, provincial and national level. The CRCVC helps victims of violence and has front-line experience supporting victims of mass violence. A number of our Board Members and advisors have been victims of crime, are family members of victims of crime and in some instances, have experienced a tragedy involving mass victimization.

The Events of April 23, 2018

Early afternoon of April 23, 2018, a white rental van driven by Mr. Alek Minassian intentionally struck numerous pedestrians at various locations along Yonge Street between Finch Avenue West and North York Boulevard. The attack, which lasted under 10 minutes and resulted in 10 deaths and 16 injured victims, was unprecedented in Toronto for the sheer number of people it affected: forty-six paramedics and command staff who responded to the scene; dozens of medical staff at three hospitals; an untold number of bystanders who watched as the white rental van tore a lethal path across the Yonge street sidewalk¹. Mr. Minassian struck pedestrians at no less than seven different locations along the stretch of Yonge Street². Certain victims were struck on the pavement as the driver mounted the curb, others while crossing the street. At a briefing on April 27, 2018, Toronto Police Homicide Squad Insp. Bryan Brott mentioned that more than 170 witnesses had been interviewed, with approximately 100 witnesses still waiting to be interviewed³.

The 16 injured in the attack were between 23 and 90 years of age. Injuries ranged in severity from critical and severe to non-life threatening, with such injuries as a broken spine, a broken hip, head wounds, gashes and cuts^{4,5,6}. One month after the attack, the CBC reported that five victims remained at Sunnybrook, including one in serious condition⁷.

The CRCVC believes the mass victimization event of April 23, 2018 is akin to an act of terrorism in its magnitude and severity, its impact on the public psychologically, emotionally and physically, and in that it was designed to induce terror and psychic fear (sometimes indiscriminate) through the violent victimization and destruction of noncombatant targets⁸. We view the events as a collective trauma which is trauma that happens to large groups of individuals and can be transmitted trans-generationally and across communities. War, genocide, slavery, terrorism, and natural disasters can cause collective trauma, which can be further defined as historical, ancestral, or cultural. Some of the symptoms of collective trauma include rage, depression, denial, survivor guilt and internalized oppression, as well as physiological changes in the brain and body which can bring on chronic disease.⁹

¹ Torontonians look to one another for support in aftermath of van attack, The Globe and Mail, April 25, 2018 (<https://www.theglobeandmail.com/canada/article-torontonians-look-to-one-another-for-support-in-aftermath-of-van/>)

² Tales from the Toronto van attack: The minutes that forever link the victims and bystanders, The Globe and Mail, April 28, 2018 (<https://www.theglobeandmail.com/canada/article-ales-from-the-toronto-van-attack-the-minutes-that-forever-link-the/>)

³ Officials identify 10 victims who died in Toronto van attack, update number of injured to 16, Global News, April 27, 2018 (<https://globalnews.ca/news/4172926/toronto-van-attack-police-coroner-update/>)

⁴ Officials identify 10 victims who died in Toronto van attack, update number of injured to 16, Global News, April 27, 2018

⁵ Court documents identify 13 injured in deadly van attack, CBC News, April 24, 2018

(<http://www.cbc.ca/news/canada/toronto/injured-van-attack-1.4633308>)

⁶ Family of woman badly injured in Toronto van attack speaks out, Global News, April 24, 2018

(<https://globalnews.ca/news/4165691/toronto-van-attack-amaresh-tesfamariam/>)

⁷ 1 month after Toronto van attack, 'scars are very deep' but healing continues, CBC News, May 23, 2018

(<http://www.cbc.ca/news/canada/toronto/1-month-after-toronto-van-attack-scars-are-very-deep-but-healing-continues-1.4673355>)

⁸ Dr. Carsten Bockstette, Jihadist Terrorist Use of Strategic Communication Management Techniques, George C. Marshall European Center for Security Studies Occasional Paper Series, December 2008

(http://www.marshallcenter.org/mcpublicweb/MCDocs/files/College/F_Publications/occPapers/occ-paper_20-en.pdf)

⁹ Garrigues, LG. What is Collective Trauma? May 31, 2018 (<http://www.healingcollectivetrauma.com/>)

Victimization

A wide-ranging and comprehensive study of crime in the UK by *Victim Support (2017)*¹⁰ demonstrated the immense and diverse impact that crime has on victims and clearly showed that crime does not affect people in the same way. As such, the number and nature of required needs varies greatly from one victim to the next. Victim Support emphasizes that it is extremely difficult to predict which individual victim will suffer which effects to what extent. Each victim is entirely unique and experiences a crime in his/her own way, which depends on a wide variety of factors such as experience of the actual incident, injuries sustained, ability to cope with anxiety and stress, willingness to seek help, and socio-economic status.

Effects of crime

The effects of crime on victims are multiple, with complex and potentially long-lasting psychological, emotional, mental and social trauma complementing more visible or tangible effects such as a physical injury or financial hardship. Effects of crime, and specifically violent crime, can be broadly categorized in the following buckets: emotional and psychological impact; physical impact; financial impact.

Violent crime may trigger feelings of shock, loss of trust in society, guilt at becoming a victim, vulnerability, and uncertainty about the future. These feelings are often linked to the development of symptoms of fear, anxiety, depression, and overall stress. While most victims of violent crime experience emotional and psychological trauma (81% as reported by the UK Office for National Statistics), the onset, severity, and duration of the trauma varies greatly from one victim to the other. Certain victims will go on to develop severe and lasting mental health problems, including post-traumatic stress symptoms, which may in turn may trigger suicidal feelings, self-harm and other self-destructive behavior, e.g. substance abuse. Certain categories of victims, including women, ethnic minorities, or those of lower socioeconomic status, are more prone to developing severe mental health issues.

Victims who have been physically injured as a result of violent crime may be left with a chronic physical condition or disability and tend to experience trauma longer than other victims of violent crime.

Financial loss and hardship may arise as a result of lost wages due to the need to take time off to deal with the police, criminal justice system, mental and physical health requirements and recovery. The more insidious effects of violent crime on financial viability include negatively impacted employment and education prospects, particularly when the victim is a young adult.

Each victim experiences a crime in his or her own way, with his/her own unique set of circumstances dictating what he/she will endure and how he/she will cope with it.

Needs of victims

It ensues from the many effects of crime, that the needs of victims in order to deal with a crime are unique to his/her own experiences and circumstances. Victims of all crime types express a range of needs, including emotional, psychological, health-related, or financial assistance, as well as information and guidance to navigate the criminal proceedings. Furthermore, needs

¹⁰ Understanding Victims of Crime, Victim Support, April 2017
(https://www.victimsupport.org.uk/sites/default/files/Vs_Understanding%20victims%20of%20crime_web.pdf)

change over time, with some needs arising immediately after the incident, others during the criminal justice process and others over the long-term.

The special case of mass victimization

Definition of victims in the case of mass victimization or terrorism

In the case of mass victimization or terrorism, the definition of victim goes far beyond those killed or injured in the incident. Following the 2013 Boston Marathon bombing where four people were killed and 280 people injured, the Massachusetts Office for Victim Assistance established the definition: "Victims are those persons who were physically injured or killed, their immediate family members, those persons who physically experienced the event or its immediate aftermath, including those in the immediate vicinity of the bombing, those surrounding the scene, those professionals and non-professionals who tended to the wounded, those who were involved in the subsequent apprehension of suspects or any other individuals, whom by virtue of their unique experience or prior trauma history, would be triggered or impacted by this event."¹¹

The effects of mass victimization

The deaths of victims in a mass victimization event are both sudden and violent. These two characteristics can potentially lead to worse outcomes in the families of victims than if the deaths were expected and/or non-violent. Sudden and violent deaths have been associated with negative bereavement outcomes in survivor populations, including high intensity and long duration of depression, and grief in survivor populations. Mass victimization events differ from other sudden deaths in that they are large-scale attacks that affect large numbers of family members and communities. As man-made disasters, they impart added risk to family members due to their criminal nature and associated human culpability, with resultant anger or bitterness.¹²

The US DOJ's Office for Victims of Crime (OVC), in a report entitled *Responding to Terrorism Victims – Oklahoma City and Beyond*, asserts that "witnessing the murder of people as they go about the everyday tasks of daily life creates a sense of horror and vulnerability that may last a lifetime. It may also put people at risk for significant and long-term psychological difficulties."¹³

The need for timely and appropriate compensation in case of mass victimization

The CRCVC recommends that communities prepare a comprehensive victim assistance plan in order to respond to mass violence effectively. We have conducted extensive research in this area including examining after-action reports from many recent high-profile mass victimization events, including the Boston Marathon bombings (2013) and the downing of a Malaysia Airlines passenger airplane (2014)¹⁴. Compensation schemes in particular are of the utmost importance in helping the victims of a mass violence event. Timeliness and ease of access to compensation can be a determining factor in victims' recovery.

Compensation schemes need to take into account the overall and ongoing impact of an injury and the age of the injured party. It is also important to consider how victims will be impacted by

¹¹ Terror Victim Response, Lessons Learned, CRCVC, citing the Massachusetts Office for Victim Assistance (<https://terrorvictimresponse.ca/lessons-learned/>)

¹² Letter to the Quebec Minister of Justice concerning the January 29, 2017 shooting, CRCVC, February 2018 (https://crcvc.ca/wp-content/uploads/2018/02/IVAC_Feb2018.pdf)

¹³ Responding to Terrorism Victims – Oklahoma City and Beyond, Office for Victims of Crime, October 2000 (<https://terrorvictimresponse.ca/wp-content/uploads/2013/10/NCJ183949.pdf>)

¹⁴ Terror Victim Response, Lessons Learned, CRCVC (<https://terrorvictimresponse.ca/lessons-learned/>)

their injuries over time. Though physical injuries can be severe, it is important to recognize that invisible injuries, including traumatic brain injuries, hearing loss, and emotional trauma, can also result and are not immediately diagnosed in some cases. Although these injuries are not as apparent as physical injuries, they can significantly affect quality of life especially when the victim is younger in age. It is important to enhance outreach efforts from the visibly injured to include those suffering from invisible injuries. First responders are not necessarily equipped to deal with all these injuries at once; therefore, a coordination of services is needed to effectively assist victims with many different needs.

Additional hardship may arise from injuries. For example, family members of the physically injured victims may experience emotional exhaustion and trauma. People may need to take time off of work to stay with their loved ones in the hospital. Some people will not be able to return to work for a long period of time because they are caring for their injured loved ones. Social workers or advocates may be needed to assist family members who are acting as caregivers.

Research on appropriate response to mass victimization events, including terrorist acts

In September 2008, the UN convened its first-ever Global Symposium on Supporting Victims of Terrorism. The various participants discussed, among other topics, the economic repercussions of a mass victimization event such as a terrorist act, which can be almost as devastating as the psychological and physical scars¹⁵. Member states at the UN agreed that compensation was central to supporting victims.

The OVC notes that cases involving large numbers of victims require special measures to ensure that adequate information and support to all victims is provided in a timely and effective manner¹⁶.

In a lengthy and detailed report detailing mass violence response best practices, the National Association of Crime Victim Compensation Boards (NACVCB) provides numerous recommendations for pre-crisis preparedness, immediate response, as well as longer-term response¹⁷. Several examples of immediate responses to mass casualty and violent events (hereafter) illustrate the need for rapid, coordinated and decisive action in the wake of tragedy.

In the case of the state of New York's response to the World Trade Centre terrorist attacks (p.91), the Crime Victims Board was tasked with issuing emergency checks to victims and their families for the following benefits: medical expenses; counselling; burial expenses; essential personal property; and loss of earnings or support (October 2001). Limits on the size of emergency financial awards and on the payment of counselling costs solely to victims and their families were removed by executive order as early as September 12, 2001.

In Colorado, following one of the worst episodes of school violence in the United States (Columbine, 1999), the OVC approved \$750,000 in emergency federal funds within three days of the tragedy, with an additional \$250,000 subsequently approved (p.144). Streamlined applications for compensation were mailed out within two days to every eligible victim, i.e. every

¹⁵ Supporting Victims of Terrorism, Symposium on Supporting Victims of Terrorism, United Nations, September 2008 (https://terrorvictimresponse.ca/wp-content/uploads/un_report_supporting_victims_terrorism.pdf)

¹⁶ Responding to Terrorism Victims – Oklahoma City and Beyond, Office for Victims of Crime, October 2000

¹⁷ Compensation Protocol – A Guide to Responding to Mass Casualty Incidents, National Association of Crime Victims Compensation Boards, October 2004 (<https://www.ncjrs.gov/pdffiles1/Digitization/212431NCJRS.pdf>)

student, faculty, and staff member of Columbine, regardless of whether they were at school that day or not. It was decided to fast track all of the Columbine applications, and staff was authorized to administratively approve claims based on the level of victimization. Columbine claims were processed within three weeks. Of the ~ \$800,000 actually disbursed (representing 761 applications), mental health expenses (68%) and economic support/lost wages (20%) represented the largest categories.

In response to the Oklahoma City bombing (April 1995) (p.173), the State Treasury created the Murrah Crime Victims Compensation Fund, administered by the Oklahoma Crime Victims Compensation Board (CVCB). The CVCB reported that of the 360 claims received between April 1995 and August 2003, 112 were approved. The majority of claims were filed in the three months following the incident, with the next spike occurring one year after the incident. The CVCB was tasked with processing all claims expeditiously and efficiently upon proof that the claimant was the victim or family of any victim of the bombing.

In the mass violence cases described in the NACVCB's report, emergency funds are earmarked rapidly after the event and disbursed to eligible claimants as and when the claims are received. The report repeatedly stresses the importance of a rapid and coordinated response, as well as a streamlined compensation claims process, in responding to mass casualty incidents.

Legal Framework

We encourage CICB to utilize the precedent set previously in two cases where section 19 was considered by the Board:

- The March 1982 shooting at Osgoode Hall in Toronto. Two people died and another was seriously injured. The CICB received several applications. The CICB did not apply section 19(4) and treated the incidents as separate.
- The June 2, 2012 shooting in the food court of the Eaton Centre. Two people were killed, several were seriously injured by stray bullets and others were injured while fleeing to safety. The CICB received 13 applications. The CICB did not apply section 19(4) and treated the incidents as separate.

In the domestic terrorism case of the Oklahoma City bombings (1995), prosecutor Ryan told the jury the following before calling the first witness: "It would be easy for you as a jury to think of this as one mass murder. Don't. There are a hundred and sixty-eight people, all unique, all individuals, all had families, all had friends, and they're different. They went to church, they coached Little League, they designed highways, they liked to watch their children dance, they tried to prevent disease, they played on their beds with their kids." We agree that it is important to recognize each victim affected as a unique individual with distinct needs and injuries given the scope of this event and number of persons affected.

Final recommendation

There is no doubt that a serious and deadly act of mass violence was committed against Canadian civilians on April 23, 2018. The spouses and dependents of deceased victims, the survivors and their families, witnesses and rescue workers deserve to be compensated under the provisions of the *Compensation for Victims of Crime Act*. There is ample literature concerning best practices in the response to acts of mass violence (including terrorism), and all agree that financial assistance should be provided expeditiously. We encourage the CICB to adopt a victim-centered and trauma- and violence-informed approach to handling the aftermath

of this tragedy, in full awareness of the serious and potentially long-lasting trauma experienced by the many people affected. We urge the CICB not to apply section 19(4), deeming the events of April 23, 2018 to be a single occurrence, a decision which could delay the award of compensation to victims by at least three years, which is unacceptable, unjust and cruel.

It is our opinion that activating section 19(4) (one occurrence where the acts have a common relationship in time and place) would have ethical implications and contradict the CICB's commitment to the *Victims' Bill of Rights, 1995*, which states that all victims should be treated with courtesy, compassion and respect for their personal dignity and privacy.

Thank you.