



Heard. Respected. Victims First.
Écoutées. Respectées. Les victimes d'abord.

**Remarks: Senate Standing Committee on Legal and Constitutional
Affairs**

**Study on matters pertaining to delays in Canada's criminal justice
system**

Sue O'Sullivan

Federal Ombudsman for Victims of Crime

March 24, 2016

Remarks: Senate Standing Committee on Legal and Constitutional Affairs

Ombudsman Sue O'Sullivan, Office of the Federal Ombudsman for Victims of Crime

March 24, 10:30am

INTRODUCTION

- Bonjour, Monsieur le président et chers membres du comité.
- Thank you for inviting me here today to discuss the needs and concerns of victims of crime regarding delays in the criminal proceedings.
- For the purposes of this brief presentation, I plan to
 - speak to some of the impacts of delays on victims of crime;
 - highlight how supporting victims can actually increase efficiency in the justice system; and
 - identify promising practices in this area.

MANDATE

- I would like to begin by providing you an overview of my Office's mandate.
- Created in 2007, the Office of the Federal Ombudsman for Victims of Crime helps victims in two main ways: individually, and collectively.
- We help victims individually by speaking with them every day, answering their questions and addressing their complaints about Federal programs and services for victims of crime.

- We help victims collectively by reviewing important issues and making recommendations to the Federal Government on how to improve its laws, policies or programs, to better support victims of crime.

IMPACT OF DELAY

- My Office has heard directly from victims about the impacts of criminal justice delays on their lives, including:
 - emotional and psychological burden as a result of an ongoing, unresolved criminal trial;
 - anxiety about their role in the trial process, including testifying as a witness; and
 - The financial burden from lost wages, child and/or elder care, and travel costs.
- While these inconveniences are experienced by most victims involved in the justice system, they are exacerbated the longer trials go on.
- For example, the parent of a murder victim contacted our office and shared her experience with delay on her and her family. She had been unable to sleep at night or work since the murder. Her family was struggling both financially and psychologically. The start date for the trial was delayed for 14 months, and she did not understand why. The only explanation she got was that the accused needed to switch lawyers. She felt that this should not be allowed to happen. She also acknowledged that she has a lack of understanding of the system and how it works, which was frustrating.
- Many other victims have shared feeling re-victimized by the unintended consequences of delays in the criminal proceedings. They report

feeling devalued and that their life is on hold until their case is concluded.

- Lengthy delays in criminal proceedings can impede some victims' ability to move forward, and in some circumstances victims' access to justice can be completely compromised when charges are stayed as a result of unreasonable delay.

PROMISING PRACTICES

- Clearly, work needs to be done to better provide victims with greater access to justice by addressing delay.
- The recent coming into force of the ***Canadian Victims Bill of Rights***, which provides victims with rights to information, participation, protection and to seek restitution, presents an important opportunity to align practices in providing victims with access to their rights with efforts to increase efficiency.
- Victim support services and the use of technology can both be viewed as promising practices in this area. I will discuss them briefly, while identifying how they can contribute to efficiency.

Victim Support Services

- Victim support services respond to victims' need for assistance navigating the criminal justice system.

For instance, in England and Wales, ***The No Witness, No Justice program*** "was established in five pilot sites with the aim of testing the efficiency and effectiveness of new working practices to improve the levels of support and information given to victims and witnesses.

The new working practices were delivered through *witness care units* that brought together police and Crown Prosecuting Service to provide:

- a single point of contact for victims and witnesses, communicating with them through their preferred means of contact where possible;
- a full needs assessment for all victims and witnesses in cases to identify specific support requirements such as child care, transport, language difficulties and medical issues and to highlight areas of concern, including intimidation;
- witness care officers to steer individuals through the criminal justice process and to coordinate support services;
- a continuous review of victim and witness needs throughout the case by the Crown and police; and
- greater communication and contact with witnesses about cases including informing them of the case outcome or trial result.

An independent evaluation of the project found that:

- witness attendance at court increased by about 20 percent;
- the number of trials which had to be adjourned to a later date as a result of witness difficulties decreased by 27 percent;
- the number of trials where the witness withdrew their statement or didn't attend decreased by 17 percent; and
- the number of trials where late guilty pleas were entered increased by 10 percent."¹

¹ Avail consulting, (2004) "*No witness, No Justice (NWNJ) Pilot Evaluation Final report*" Accessed at: http://www.cps.gov.uk/publications/docs/nwnj_pilot_evaluation_report_291004.pdf

- Although, similar programs currently exist in some jurisdictions across Canada, we know that some communities do not have these services in place. For the programs that do exist, we also know that adequate resourcing is often an ongoing challenge.
- The example provided shows that these types of programs can play an important role in increasing efficiency in the criminal justice system.

Efficient use of technology to provide information

- These types of victim service programs can also be made more efficient and can be supported through the greater use of technology.
- Currently, electronic or online notification systems for victims that exist in Canada are limited to the corrections and parole systems. However, there are no systems that notify victims about developments in criminal case proceedings.
- Although there should always be someone available for a victim to talk to, a system integrating police, court and corrections information, is an option among other methods for victims to receive information. This would provide a single online source where multiple criminal justice practitioners upload information that can be disclosed to victims. This could be one tool to reduce effort by police, Crown and corrections to help keep victims informed, while providing victims with the information they need to determine if, and when, they will attend or participate in proceedings.

- The widespread use of victim support services and the efficient use of technology present important opportunities to increase victims' access to their rights, while increasing efficiency.
- Ensuring that victims and witnesses are provided information so that they know what to expect, that they understand what is expected of them, and the rights they are entitled to, early in the process, can not only assist the Crown in presenting evidence and increase the likelihood of witness participation, but can also minimize the need for adjournments to allow victims to invoke their rights.

CONCLUSION

- In closing, I would like to reinforce the importance of considering the potential impacts of criminal justice reforms on victims of crime as recommendations to address delay are developed.
- We know that when victims are treated with dignity and respect, they are more likely to be satisfied with the criminal justice system, regardless of the outcome.²In my view, this is so important because it is directly linked to Canadians confidence in the criminal justice system.
- I believe that practical reforms to address delays will benefit not only the accused, but victims, criminal justice practitioners, and society as a whole.
- I would be pleased to answer any questions you may have.

² Wemmers, van der Leeden, and Steensma (1995) "What is Procedural Justice: Criteria used by Dutch Victims to Assess the Fairness of Criminal Justice Procedures." *Social Justice Research*, Vol. 8(4) 1995.