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# The Relationship Between Victim Impact Statements and Judicial Decision Making: An Archival Analysis of Sentencing Outcomes

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**Objective:** Victim impact statements (VISs) are testimonies that convey the emotional, physical, and financial harm that victims have suffered as the result of a crime. Although VISs are often presented to the court at sentencing, it is unclear whether they impact judicial decisions regarding sentencing. **Hypotheses:** We did not have any formal a priori hypothesis but instead examined five research questions. The first two explored whether the relationship between the victim and the offender, as well as the type of crime, was associated with differences in the likelihood of VIS submission. The following two explored whether the presence of a VIS was associated with differences in sentencing outcomes (incarceration, probation, ancillary orders, parole eligibility). The final research question explored whether the number of VISs and the delivery format (oral vs. written) was associated with differences in sentencing outcomes. **Method:** We coded and analyzed 1,332 sentencing rulings across Canada from 2016 to 2018 that included the phrase “impact statement.” We coded for 87 variables, including information about the VIS, the victims and offenders, crime type, and sentencing outcomes. **Results:** Overall, VISs are more likely to be delivered in cases in which the crime is more severe. Once we controlled for the type of crime, sentencing outcomes were unrelated to the presence of VISs. Sentences were longer when VISs were delivered orally than in written format and when more than one statement was submitted. **Conclusions:** The relationship between VISs and sentencing outcomes is closely tied to several extralegal factors and should be investigated further. This research offers insight into the mechanics of victim evidence at sentencing. The findings of this study have implications for lawyers, researchers, judges, victims, offenders, and other stakeholders in our legal systems.

## Public Significance Statement

In our study, we found that in cases where a victim impact statement was present, sentences were not always longer. Yet judges tended to impose longer sentences when more than one victim impact statement was submitted or when statements were read aloud in court. These findings might help crime victims decide whether and how to submit a statement.

**Keywords:** victim impact statements, sentencing, victims, archival research, judicial decision making


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Victim impact statements (VISs) are a type of evidence delivered by crime victims at sentencing or parole hearings that describe the suffering or consequences of a crime for the victim. This opportunity for victims to have a voice in sentencing reflects how justice systems

have slowly evolved to give greater consideration to the role and voice of victims. For example, in Canada, VISs were first introduced in the 1988 Victims' Bill of Rights and have been a part of the Canadian sentencing process ever since (Government of Canada

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Department of Justice, 2015). Similarly, in the United States, *Payne v. Tennessee (1991)* established the admissibility of VISs in all cases, including capital cases.

Today, despite the diversity of sentencing regimes across the world, all common-law countries, including the United States, New Zealand, Australia, the United Kingdom, and Canada, allow victims to provide VISs at sentencing (Manikis, 2022; Roberts, 2009). In common-law countries, sentencing judges consider numerous factors when imposing a sentence; these typically include aggravating and mitigating factors, prospects for rehabilitation, and principles of parity. The Criminal Code of Canada (CCC) notes that sentences should be influenced by “evidence that the offense had a significant impact on the victim, considering their age and other personal circumstances, including their health and financial situation” (CCC, 1985, § 718.1). Although Canadian courts have allowed VISs for decades, the Canadian Victims Bill of Rights (2015) clearly articulates victims’ rights to participate in proceedings that directly impact their lives by explicitly outlining their rights to submit VISs for the sentencing judge to consider. VISs provide victims with a voice and typically outline how the offenses have affected them financially, physically, and emotionally and describe victims’ feelings regarding their safety and security. Thus, VISs are an important way for sentencing judges to learn about the impact of the offense on victims and consider this information in their sentencing rulings.

Although victims’ rights advocates support the premise of VISs (Canadian Resource Centre for Victims of Crime, 2015; Mastrocinque, 2010), other individuals have argued that VISs are prejudicial to offenders and that the emotional nature of these testimonies may unfairly affect sentencing outcomes (Edwards, 2001; Hoyle et al., 1998; Sanders et al., 2001). Some judges avoid displaying emotional reactions to VISs in order to appear impartial (Schuster & Proppen, 2010). Emotional and sometimes tearful testimony from victims may affect judgment in various ways (Myers & Greene, 2004). The emotional content of VISs, such as anger or sadness, can have different effects on sentencing judgments, but context and expectations matter (Bosma et al., 2018; Nuñez et al., 2017). It is also possible that VISs affect judgments because they highlight the harm experienced by victims, a factor judges consider at sentencing. Is the presence of a VIS associated with differences in sentencing outcomes? If so, under which conditions are VISs associated with differences in sentencing outcomes? Our primary goal in this research was to explore the relationship between VISs and judicial decision making by examining Canadian sentencing rulings.

Numerous scientific studies have examined whether VISs affect sentencing; the relationship seems to be tenuous at best (Boppre & Miller, 2014; Davis & Smith, 1994; Erez & Laster, 1999; Erez & Rogers, 1995, 1999; Kleinstuber et al., 2020; Kunst et al., 2021; Lens, 2014; Roberts, 2009; Roberts & Edgar, 2006). Erez and Tontodonato (1990) found that written VISs had no effect on sentencing but noted that the victim’s presence in court during a trial was associated with significantly longer sentencing outcomes. Wevodau, Cramer, Clark, et al. (2014) used a vignette-based study with jury-eligible community members and concluded that VIS presence predicted longer sentence length. Some research has found support for partial or moderated relationships between VISs and sentencing (Wevodau, Cramer, Kehn, et al., 2014). Myers et al.’s (2002) study on mock jurors found that VIS-present conditions yielded longer sentencing outcomes than no-VIS conditions, but only in conditions where the VIS reported high levels of suffering or harm. VISs had no effect in low-harm conditions. In their systematic review of the impact of VISs on legal decisions, Kunst et al. (2021) found that compared to instances where no VIS was delivered, the delivery of a VIS was associated with harsher sentencing recommendations in most experimental studies focused on prison or noncustodial sentences.

What do we know about the relationship of VISs to other sentencing outcomes beyond incarceration? Very little published research has examined the relationship between VIS submission and ancillary orders, probation, or parole, all of which are critical parts of judicial decision making and can have substantial implications for offenders and victims. Erez and Tontodonato (1990) examined 500 Ohio felony cases from 1985 to 1988 and found that the presence of a written VIS did not affect the duration of custodial sentences. However, VISs did affect sentencing type; specifically, judges were more likely to sentence defendants to incarceration than probation in cases where victims had provided a VIS. This finding highlights the importance of examining the difference between incarceration and probation.

Furthermore, sentences that are to be served within the community (e.g., probation, conditional discharge) usually include *sentencing conditions*, which consist of ancillary orders that vary in number and nature from case to case. Ancillary orders could include exhortations to avoid alcohol or drugs, avoid specific locations or individuals, or participate in specific programs. There is sparse academic and legal literature that discusses whether VISs are associated with differences in ancillary orders. Schuster and Proppen (2010) interviewed 22 Minnesota state judges and found that several

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Gena K. Dufour played a lead role in conceptualization, data curation, formal analysis, project administration, visualization, and writing—original draft and an equal role in methodology, validation, and writing—review and editing. Marguerite Ternes played an equal role in conceptualization, data curation, formal analysis, methodology, resources, supervision, validation, and writing—review and editing. Veronica Stinson played a lead role in resources, supervision, and writing—review and editing and an equal role in conceptualization, data curation, formal analysis, methodology, project administration, software, and validation.

📄 The experimental materials are available at <https://osf.io/xjb32>

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acknowledged the importance of VISs. One judge explicitly stated that he had added conditions to sentences after considering a VIS.

Finally, more information about the relationship between VISs and judicial decision making regarding parole is needed. The current literature on parole is primarily concerned with parole release decisions (Hail-Jares, 2021). Similar to sentencing, VISs are often presented at parole hearings by victims or family members of victims with the goal of conveying to the judge how the offense has impacted their life. Some researchers have found that VIS submission at parole release hearings generally decreases the likelihood of release (Morgan & Smith, 2005; Parsonage et al., 1992; B. L. Smith et al., 1997). Conversely, other research has found that VISs do not predict release outcomes (Caplan, 2010). However, we found no research examining parole eligibility, an integral element of sentencing decisions in some cases (Roberts, 2009). Parole eligibility differs from parole release decisions. In Canada, offenders convicted of first-degree murder will automatically receive a life sentence and are not eligible to apply for parole for 25 years (Government of Canada Parole Board of Canada, 2021). Offenders convicted of second-degree murder will receive a custodial sentence, but the sentencing judge has some leeway in determining parole eligibility, which is typically set at any point between 10 and 25 years (Government of Canada Parole Board of Canada, 2021).

### Factors Related to VISs

Several variables, such as the type of crime or the number of victims, might influence the relationship between VISs and sentencing rulings (Caplan, 2010; McGowan & Myers, 2004). The type of crime is directly relevant because each crime type is associated with sentencing guidelines for judges in the CCC and suggested sentence length increases with crime severity (CCC, 1985). The type of crime and associated sentencing guidelines are commonly used as a proxy for measuring the harm caused by different types of crime and the associated impact felt by the victim (see Ashby, 2018; Sherman et al., 2016).

The type of crime can also influence the likelihood that victims will submit a VIS (Lens et al., 2014). Victims of more severe crimes (e.g., sexual assault) and family members of murder victims are more likely to submit a statement than victims of less severe crimes (e.g., threat; Lens et al., 2013; Roberts, 2009). Related to this, Lens et al. (2013) also found that victims who experience psychological distress were more likely to express an interest in participating in the judicial process and more likely to submit a VIS. Moreover, posttraumatic stress symptoms and more time since victimization were positively correlated with a higher likelihood of VIS submission (Lens et al., 2013). Victims may submit impact statements for many reasons including to obtain catharsis, to have a voice in the system, or to influence sentencing (Boppre & Miller, 2014; Gordon & Brodsky, 2007; Roberts & Edgar, 2006).

Another variable relevant to the likelihood of submitting a VIS is the victim-offender relationship. Erez and Tontodonato (1990) posited that victims who exercise their rights to participate in the judicial process are more likely to know the offender. They noted that the violation of trust between the perpetrator and the victim is a defining motivation for victims to submit a statement. More recent empirical research (Lens, 2014) found that cases in which the victim knew the offender were not associated with the likelihood of VIS submission. Given the paucity of data in this area, more in-depth

examination is needed into the role of these variables on the likelihood of submitting a VIS.

Finally, the format of the VIS submission may affect judicial decision making at sentencing. Statements may be delivered orally in court by the victim (or read into the record by the prosecutor) or delivered in writing. Roberts and Manikis (2010) argue that the ability for victims to present their statement orally is critical from an empowerment point of view and note that orally delivered statements can humanize the justice process to a greater extent than written documents. However, research that directly examines the effect of oral versus written VISs on sentencing is scarce. Erez and Tontodonato (1990) found that whereas the delivery of a written VIS was significantly associated with sentencing outcome, the delivery of an oral statement had no significant effect on sentencing outcome. Interestingly, the same study also found that the victim's physical presence in court was independently associated with sentencing outcome. Presence in court has been discussed as a possible confounding variable in other research on oral VISs. B. L. Smith et al. (1997) found that oral statements were more likely to be associated with parole denials than written statements; however, the authors noted that the victim's presence or absence in the courtroom was a possible confounding variable.

In summary, we know that several factors affect the likelihood that a victim will submit a VIS, and we know that there are factors that guide judges in their decision making related to sentencing. What is not clear is the nature of the relationship between the presence of VISs and sentencing outcomes. A clearer understanding is needed of the factors associated with the likelihood of VIS submissions and the factors associated with the relationship between VISs and judicial rulings at sentencing. Before turning to our present study, we briefly examine some issues regarding judicial decision making and the relevant research.

### Judicial Decision Making

We start this brief discussion of judicial decision making by sharing this perspective from Mitchell (2019):

If we could hold the situation of all acts of judging constant—same law, same evidence, same parties and audience, and same consequences of the decision—would we observe the same outcomes across the decisions? How reliable is the act of judging, and what are the sources of variance across judicial decisions? In an ideal world, the only sources of variance would be the law and relevant facts of a case, with irrelevant facts and nonlegal concerns having no influence on decisions. In this ideal world, such cases would be treated alike, the law would be followed scrupulously, and only relevant facts would matter. (p. 396)

Legal systems rely on the fundamental assumption that impartial judges make sound decisions devoid of intrusion by extralegal factors. Researchers have explored judicial decision making for some time using a variety of research methodologies and data analytic techniques, including surveys of judges regarding their views on different types of evidence (e.g., Freiburger, 2010; Magnussen et al., 2010; Monahan et al., 2018), experimental designs with judges deciding on case summaries (e.g., Miller, 2019; Stinson et al., 1997), observations of court hearings (e.g., Dhimi, 2003, 2005; Person et al., 2018), and document analysis of rulings or court records (e.g., Bruer et al., 2017; Welsh & Ogloff, 2008; for a review, see Dhimi & Belton, 2017).

Numerous scientific studies demonstrate that judges are not immune from biases, cognitive distortions, and other factors that the law assumes do not affect judicial decision making (Brewer, 2019). For example, research has shown that judicial decision making may be influenced by offender and victim variables (see Freiburger, 2010; Mitchell, 2019; Rachlinski et al., 2009; Robbennolt, 2002), various demographic characteristics of judges (e.g., O'Brien, 2018; for a review, see Dhimi & Belton, 2017), or cognitive biases and heuristics (Englich et al., 2006; Rachlinski & Wistrich, 2017, 2019; Wistrich & Rachlinski, 2017).

Of course, demonstrations that judicial decision making is error prone do not mean that all decisions are flawed. Research that fails to study judicial decision making in real cases can suffer from diminished external validity (Dhimi & Belton, 2017; Konečni & Ebbesen, 1992). For example, many studies present judges with simulated cases or abridged case stimuli rather than actual cases. Although using simulated cases in an experimental design allows for more control over extraneous variables, allowing researchers to make causal inferences, it also creates an artificial situation that does not account for some factors that might influence the final decision.

For these reasons, there is an increasing support for studies attempting to garner insight into judicial decision making by examining sentencing rulings. This method has been made increasingly possible by online repositories of rulings, such as the Canadian Legal Information Institute (CanLII; <https://www.canlii.org/en/>). The use of real sentencing rulings to guide empirical research promotes strengthened ecological validity and generalizability beyond that of a traditional laboratory design.

## The Present Study

Our primary goal was to advance the psychological science in this area by examining judicial rulings to understand the relationship between VISs and sentencing outcomes in a real-world context. Applying a methodology similar to that used by other scholars (e.g., Bruer et al., 2017; Erez & Tontodonato, 1990; Welsh & Ogloff, 2008), we examined a repository of sentencing rulings to generate a database. Rather than specific hypotheses, we tested five exploratory research questions. The first two questions explored factors related to the likelihood of delivering a VIS. We derived these research questions in part from Lens's (2014) findings that certain types of crime were associated with a higher likelihood that victims would submit an impact statement. In addition, Lens (2014) explored whether having a relationship with the offender was associated with a higher likelihood of VIS submission. We replicated and extended the Lens (2014) study by examining several different types of victim-offender relationships. The latter three research questions explored the relationships between VIS presence and sentencing outcomes (incarceration and probation sentences, sentencing conditions, and parole eligibility). Our research questions were as follows:

1. Are crime victims more likely to deliver a VIS for some offenses than others?
2. Is there an association between the nature of the victim-offender relationship and the likelihood of delivering a VIS?
3. Is there a relationship between VIS presence and sentencing outcomes (incarceration and probation sentences and

sentencing conditions)? If so, does controlling for the type of crime impact that relationship?

4. When a life sentence is imposed, is there a relationship between VIS presence and parole eligibility outcomes?
5. Is there a relationship between sentence length and the format of VIS delivery (oral vs. written) or number of VISs presented at sentencing?

## Method

### Procedure

This project involved coding and analyzing sentencing rulings to create a data set. The full codebook used to compile this data set is available on Open Science Framework at <https://osf.io/xjb32>. We systematically searched the archives of CanLII (<https://www.canlii.org/en/>) for all sentencings across all Canadian provinces. We focused on sentencings from 2016 through 2018, the years immediately following the changes made to the Canadian Victims Bill of Rights in 2015.

At the time of our search (May 2020), there were 11,869 sentencings, reflecting decisions from numerous specific courts, supreme courts, and provincial courts. We searched for sentencings that included the phrase "impact statement." For New Brunswick and Quebec (which are French/bilingual provinces), the search terms "declaration de victime" (French) and "impact statement" (English) were both used. Cases in French ( $n = 21$ ) were coded either by the first author, who is bilingual, or by a bilingual research assistant. Information from the sentencing was read in French and then manually coded into the data set in English. Of the 11,869 rulings, 1,070 explicitly stated that a VIS was present, and 262 explicitly stated that no VIS was present. Thus, VISs were included in at least 9.02% of the sentencing decisions available in CanLII during this time frame. The remaining decisions (~10,000 cases) were unusable for this study because the presence of a VIS was unknown (i.e., it was not explicitly mentioned one way or another) or the cases were from noncriminal courts. Cases that resulted in "not criminally responsible on account of mental disorder" were omitted because those individuals were neither found guilty nor sentenced.

The final data set consisted of 1,332 cases: 358 from British Columbia, 130 from Alberta, 59 from Saskatchewan, 30 from Manitoba, 424 from Ontario, 33 from Quebec, 26 from New Brunswick, four from Prince Edward Island, 75 from Nova Scotia, 100 from Newfoundland and Labrador, 41 from Northwest Territories, 35 from Yukon, and 17 from Nunavut. It is important to point out that the VISs reflected in this sample were submitted by victims and deemed admissible by the sentencing judge. It is possible that some VISs were submitted by victims but were never considered at sentencing for evidentiary or administrative reasons (e.g., the content was deemed inadmissible, the statement was submitted past the deadline).

### Coded Variables

We analyzed the judicial sentencings to code for 87 variables, 45 of which were used for the present study. First, we coded for primary administrative information, including the citation, file number,

CanLII web link, year, date of offense, date of sentencing, and province of sentencing. We coded the gender of the offender by relying on language in the rulings; for example, a statement in the ruling such as “he shall serve a sentence of” reveals the offender’s gender as male. See Table 1, for coding information.

Next, we coded the offenders’ convictions. For each case, we coded (a) total number of sexual offense convictions (which was then broken down into contact offenses and noncontact offenses);

(b) total number of homicide-related convictions (which was then broken down into first-degree murder, second-degree murder, and other miscellaneous homicide convictions); (c) assault convictions; (d) kidnapping, confinement, or abduction convictions; (e) theft, fraud, or robbery convictions; (e) drug-related convictions; and (f) other convictions. As demonstrated in Table 1, these categories were derived based on classifications in the CCC. The total number of convictions was coded by tallying the number of offenses the

**Table 1**  
*Coding Information and Cohen’s κ Coefficients for Archival Variables*

Variable	Coding information	Cohen’s κ	p	Agreement level
Offender’s gender <sup>a</sup>	1 = male, 2 = female	.94	<.001	Almost perfect
Total sex offense convictions	CCC §§ 271, 272, 155, 161, 162, 163	.92	<.001	Almost perfect
Number of contact sex offense convictions	Examples: sexual assault, incest	.88	<.001	Almost perfect
Number of noncontact sex offense convictions	Examples: voyeurism, luring	.78	<.001	Substantial
Total homicide charges	CCC §§ 231, 220, 232, 239, 320	.88	<.001	Almost perfect
Number of first-degree murder convictions	CCC § 231(1)	.69	<.001	Substantial
Number of second-degree murder convictions	CCC § 231(2)	.86	<.001	Almost perfect
Number of other homicide convictions	Examples: manslaughter, attempted murder	.87	<.001	Almost perfect
Number of assault convictions	CCC §§ 265, 244, 267, 218, 279, 282, 283, 320	.85	<.001	Almost perfect
Number of kidnapping, confinement, and abduction convictions	CCC §§ 279, 282, 283, 348	.93	<.001	Almost perfect
Number of theft, robbery, and fraud convictions	CCC §§ 380, 322, 343, 375, 346	.87	<.001	Almost perfect
Number of drug-related convictions	CCC § 2, 5, 7	.86	<.001	Almost perfect
Number of other convictions	Examples: possession of a weapon, breach of probation	.77	<.001	Substantial
Total number of convictions	Sum of the individual convictions	.89	<.001	Almost perfect
Offender’s age at time of sentencing		.80	<.001	Substantial
Total number of victims		.57	<.001	Moderate
Number of female victims		.74	<.001	Substantial
Number of male victims		.73	<.001	Substantial
Presence of a VIS <sup>a</sup>	0 = no, 1 = yes	.91	<.001	Almost perfect
Total number of VISs		.86	<.001	Almost perfect
Number of VISs read aloud by women		.60	<.001	Moderate
Number of VISs written by women		.43	<.001	Moderate
Number of VISs read aloud by men		.50	<.001	Moderate
Number of VISs written by men		.51	<.001	Moderate
Offender’s relationship to victim (coded numerically) <sup>a</sup>	0 = strangers, 1 = immediate family, 2 = sexual or romantic relationship, 3 = friends or acquaintances, 4 = extended family, 5 = ex-partner, 6 = professional relationship, 7 = position of authority, 8 = miscellaneous, 9,999 = no relationship specified, 7,777 = multiple victims in one case with multiple relationships to offender <sup>b</sup>	.55	<.001	Moderate
Sentence: Number of days on probation		.73	<.001	Substantial
Life sentence <sup>a</sup>	0 = no, 1 = yes	.95	<.001	Almost perfect
Years before parole eligibility		.75	<.001	Substantial
Victim fine surcharge	0 = not present, 1 = present	.80	<.001	Substantial
Restitution order	0 = not present, 1 = present	.79	<.001	Substantial
Fine	0 = not present, 1 = present	.62	<.001	Substantial
DNA order <sup>a</sup>	0 = not present, 1 = present	.82	<.001	Almost perfect
Sex Offender Information Registry Act order <sup>a</sup>	0 = not present, 1 = present	.93	<.001	Almost perfect
Firearms/weapons prohibition <sup>a</sup>	0 = not present, 1 = present	.83	<.001	Almost perfect
Other prohibition <sup>a</sup>	0 = not present, 1 = one present, 2 = more than one present	.52	<.001	Moderate
Noncommunication order <sup>a</sup>	0 = not present, 1 = present	.87	<.001	Almost perfect
Treatment/counseling order <sup>a</sup>	0 = not present, 1 = present	.80	<.001	Substantial
Order for an apology <sup>a</sup>	0 = not present, 1 = present	.77	<.001	Substantial

*Note.* Interpretation of Cohen’s κ is modeled after the standard set by Landis and Koch (1977), who offer the following rating scale: <.20 = poor agreement, .21–.40 = fair agreement, .41–.60 = moderate agreement, .61–.80 = substantial agreement, .81–.1.00 = almost perfect agreement. Interrater reliability analyses were conducted on 700 of 1,332 cases (52%). CCC = Criminal Code of Canada; VIS = victim impact statement.

<sup>a</sup>This is a discrete/categorical variable. <sup>b</sup>Although we coded these 11 categories, analyses were conducted only on the first eight.

offender had committed across all categories. For instance, in a case coded as having one sexual offense conviction and four theft convictions, the total number of convictions would be five. Next, we coded the relationship between the victim and the offender. Past researchers have expressed the importance of classifying this relationship (e.g., Roy & Marcellus, 2019; Ullman et al., 2006). We created 11 relationship categories for this variable, as shown in Table 1.

We then extracted information related to the VIS from the sentencing rulings. We coded for the presence or absence of VISs and the number of VISs presented at the sentencing hearing. For example, a judge's assertion that "there was no victim impact statement submitted for this sentencing" would be coded as VIS absent. We also coded the number of VISs read aloud by a woman, written by a woman, read aloud by a man, and written by a man, as well as the number of statements in which the victim's gender or the format in which the statement was conveyed were not specified. We used this information to obtain sums of VISs that were read aloud and VISs that were submitted in writing.

The primary outcome variables were sentencing outcomes, including the length of the incarceration sentence and the length of the probation sentence. Length of time was documented in days. "Incarcerated" refers to any sentences that were given using the phrases "jail," "prison," "incarceration," "imprisonment," and "in custody." "Probation" sentences were coded as ones that used the phrases "in the community," "on probation," or "conditional discharge." Offenders could receive incarceration sentences, probation sentences, or both. Absolute discharges were coded as zero for both. In cases with multiple convictions, we summed each of the sentences for each respective conviction without factoring "credit for time served." We coded sentencing this way to maximize precision, so that the sentence reflected the period of incarceration assigned for each charge. Naturally, this approach may not reflect the incarceration sentence that offenders truly served.

For coding consistency, we coded sentences of 1 month as 30 days, 1 year as 365 days, and life as 9,125 days (which is equal to 25 years). This number was chosen because offenders receiving a life sentence in Canada are first eligible for parole at 25 years, so this is the shortest custodial sentence possible that someone with a life sentence would serve. Because we added sentences for all convictions consecutively, some offenders who were sentenced for multiple convictions all at once could have received a sentence length greater than 9,125 days. In cases where the sentencing involves a decision about dangerous offender status, offenders will typically receive an indeterminate sentence, which is essentially supervision from Correctional Services of Canada for the rest of their lives. This outcome was treated as a life sentence and coded as 9,125 days.

Next, coders noted whether the offender received a life sentence and then the number of years before parole eligibility, where applicable. The parole variable was coded as the number of years an offender had to wait before applying for parole (typically between 7 and 20 years). Finally, sentencing conditions and ancillary orders (Sentencing Council, 2023) were coded into 11 variables, listed in Table 1.

### Interrater Reliability

Interrater reliability (IRR) analyses were conducted on all quantitative variables in this study ( $N = 45$ ). A new team of research

assistants coded a randomly selected set of 700 of the 1,332 cases (53%). IRR was calculated using Cohen's  $\kappa$  in the Statistical Package for the Social Sciences. Kappa coefficients for each variable are given in Table 1. Overall, the results revealed substantial agreement among coders for all variables. Notably, using Cohen's  $\kappa$  to calculate IRR for continuous variables is a very conservative approach, so slightly lower  $\kappa$  coefficients for those values (e.g., sentence, number of VISs) would have been expected. Nevertheless, we found moderate-to-strong  $\kappa$  coefficients for all variables used in this study, including continuous variables. Next, the first author reviewed every case in which the original coder and the second coder disagreed on the coding. The first author reviewed all disagreements and made a decision based on the instructions in the coding manual. All errors detected during the IRR process were corrected.

## Results

### Descriptive Statistics

Frequency information (number and percentages of cases) for applicable variables is presented in Table 2. Descriptive information (means, standard deviations, and ranges) for applicable variables is presented in Table 3, which also shows the number of victims and number of VISs. Note that VISs are not always delivered by the person initially identified as the victim. For instance, in homicide cases, victims are deceased, and any statements present would need to have been submitted by another person (e.g., friend or family member). Therefore, there may be one identified victim but several VISs. See Table 4, for a breakdown of how many cases of each crime type had a VIS present.

### Research Question 1: Are Crime Victims More Likely to Deliver a VIS for Some Offenses Than Others?

We conducted a logistic regression with 10 predictor variables (each type of crime) and one binary outcome variable (VIS presence). The results showed that contact sexual offenses, second-degree murder, and other homicide offenses were all significantly positively related to VIS presence. Specifically, a VIS was 1.82 times as likely to be present in a case with a contact sex offense as in a case without a contact sex offense, more than 11 times as likely to be present in a case with a second-degree murder charge as in a case without a second-degree murder charge, and more than seven times as likely to be present in a case with other homicide convictions such as manslaughter as in a case without a homicide conviction. See Table 5, for the full results for all variables included in the analysis.

### Research Question 2: Is There an Association Between the Victim–Offender Relationship and the Likelihood of Delivering a VIS?

We used a Pearson  $\chi^2$  test of association to examine the relationship between VIS presence and the offenders' relationship to the victim. Cases where multiple victims each had different relationships with the offender ( $n = 113$ ) or where the relationship was not specified ( $n = 167$ ) were excluded, leaving a sample of 1,052 cases. The  $\chi^2$  analysis,  $\chi^2 = 18.12$ ,  $p = .011$ , Cramér's  $V(7) = .131$ , indicated a moderate significant difference among relationship types in predicting the likelihood of VISs.

**Table 2**  
Frequency Information (Number and Percentages of Cases) for Archival Variables

Variable	Cases	
	<i>n</i>	%
Offender gender		
Male	1,182	89
Female	150	11
Crime type		
Contact sexual offense (e.g., sexual assault)	404	30
Noncontact sexual offense (e.g., pornography)	115	9
First-degree murder	16	1
Second-degree murder	99	7
Other homicide (e.g., manslaughter)	213	16
Assault	380	28
Kidnapping or abduction	76	6
Theft, fraud, or robbery	225	17
Drug-related charge	24	2
Other (e.g., mischief, breach of probation)	470	35
Number of convictions		
One conviction	545	41
Two convictions	293	22
Three or more convictions	494	37
Life sentence		
Yes	131	10
No	1,201	90
Victim gender		
At least one male victim	568	43
At least one female victim	802	60
Victims whose gender is unknown	169	13
VIS information		
VIS present	1,069	80
No VIS present	263	20
Community impact statement present	34	3
VIS format		
VIS read in court	269	20
VIS delivered in writing	444	33
VIS format unknown	480	36

Note.  $N = 1,332$ . For crime-type variables, numbers represent cases with at least one offense of that kind. Cases with no victim impact statement (VIS) present are ones in which the judge noted the absence in the ruling.

To examine differences between groups, we examined standardized residuals. Any groups with a standardized residual more extreme than the cutoff point of  $\pm 1.96$  (Field, 2018) were significantly different from

**Table 3**  
Descriptive Information for Continuous Archival Variables

Variable	<i>M</i> ( <i>SD</i> )	Minimum	Maximum
Offender age at sentencing (in years)	38.86 (14.39)	15	83
Number of convictions	3.21 (5.41)	1	113
Parole eligibility (in years)	15.40 (11.43)	7	75
Number of victims	2.05 (7.12)	1	201
Number of VISs	1.83 (2.77)	0	31

Note. Despite their age range, all the offenders in this data set were tried as adults. For parole eligibility, numbers are presented only for offenders who received a parole eligibility sentence ( $n = 122$ ). Number of victims excludes cases in which the total number of victims was not specified in the sentencing. There was a total of 2,427 victims and 2,235 victim impact statements (VISs). There were many cases with multiple victims and few VISs or multiple VISs and few victims.

the other groups at the  $p < .05$  level. See Table 6, for cell descriptive statistics relevant to this analysis.

Relationship type was not associated with the probability of a VIS being present at sentencing. However, in sentencings where the offender was an extended family member of the victim (e.g., the offender was the victim's grandparent or uncle), it was significantly less likely to have no VIS submitted (standardized residual =  $-2.0$ ).<sup>1</sup> This relationship (extended family) was the only statistically significant relationship.

### Research Question 3: Is There a Relationship Between VIS Presence and Sentencing Outcomes (Incarceration and Probation Sentences and Sentencing Conditions)? If so, Does Controlling for the Type of Crime Impact That Relationship?

We first assessed whether VIS presence alone would predict sentencing outcomes. Then we ran a series of regressions to examine whether controlling for type of crime would have an impact on the relationship between VIS presence and sentencing. The predictor for the first set of analyses was VIS presence. The two dependent variables were duration of incarceration and duration of probation sentences. Incarceration and probation were significantly negatively correlated (Pearson's  $r = -.43$ ,  $p < .001$ , 95% CI  $[-.47, -.38]$ ), so a multivariate analysis of variance (MANOVA) was used. Tests for outliers (Field, 2018) resulted in the exclusion of 28 cases, leaving a final sample of 1,304 cases. Trimming statistical outliers was, in effect, a form of correcting extraneous cases that arose due to the consecutive coding method. Analysis of normality plots confirmed that the data appear much closer to normal after their removal.<sup>2</sup>

A MANOVA revealed a significant difference between VIS presence and VIS absence on a combination of incarceration and probation outcomes,  $F(2, 1,301) = 12.88$ ,  $p < .001$ ,  $\eta_p^2 = .019$ . In cases that included a VIS ( $M = 2,678.16$ ,  $SD = 3,298.53$ ), incarceration sentences were significantly longer than in cases that did not have a VIS ( $M = 1,603.11$ ,  $SD = 2,2410.54$ ),  $F(1, 1,300) = 24.68$ ,  $p < .001$ ,  $\eta_p^2 = .019$ , indicating a statistically small-to-medium effect. The mean difference between the two conditions was 1,075 days, nearly 3 additional years of incarceration. In contrast, probationary sentences were significantly shorter in cases that had a VIS ( $M = 301.57$ ,  $SD = 440.86$ ) than in cases that did not have a VIS ( $M = 394.33$ ,  $SD = 427.65$ ),  $F(1, 1,300) = 9.30$ ,  $p = .002$ ,  $\eta_p^2 = .007$ . This finding, a difference of approximately 3 months, reflects a small effect of VIS on probation duration. As Figure 1 illustrates, this finding contrasts with that for incarceration.

Next, we conducted a hierarchical linear regression to examine the relationship between VISs and sentencing outcomes while

<sup>1</sup> The findings in Research Question 1 indicate that cases where the offender was an extended family member were less likely to have no VIS submitted—although this double negative is confusing, only the standardized residual for the No VIS group was significant (in a negative direction). This indicates that this group was *less likely* to be in the No VIS group than we would expect if left to random chance. However, these cases were *not* more likely to be in the VIS present group, and thus we cannot say they were *more* likely to have statements delivered.

<sup>2</sup> Extra analyses were performed with the outliers included, yielding the same results. These analyses are available in the online supplemental materials.



**Table 4**  
*Presence or Absence of VIS for Each Crime Type*

Crime type	Number of cases that contain VISs (%)	Number of cases that do not contain VISs (%)	Total number of cases
Contact sexual convictions	330 (82%)	74 (18%)	404
Noncontact sexual convictions	84 (73%)	31 (27%)	115
First-degree murder convictions	15 (94%)	1 (6%)	16
Second-degree murder convictions	96 (97%)	3 (3%)	99
Other homicide convictions	203 (95%)	10 (5%)	213
Assault convictions	294 (77%)	86 (23%)	380
Kidnapping or confinement convictions	58 (76%)	18 (24%)	76
Theft or fraud convictions	164 (73%)	61 (27%)	225
Drug convictions	14 (58%)	10 (42%)	24
Other convictions	351 (75%)	119 (25%)	470

*Note.* Most sentencings (59.1%) involved more than one conviction. VIS = Victim Impact Statement.

controlling for the type of crime. Tests for outliers (Field, 2018) resulted in the exclusion of 28 cases from the data set, resulting in a final sample of 1,304 for this analysis. The results indicated that the sentencing outcome was predicted by the crime-type variables,  $F(10, 1,293) = 124.83, p < .001, r^2 = .49$ , adjusted  $r^2 = .49$ . However, once crime type was controlled for in the model, VIS presence did not significantly predict the total sentencing outcome,  $\Delta F(1, 1,292) = 2.04, p = .153$ . See Table 7, for full results.

This analysis was repeated for incarceration and probation sentences separately. Once crime type was controlled for, the presence of a VIS was not significantly associated with differences in incarceration sentences,  $\Delta F(1, 1,292) = 2.40, p = .12$ . The results were similar for probation,  $\Delta F(1, 1,292) = 0.99, p = .32$ . Thus, the results of the MANOVA indicate that the presence of a VIS is associated with differences in sentencing outcomes, but the linear regression results indicate that the type of crimes committed drives that relationship.

Finally, to explore a separate but important element of the sentencing process, we examined the relationship between sentencing conditions and VIS presence. Each sentencing condition (ancillary order) was coded separately. We created a variable consisting of the sum of all the individual sentencing conditions (possible range = 0–12, actual range = 0–9; thus, no offender

received more than nine conditions). An independent-samples  $t$  test revealed that sentencing conditions did not differ between cases that included a VIS ( $M = 3.68, SD = 1.81$ ) and cases that excluded a VIS ( $M = 3.76, SD = 1.94$ ),  $t(1,329) = 0.60, p = .550$ , bootstrapped 95% CI for  $\Delta M = [-0.188, 0.339]$ ,  $d = 0.041$ .

#### **Research Question 4: When a Life Sentence Is Imposed, Is There a Relationship Between VIS Presence and Parole Eligibility Outcomes?**

Of 128 cases in which offenders received life sentences (and were thus given parole eligibility sentences), a VIS was present in 120 and absent in only eight. Although these sample-size differences were substantial, nonparametric tests were able to correct for issues related to heterogeneity. This analysis examined whether parole eligibility varied as a function of VIS presence. Results from Welch's nonparametric  $t$  test found that parole eligibility did not significantly differ between cases where there was a VIS ( $M = 17.01, SD = 14.87$ ) and cases where there was not a VIS ( $M = 34.38, SD = 32.34$ ), Welch's  $t(12.33) = 1.54, p = .237$ . A VIS was present in nearly all (94%; Table 4) cases with a first-degree murder conviction. This analysis included all first-degree murder cases, which require judges to impose parole eligibility of 25 years. We repeated the analysis after

**Table 5**  
*Results of Logistic Regression Analysis Predicting the Presence of VIS From Crime Type*

Predictor	$\beta$	Wald $\chi^2$	$p$	Exp( $B$ ) OR	95% CI for exp( $B$ )
Contact sexual offenses	0.60	9.27	.002	1.819	[1.238, 2.673]
Noncontact sexual offenses	-0.26	1.21	.271	0.769	[0.482, 1.227]
First-degree murder	1.55	2.17	.141	4.718	[0.599, 37.157]
Second-degree murder	2.43	15.83	<.001	11.345	[3.430, 37.528]
Other homicide offenses	2.03	32.20	<.001	7.593	[3.770, 15.293]
Assault	0.20	1.96	.274	1.221	[0.854, 1.745]
Kidnapping or confinement	-0.05	0.03	.873	0.954	[0.535, 1.702]
Theft or fraud	0.02	0.01	.906	1.024	[0.688, 1.524]
Drug convictions	-0.77	3.07	.080	0.464	[0.196, 1.096]
Other charges	-0.15	0.86	.355	0.864	[0.634, 1.177]

*Note.* Betas indicate whether the association with VIS presence was positive or negative. Exp( $B$ ) odds ratios indicate the unit-increase likelihood of a VIS having been presented. Scores less than 1.0 reflect a lower chance of VIS submission. CI = confidence interval; VIS = victim impact statement; OR = odds ratio.

**Table 6**  
*Cell Descriptive Statistics for the Chi-Square Analysis Predicting VIS Presence or Absence From Relationship Type*

Predictor	VIS present		VIS absent	
	Count	Standardized residual	Count	Standardized residual
Strangers	56	0.8	225	-0.4
Immediate family	17	-0.8	99	0.4
Sexual or romantic partners	31	1.9	91	-0.9
Friends or acquaintances	45	-0.7	231	0.3
Extended family	5	-2.0	61	0.9
Ex-partner	15	1.8	28	-0.8
Professional/work relationship	10	0.3	40	-0.2
Position of authority	10	-1.4	78	0.7

Note.  $N = 1,029$ . VIS = victim impact statement.

removing the first-degree murder cases and found the same lack of relationship between VIS and parole eligibility.

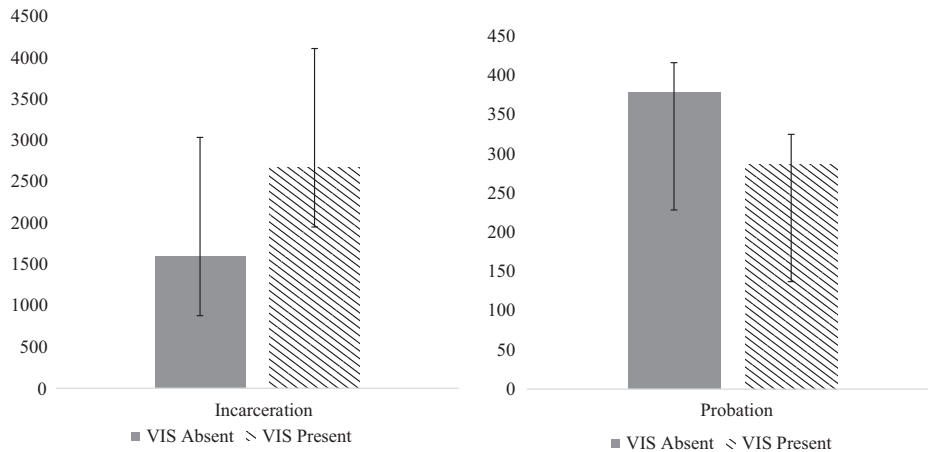
**Research Question 5: Is There a Relationship Between Sentence Length and the Format of VIS Delivery (Oral vs. Written) or Number of VISs Presented at Sentencing?**

We used a 2 (VIS format: written vs. oral)  $\times$  2 (number of VISs: one vs. more than one) factorial analysis of variance (ANOVA) on total sentence length. We excluded cases from this analysis that had a combination of written and oral VISs, cases where the format of delivery was not specified in the ruling ( $n = 536$ ), and cases with no VIS ( $n = 262$ ). After creating  $z$  scores for the incarceration-sentencing variable, we removed two outliers, leaving a final sample for this analysis of 534 sentencing rulings. Table 8 provides the cell descriptive statistics for this analysis.

Results from the univariate general linear model factorial ANOVA yielded a significant main effect of number of VISs,  $F(1, 527) = 31.91$ ,

$p < .001$ ,  $\eta_p^2 = .057$ . These findings indicate that cases with more than one VIS ( $M = 3,514.65$ ,  $SD = 3,490.38$ ) received significantly longer sentences than cases that only had one VIS ( $M = 2,050.05$ ,  $SD = 2,180.45$ ). On average, judges imposed sentences that were more than 4 years longer in cases involving more than one VIS compared with cases that had only one VIS. Results also yielded a significant main effect of format of VIS,  $F(1, 527) = 6.73$ ,  $p = .001$ ,  $\eta_p^2 = .013$ . This finding indicates a statistically small effect of VIS format. These findings indicate that offenders in cases with orally delivered VISs ( $M = 3,118.02$ ,  $SD = 3,248.73$ ) received significantly longer sentences than offenders in cases with written VISs ( $M = 2,360.50$ ,  $SD = 2,589.85$ ). On average, judges assigned sentences that were more than 2 years longer in cases including orally delivered VISs compared with cases that had written VISs. Last, the interaction between number and format of VISs was not significant,  $F(1, 527) = 0.36$ ,  $p = .551$ ,  $\eta_p^2 = .001$ . The adjusted  $R^2$  for the overall factorial ANOVA was .08. See Figure 2, for a visual representation of the main effects of the number and format of VISs.

**Figure 1**  
*Mean Length of Incarceration (Left) and Probation (Right) Sentences, Separately for Cases Where a VIS was Absent and Where a VIS was Present*



Note. Error bars represent 95% confidence intervals. VIS = victim impact statement.

**Table 7**  
*Results of the Hierarchical Regression Predicting Total Sentence From the Presence of VISs, Controlling for Crime Type*

Predictor	$\beta$	$t$	$p$
Contact sexual offenses	0.23	8.62	<.001
Noncontact sexual offenses	0.16	7.55	<.001
First-degree murder	0.20	10.05	<.001
Second-degree murder	0.73	32.03	<.001
Other homicide offenses	0.30	12.36	<.001
Assault-related convictions	0.12	5.03	<.001
Kidnapping-related convictions	0.14	6.85	<.001
Theft- or fraud-related convictions	0.16	7.01	<.001
Drug-related convictions	0.07	3.31	<.001
Other charges	0.15	6.80	<.001
Presence of a VIS	0.03	1.43	.153

*Note.* Presence of a VIS was entered in the second block of the hierarchical linear regression. VISs = victim impact statements.

## Discussion

VISs are one of the few ways that victims of crime are offered an opportunity to have a voice in the justice process. However, whether the voices of victims can, do, and should impact the decisions made by judges during sentencing is highly contested in much of the academic literature. This study explored five research questions regarding the factors that may be associated with victims' decisions to submit a VIS, as well as the relationship between these statements and judicial decision making at sentencing. Key findings from this study are (a) VISs are most likely to be submitted in cases with more severe crimes (e.g., homicide, sexual assault); (b) after type of crime is controlled for, the presence of VISs is not associated with longer sentences for the offenders; (c) cases with orally delivered VISs are associated with longer sentencing outcomes than cases in which VISs are submitted only in writing; and (d) cases with more than one VIS are associated with longer sentences than cases with only one VIS. The findings of this study provide insight into how judges use and understand VISs in the sentencing process and highlight important implications for both theory and practice.

**Table 8**  
*Cell Descriptive Statistics for the 2 × 2 Analysis of Variance Exploring the Effect of Number and Format of VIS Delivery on Sentence Length*

Number of VISs and format of delivery	$n$	$M$	$SD$
One VIS			
Oral	97	2,416.16	2,377.20
Written	233	1,897.64	2,079.53
Total		2,050.05	2,180.45
More than one VIS			
Oral	74	4,038.03	3,954.01
Written	127	3,209.69	3,166.24
Total		3,514.65	3,490.38

*Note.* VIS = victim impact statement.

## Factors Associated With the Likelihood of VIS Submission

Before exploring the relationship between VISs and sentencing, we first examined factors that contribute to a higher likelihood that a VIS would be submitted at all. Consistent with Lens's (2014) findings that type of crime was associated with an increased likelihood of VIS submission, our results for Research Question 1 show that a VIS was more likely to be present in cases with contact sexual offenses (such as sexual assault, incest, and frotteurism), second-degree murder, and other homicide offenses (such as manslaughter) than in cases without those offenses. Victims of contact sexual offenses were nearly twice as likely to deliver a statement as victims of other offenses. A VIS was more than seven times as likely to be delivered in sentencing involving a conviction of manslaughter than in sentencing without this type of offense. Finally, a VIS was more than 11 times as likely to be delivered in sentencing for second-degree murder as in cases without one. Last, with a single exception, at least one VIS was submitted in all cases with a first-degree murder conviction. These findings support the claims made 30 years ago by Erez and Tontodonato (1990), who theorized that the victims most likely to submit a VIS are those for whom the suffering and emotional distress have been the most severe.

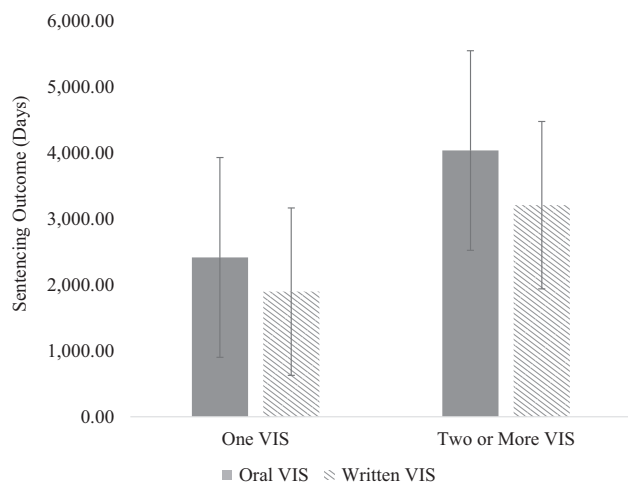
In line with past research (e.g., Lens, 2014), our analyses showed no association between the likelihood of VIS submission and the relationship between the victim and the offender. We believe that the sample size might partly be responsible for the lack of significant associations in analyses related to Research Question 2. There were eight categories reflecting various types of relationships between the victim and the offender: strangers, immediate family, extended family, friends or acquaintances, romantic or sexual partners, ex-partners, professional or work relationships, and position of authority over the victim. However, because the no-VIS conditions comprised approximately 20% of the total data set, small cell sizes (see Table 6) were a natural problem once they were split across the eight relationship categories, limiting statistical power.

## The Relationship Between VIS Presence and Sentencing Outcomes

The second component of this study explored whether the presence (or absence) of a VIS was associated with changes to different sentencing outcomes: incarceration sentences, probation sentences, sentencing conditions (ancillary orders), and parole eligibility decisions. We found that the presence of a VIS was not associated with differences in the number of sentencing conditions or the number of years before parole eligibility. However, we found that the presence of a VIS was associated with significantly longer incarceration sentences and significantly shorter probation sentences. However, once we controlled for type of crime, the presence of a VIS was no longer associated with significant differences in sentence length (either incarceration or probation).

Variations of these questions have been discussed in the empirical literature for many years, and they are a key question of interest to social scientists, as well as the legal community, victims, offenders, and other stakeholders (Boppre & Miller, 2014; Chalmers et al., 2007; Davis & Smith, 1994; Erez & Tontodonato, 1990; Kleinstuber et al., 2020; Lens et al., 2014; Phillips, 1997; Roberts, 2009; Roberts & Edgar, 2006;

**Figure 2**  
*Effect of Number of VISs (One vs. Two or More) and Format of VISs (Oral or Written) on Sentencing Outcome*



*Note.* Error bars represent standard deviations. VISs = victim impact statements.

Sanders et al., 2001). Roberts and Edgar (2006) noted that the ability to make causal inferences about the impact of VISs has historically been limited because studies that compare cases with VISs present and VISs absent would require both a large sample as well as multivariate analyses controlling for many extraneous variables, which is a difficult feat. Our study addressed some of these problems—the sample size was large and representative—and some variables were examined as covariates.

We examined incarceration and probation time separately and found that VIS presence was associated with an increase in incarceration sentence length and a decrease in probation sentence length. In some ways, this finding illustrates a narrative in sentencing: The presence of a VIS is associated with what could be perceived as a harsher sentence—less time on probation but more time in jail. One likely moderating factor might be crime severity. VISs are most likely to be present in cases involving the most severe crimes (as discussed in Research Question 1), resulting in a longer sentence. The opposite findings between incarceration and probation are interesting and novel. This lack of distinction could lead to outcomes canceling each other out in other research designs. For this reason, we recommend that future researchers measure and analyze probation and incarceration independently. Although there is a substantial amount of research that examines incarceration as a dependent variable, there is a little to no empirical research examining the relationship between VISs and probation. Future research should also address the apparent gap within the field.

Nevertheless, we note that once we controlled for type of crime, the presence of a VIS was no longer significantly associated with differences in the length of either incarceration or probation sentences. In some ways, this finding discounts the idea that VISs can influence sentencing outcomes (Boppre & Miller, 2014; Chalmers et al., 2007; Erez & Rogers, 1999; Erez & Tontodonato, 1990; Mastrocinque, 2014; Paternoster & Deise, 2011; Phillips, 1997; Sanders et al., 2001). Future research could explore the dynamics of the VIS and sentencing relationship within each crime type instead of just controlling for it. For

instance, future research could analyze differences in sentencing outcomes in cases of highly traumatic crimes, such as sexual assault or murder, compared to less severe crimes, such as theft or impaired driving, as they relate to VIS presence.

Last, we found that the presence of a VIS was not associated with significant differences in either the number of sentencing conditions imposed or parole eligibility decisions. We recommend that future researchers explore these issues in more detail. For example, we examined the number of ancillary orders, but some orders are routinely applied (e.g., Sex Offender Information Registry Act orders, DNA orders), whereas others are applied only in specific situations (e.g., orders for an apology, orders for counseling, and noncommunication orders). Do VISs tend to induce judges to impose some of these discretionary ancillary orders? Finally, if VISs are most common in severe cases but are not associated with harsher sentences, more research is warranted to explore alternate reasons why victims would feel compelled to submit a statement (such as catharsis, desire to be involved in the justice process, or desire to elicit offender remorse or acknowledgment).

### The Number of VISs and Format of Delivery

The final research question of this study explored the number of VISs delivered and the format of the statements (oral vs. written). Cases with more than one VIS were associated with longer sentencing outcomes than cases with only one VIS by a difference of over 4 years. A possible explanation pertains to crime severity, as explored in Research Question 1. A reasonable extension of these two findings is that more severe crimes might also be associated with more VISs being submitted and thus the imposition of longer sentences. For example, in murder or homicide cases, VISs are often submitted by friends and family of the deceased. This pattern could be a contributing explanation for this finding.

The other variable analyzed in this research question was the format of delivery. On average, judges issued sentences that were more than 2 years longer in cases that had orally delivered VISs compared with cases that had written VISs. This finding complements other research that has found that orally delivered VISs are associated with harsher sentences than VISs delivered in writing (B. L. Smith et al., 1997). Why did judges assign longer sentences in such cases? The role of emotions in judicial decision making has become the focus of emerging scientific research (Anleu et al., 2016). Despite the long-standing cultural script of the dispassionate judge (Maroney, 2011), judges, by virtue of their human nature, do experience and sometimes show emotions. For example, a judge at a U.K. murder trial audibly sobbed as he lauded the victim's family for the dignity they showed throughout the trial (R. Smith & Robson, 2015). The media has highlighted numerous examples of this across many jurisdictions (e.g., Higgins, 2019; Italiano, 2013; Leonard, 2018; Strachan, 2018). Although experienced judges should be accustomed and desensitized to emotion-inducing evidence, we wonder whether orally delivered VISs have a greater emotional impact on judges than written VISs.

Another explanation for this finding might be the victim's presence in the courtroom. Victims would be present in the courtroom to deliver their statements orally, although they may not be present when their statements are delivered by prosecutors or when courts consider their written statements in their rulings. Other researchers have shown that the victim's presence in court was associated with longer sentences

(Erez & Tontodonato, 1990). Another plausible explanation for this finding is that the content of orally delivered and written VISs may differ (Myers et al., 2002). It is worth noting that unlike in the United States, the admissible content of VISs in Canadian courts is more constrained, and VISs may be redacted to remove content that is considered prejudicial (e.g., past actions committed by the offender). It is possible that orally delivered VISs contain more details of the impact of the offense on the victims or may be subject to less redaction than written statements. For example, orally delivered statements may include more inadmissible (and perhaps prejudicial) information that is difficult for judges to disregard (e.g., Wistrich et al., 2005). These differences have never been studied empirically.

### Strengths and Limitations of This Study

The present study answers the call for a more systematic, evidence-based, and ecologically applicable approach to VIS research (Kunst et al., 2021; Manikis, 2015). We examined real-world sentencing rulings, relying on a rich existing repository of rulings to create our data file. The use of this archival methodology offers considerable advantages. Archival research is appropriate for exploratory studies examining relationships and associations between factors that have been suggested in the literature but never explored in applied settings. The relationships and patterns identified in this study provide solid justification for future empirical research in this field, particularly research that aims to dissect the cause-and-effect relationships between these identified factors.

In addition, the geographic scope of our large sample of sentencings extends across all Canadian provinces and territories, although some more populated provinces (e.g., Ontario and British Columbia) had more cases than other provinces/territories (e.g., Prince Edward Island or Nunavut). In addition, we note that although we included sentencings written in French, Quebec was slightly underrepresented in our sample. Nonetheless, we believe that our data are reflective of Canada as a whole.

Of course, it is important to discuss the limitations of this archival study. For instance, although archival methodology allows us to determine the extent of relationships between factors, it precludes us from making causal conclusions. In addition, archival studies are subject to limitations based on the raw data's quality and quantity. Although the CanLII repository of rulings allowed us to create a database with an adequate sample size that well exceeded 1,000 judicial rulings, we faced the common problem of missing information in the rulings. Nearly 90% of the sentencing decisions available on CanLII do not mention whether VISs were submitted or considered.

Our data set was based entirely on what judges mentioned in their sentencing decisions. When VISs were mentioned, we noticed that judges in many cases discussed them with great care and depth. Many of these judges explained what a VIS is, what it is meant to do, and how the role of the VIS was incorporated directly into the sentencing decision (e.g., *R. v. Morgan*, 2016; *R. v. Ranspot*, 2017). However, most judges made only cursory reference to the presence or absence of a VIS and did not discuss it in depth (e.g., *R. v. Dawe*, 2016; *R. v. Gallant*, 2017). Notably, judges can consider the VIS during their sentencing considerations, but it is not a requirement that judges discuss that information. That is, judges must consider the victim but are technically not obligated to write down their consideration of a VIS in the sentencing ruling. It is certainly possible that many judges "considered" the VIS but did not mention it explicitly in their sentencing ruling.

### Implications and Future Research

Adding to the evidentiary foundation, this research may help victims and victim organizations make science-based decisions regarding VISs. For example, crime victims who are deliberating on whether to submit a statement and believe that their testimony would inform the sentencing outcome may benefit from the results of this research. Crime victims who do not wish to submit a statement but worry that not doing so may be associated with differences in sentencing outcomes may also find this research informative.

There are a range of other extralegal factors that might warrant future study in research exploring the relationship between VIS presence and sentencing outcomes. For instance, studies exploring gender and VISs tend to use mock jury paradigms (Forsterlee et al., 2004; Peace & Forrester, 2012) and find little support for a relationship among victim gender, VIS presence, and sentencing differences. However, it is unclear whether other methodologies would yield similar findings. Aggravating and mitigating factors are also important variables to consider, given that many of these factors might also be intertwined with either the victim or the VIS directly. For instance, in cases where an offender has a history of domestic violence, an impact statement from the victim that describes the violence might be considered differently than in cases where the criminal history is not as strongly tied to the victim.

Future researchers should consider exploring the motivating factors contributing to the decision to submit (or not to submit) a statement. The harm and suffering experienced by victims are possible driving mechanisms affecting victims' decisions to submit a VIS. Do victims' goals for their statement (e.g., to affect sentencing, to achieve catharsis, to elicit a response or apology from the offender) differ as a function of the nature or severity of the offence? Which other factors might contribute to victims delivering a VIS? We found that nearly every sentencing for first-degree murder had a VIS and wonder what role, if any, prosecuting attorneys played in victims' decisions. Prosecutors who sympathize with victims or believe they deserve to have a voice in court may encourage victims to deliver a VIS.

Support or encouragement by prosecutors could explain why it is more likely that a VIS will be submitted in cases involving higher severity crimes (ones in which the stakes for the defendant are very high). Believing that VISs will affect judicial decision making, prosecutors may encourage victims to submit a VIS for instrumental reasons. Future research should examine the role of prosecuting attorneys in this matter. Finally, future researchers should also develop a clearer understanding of why a victim would choose *not* to submit a VIS. For instance, there were many instances where the judge noted that no VIS was submitted but also explained why that might be the case. For example, in one case, an elderly victim of fraud was unable to submit a statement because of her advanced Alzheimer's disease (*R. v. Llanto*, 2018). In another case, an assault against an immigrant woman from Pakistan, the judge stated, "she is fearful that by providing a VIS, this might impact her negatively in her community" (*R. v. Yousuf*, 2015). This unexplored area of research regarding victim participation in the justice process warrants future study.

### Conclusion

This study examined the relationship between VISs and judicial decisions regarding sentencing in the Canadian legal system. The

methodology, which involved a large sample of archival data from across Canada, is unique to the field. We found that VISs are most likely to be submitted in cases with more severe crimes, such as homicide and sexual assault. However, after controlling for the type of crime, we found that the presence of VISs was not associated with differences in sentencing outcomes. This finding extended to incarceration and probation sentences, ancillary orders, and parole eligibility decisions. When VISs are delivered at sentencing, the number matters. On average, judges imposed sentences that were 4 years longer in cases in which more than one VIS was submitted than in cases where there was just one. The format of the statement also matters. Judges assigned sentences that were more than 2 years longer when VISs were delivered orally than when they were submitted in writing. This research offers insight into the mechanics and administration of the VIS process; both matter and are often ignored in psychological literature. In examining both likelihood of submission and the relationship between VISs and judicial decisions regarding sentencing, this study provides important insight into the practical implications of VIS submission and can be used to inform crime victims who are considering writing statements. The findings highlighted in the present archival study can justify future experimental or quasi-experimental studies using these variables.

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