Victim Gender, Victim Impact Statements, and Sentencing Outcomes

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INTRODUCTION

During sentencing hearings, Victim Impact Statements (VIS) provide victims with an opportunity to describe the emotional, physical, and economic harm suffered because of the offence.

- Although mock jury research indicates that VIS presence is associated with longer jail sentences (Paternoster & Deise, 2011), there is little research examining real-world outcomes, especially in Canada.
- As such it remains unclear of how extra-legal factors associated with VIS influence sentencing outcomes
- The biggest consideration in sentence length is type of crime (Canadian Criminal Code). One possible extra-legal factor that has received empirical attention is the gender of the victim.
- Victim gender has been shown to influence sentencing outcomes; persons offending against females receive longer sentences, on average, compared to those who offend against males (Cahill, 2012; Cox & Kopkin, 2016; Curry et al., 2004)
- Although jurors appear to sympathize with female victims, jury simulation paradigms have failed to find an association between victim gender, VIS, and sentencing outcomes (Forsterlee et al., 2004; Peace & Forrester, 2012)
- Statistics show the victim's gender is a predictor in some types of offences. For instance, women are more likely to report being the victim of a sexual assault than men.

CURRENT STUDY

The purpose of this study is to explore the relationship between victim gender and likelihood of VIS submission. Our research questions are:
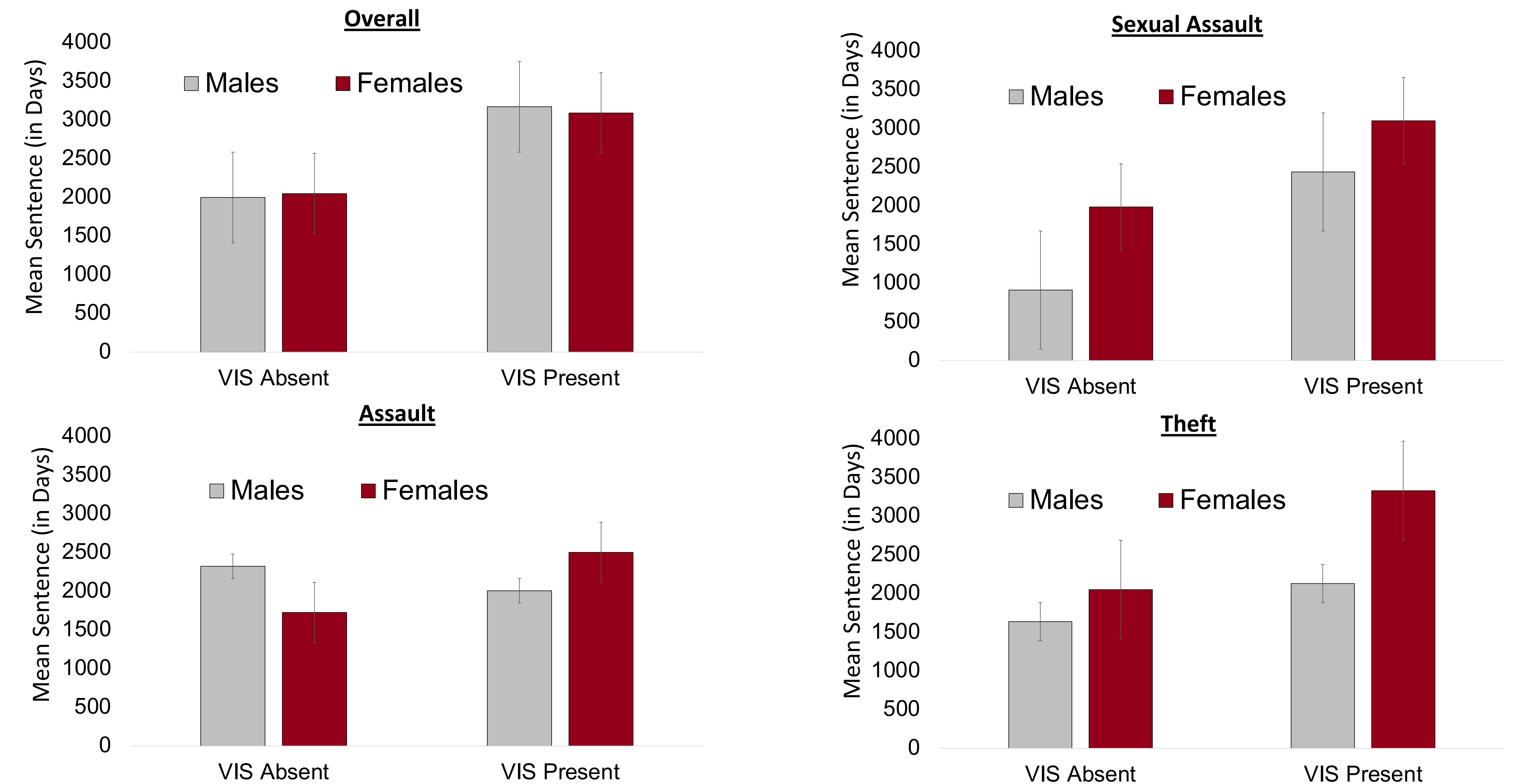
- **RQ1: Does victim's gender impact the likelihood of a VIS being submitted?**
- **RQ2: Is there an interaction between victim's gender and VIS presence on sentencing outcome?**
- **RQ3: Does the relationship between gender, VIS presence, and sentencing outcome depend on type of crime?**

To our knowledge, this research is the first to look at these questions using real sentencing data.

METHODS

- As part of a larger study on VIS, the data for this study contain 1023 sentencing rulings involving either male or female victims (not both), coded from the CanLII online database.
- The dataset contained cases from every province and territory in Canada, and ranged from 2016-2018.
- The focus of the current study is the victim's gender, victim impact statements, and sentencing.
- There were two levels of victim gender (male or female) and two levels of VIS presence (whether the judge stated a statement was present or absent).
- Sentencing outcome was measured as the sum of the incarceration and probation sentences awarded in days.

Mean sentencing outcomes based on victim gender (males and females) as a function of VIS Presence (present or absent). Note that the only significant effect is of VIS presence in the "overall" figure.

RESULTS

RQ 1: A Chi-Square analysis found that victim's gender does not significantly predict likelihood of submission of a VIS (χ^2 = .008, p = .93). (Table 1).

RQ 2: Using a 2x2 ANOVA, we found a significant main effect of VIS on sentencing outcome, F (1, 1019) = 7.89, p < .00, η_p^2= 0.08. Cases with a VIS present (M = 3121.55, SD = 5095.15) received significantly longer sentences than cases without a VIS (M = 2028.84, SD = 2509.64). The main effect of gender was not significant: F (1, 1019) < .00, p = .97, η_p^2 = 0.00. The interaction between VIS presence and victim gender on sentencing outcome was also not significant: F (1, 1019) = .03, p = .87, η_p^2 = 0.00. (Figure 1 A).

RQ 3: The above analyses were repeated in order to look at type of crime. Because some cases contain multiple types of crime at once, they are therefore not independent of each other. Analysis involved filtering for cases with contact sexual offences, and then assault, and then theft, respectively (Figure 2). In all crime types, there were no gender differences in likelihood of submission, nor were there interactions between VIS presence and sentencing, indicating this relationship does not depend on crime type. After filtering for type of crime, VIS was no longer predictive of sentencing outcome.

VIS Present	Gender			
	Males	Females	χ^2	p
Yes	399 (399.0)	510 (510.5)	.008	.928
No	72 (72.5)	114 (113.5)		

Table 1. Crosstabulation of victim gender and VIS presence

DISCUSSION

- There is no evidence that a victim's gender impacts the likelihood of a VIS being submitted.
- Similar to Dufour et al (2021), VIS presence is associated with longer sentencing outcomes.
- However, no interaction was found between victim gender and VIS presence on sentence length. The combination of those two factors are not contributing to longer sentences.
- Whether the we looked at cases with contact sexual offences, assault, or theft, both men and women were equally likely to submit a statement. Moreover, even when filtered by crime type, VIS presence and gender did not contribute to differences in sentence length.
- Using real world data, these results are in line with past research using jury simulation paradigms (e.g., Peace & Forrester, 2012).

Strengths & Limitations

- The use of Canadian sentencing rulings allow the examination of these variables in a real-world context
- Archival data precludes casual inferences.
- However, the dataset was sufficiently large and there were no violations of statistical or power assumptions.

IMPLICATIONS

- Victims, service workers, and legal professionals may wish to know that sentencing outcomes do not appear to vary as a function of victim gender or presence of VIS nor does gender appear to influence the likelihood of VIS submission.

Future Research

- We suggest that future research looks at other types of crimes, as well as other, non-binary gender identities.
- Furthermore, we suggest an investigation of the effects of offender gender, judge gender, and attorney gender, and the effect of gender of the person who submits the VIS as possible extralegal factors.