

# Do Victim Impact Statements Influence Sentencing? Evidence Tells Us It Depends

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## INTRODUCTION

- Victim Impact Statements (VIS) are testimonies that describe the financial, physical, or emotional impact of a crime on a victim. VIS may be presented at sentencing, after the offender has pled or been found guilty. VIS are typically submitted in writing or are delivered orally during the hearing.
- VIS provide victims with a voice, but it is unclear whether VIS impact sentencing (Davis & Smith 1994; Erez & Tontodonato 1990; Kleinstuber, et al., 2020).
- There is a substantial lack of empirical literature in the field of VIS (Boppre & Miller, 2014; Mastrocinque, 2014), particularly in a Canadian landscape (Manikis, 2015).
- Canadian research is integral because there are different admissibility rules for VIS in Canada compared to the US. For instance, victims in Canada are bound by rules that limit the contents of their statements; victims in the US face fewer restrictions.
- The literature that does exist is often limited in terms of external and ecological validity (Wiener et al., 2011). Research in this field typically utilizes mock jury designs and have limited generalizability to real courtroom settings.
- Finally, in sentencing determination, aggregating and mitigating factors (such as type of crime, relationship to offender, nature of the offence) are always considered.
- The current project is the first Canadian archival analysis that examines the relationship between VIS and sentencing outcomes.
- This study had two major goals:**
  - To examine factors that might influence likelihood of submission
  - To examine factors that might influence sentencing outcomes in relation to VIS (such as presence, number of statements, or format of delivery).

## METHODS

- Using the CanLII online database of sentencing rulings ([www.canlii.ca](http://www.canlii.ca)), we created a dataset of 1332 sentencing rulings from every province and territory in Canada.
- The dataset was created by searching CanLII for cases between 2016 and 2018 that included the term "Impact Statement."
- Those cases were then coded for information relevant to the victim, the offender, the case information, the VIS information, and the sentencing outcome.
- We also coded for the type of offense (crime type) and the relationship between the victim and offender (stranger, spouse, family, etc.)
- Sentencing outcome includes incarceration and probation sentences, and is measured in days.

## RESULTS

### Research Question 1: Does the type of crime committed or the victim's relationship to the offender impact the likelihood of a VIS being submitted?

- Using a Logistic Regression, we found that contact sexual offences such as sexual assault (Wald  $\chi^2 = 14.97, p < 0.01, Exp(B) = 1.73$ ), second-degree murder (Wald  $\chi^2 = 7.92, p < .00, Exp(B) = 10.62$ ), and other homicide charges such as manslaughter (Wald  $\chi^2 = 31.58, p < .00, Exp(B) = 7.40$ ) were all significantly positively related to VIS presence. (Table 1).
- Some relationships included partner, immediate family, extended family, and position of authority over victim. Chi-Square analyses revealed that cases where the offender was an extended family member to the victim were significantly less likely to have *no VIS* submitted (Standardized Residual = -2.0).

### Research Question 2: Do VIS influence sentencing? Under what circumstances?

- A MANOVA found that cases where there was a VIS ( $M = 2643.21, SD = 3291.02$ ) had significantly longer incarceration sentences than when there was not a VIS ( $M = 1560.20, SD = 2208.88$ ),  $t(574.04) = -6.33, p < .00, d = 0.33$ . (Figure 1).
- Cases that had a VIS ( $M = 286.81, SD = 429.28$ ) received significantly shorter probation sentences than cases where there was no VIS ( $M = 378.23, SD = 420.67$ ),  $t(399.90) = -3.11, p = .002, d = 0.22$ .
- However, using hierarchical linear regression, we found that once type of crime was controlled, VIS presence is no longer significantly able to predict sentencing outcome:  $FChange(1, 1304) = 3.07, p = .08$ .
- An independent samples t-test found no difference on number of ancillary orders between cases where there was a VIS and cases where there was not:  $t(1328) = .96, p = .033, d = 0.07$ .
- A 2x2 factorial ANOVA examined possibility of an interaction between VIS format (written and oral), and the number of VIS (one, or more than one) on sentencing outcome. We found a significant main effect of number of VIS:  $F(1, 538) = 37.10, p < 0.00, \eta^2 = 0.07$ . Cases with more than one VIS received significantly longer sentences than cases that only had one VIS. We also found a significant main effect of format of VIS:  $F(1, 538) = 8.27, p = 0.04, \eta^2 = 0.02$ . Cases with orally delivered VIS received significantly longer sentences than cases with exclusively written VIS. The interaction between number and format of VIS was not significant:  $F(1, 538) = 0.006, p = .094, \eta^2 = 0.00$ . (Figure 2).

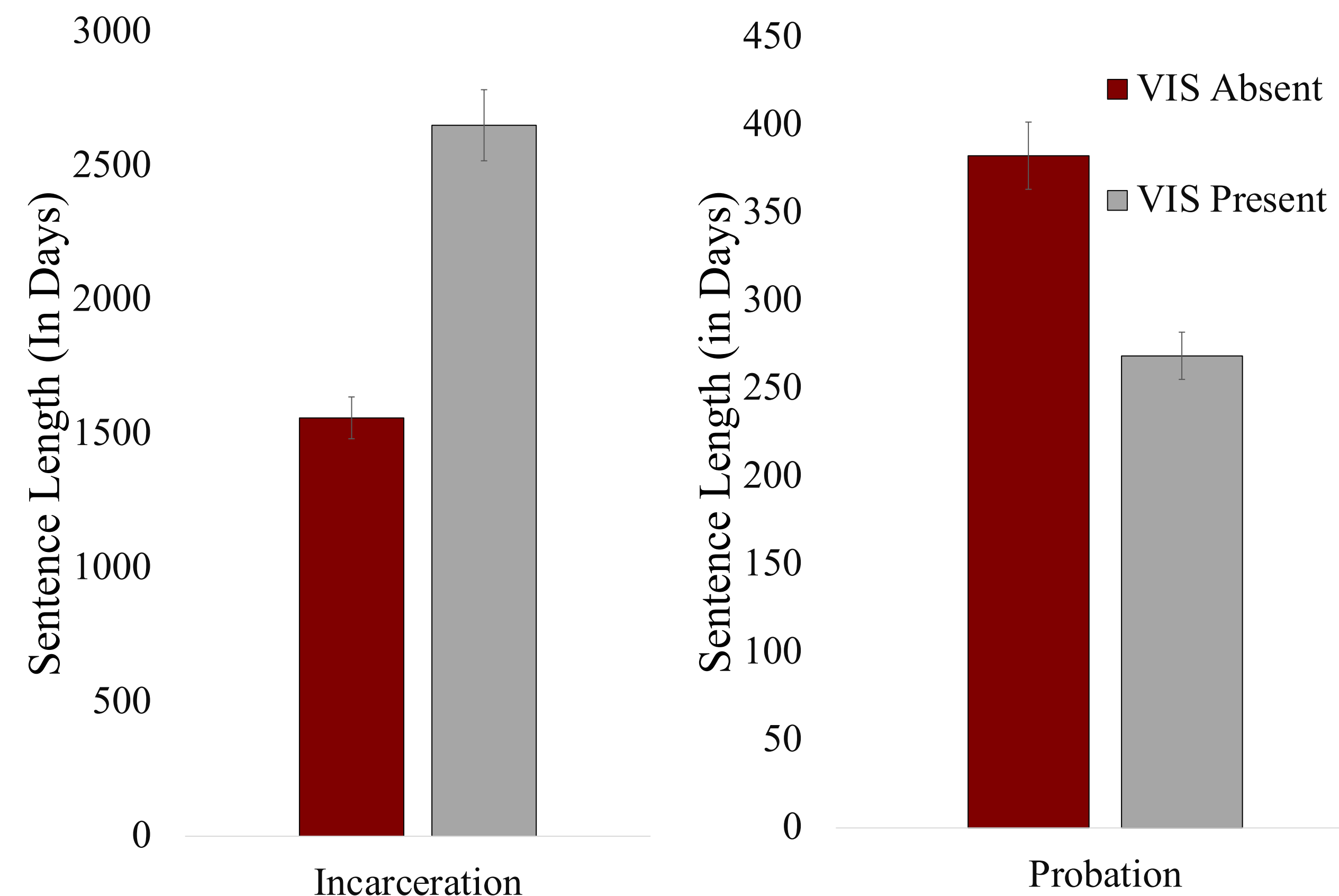


Figure 1. Side by side comparison of incarceration sentences (Left) and probation sentences (Right) as a function of whether a VIS was absent or present Error Bars = 5% CI

Predictor	Standardized Beta	Wald $\chi^2$	P	Exp (B) Odd's Ratio
Contact Sexual Offences	.55	7.92	<.00*	1.78
Non-Contact Sexual Offences	-.25	1.15	.28	.78
1 <sup>st</sup> -Degree Murder	1.70	2.62	.11	5.45
2 <sup>nd</sup> -Degree Murder	2.36	14.98	<.00*	10.62
Other Homicide charges	2.00	31.52	<.00*	7.40
Assault	.18	1.03	.31	1.20
Kidnapping/Confinement	-.01	.002	.97	.99
Theft/Fraud	.03	.02	.88	1.03
Drug Charges	-.76	3.03	.08	.47
"Other" Charges	-.24	2.38	.12	.78

Note. Standardized Beta Indicates whether the association to VIS presence was positive or negative. Exp (B) Odd's Ratio Indicates the unit increase likelihood of having a VIS submitted. Scores < 1.0 reflect a lower chance of VIS submission. \*p < 0.05

Table 1. Summary of Logistic Regression Analysis for Type of Crime on Presence of VIS.

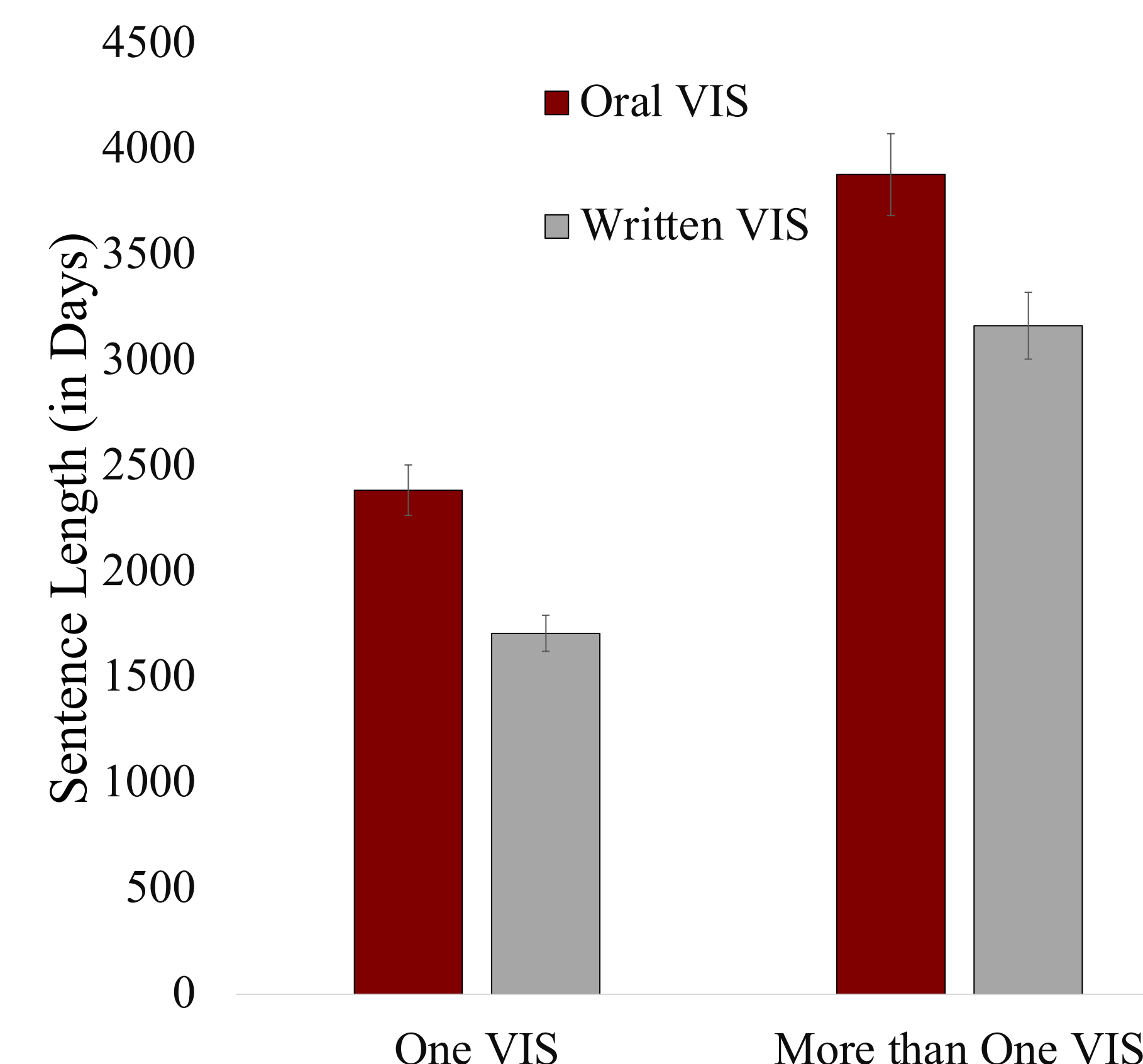


Figure 2. Number of VIS (one or more than one) and Format of VIS (oral or written) as a function of the total sentence. Error bars = 5% CI.

## DISCUSSION

- This archival data is based on actual sentencing outcomes, indicating very strong external validity. This study has empirically demonstrated that victims of some crimes (murder, sexual offences) are the most likely to submit VIS than victim's of other offences (theft, assault).
- Although there is a relationship between VIS and sentencing outcomes, that relationship can be accounted for by the type of crime committed.
- VIS presented orally in court are associated with longer sentencing outcomes than VIS submitted in writing. Cases with more than one VIS are associated with longer sentencing outcomes than cases with only one statement.

### Limitations

- Because this was not an experimental study, data precludes us from making causal inferences; more research should explore the nature of the relationships among these key variables.
- Our dataset exclusively contained cases where the judge specifically mentioned whether a statement was submitted or not. The impact of VIS in cases where they are not mentioned at all is unknown. Our comparison group is limited to cases wherein the judge stated "there is no VIS."

### Implications

- VIS are an opportunity for crime victims to voice their experiences in a legal setting (Verdun-Jones & Tijerino, 2004). It is helpful for victims of crime, victim service workers, and legal professionals to be informed about the effects of VIS (specifically, that they do not impact sentence length). An examination of VIS can shed light on recurring patterns and trends in victim experiences in Canada that researchers might not otherwise get to see.