

Ministry of Community Safety and Correctional Services  
Consultation on Enhancing Ontario's Response to  
Missing Persons

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Joint Submission by:

Canadian Resource Centre for Victims of Crime

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&

Ontario's Missing Adults

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The Canadian Resource Centre for Victims of Crime (CRCVC) has been working since 1993 in Canada to voice the needs and concerns of persons harmed by serious crime. We provide victims, survivors and stakeholders with support, research and education and we work to ensure victims' rights are recognized and respected in the criminal justice system. In our work with persons impacted by violence, we have come into contact with families of missing persons and have worked regularly with Ontario's Missing Adults on issues of mutual interest for more than a decade.

Ontario's Missing Adults (OMA) acts as an information and support resource for families, police, the public, the media and anyone working to locate a missing adult or to identify found human remains in the province of Ontario. In addition to profiling cases involving long-term missing and unidentified persons, OMA works to increase awareness about issues and service needs of families living with a missing adult loved one.

Each agency recognizes the ongoing trauma experienced by family and friends when an adult loved one vanishes without a trace. Our experience tells us that one of the overriding concerns of families is that their loved one is found and that the search will continue until loved ones are found. Families need answers and information about disappearances. The lack of a resolution creates inescapable states of uncertainty and anxiety. This state of living in limbo may create damage to personal relationships, financial strains, negative health effects and on-going trauma which in turn significantly impact on quality of life considerations.

In 2005, CRCVC authored a research report entitled "Developing a Strategy to Provide Service and Support for Victims of Unsolved, Serious Crime" wherein we noted the unique needs of families with missing loved ones. Families of missing persons are presented with a number of complicated issues that are difficult to resolve without knowing the fate of a loved one.

In November of 2012, the CRCVC partnered with OMA to create the Canadian Centre for Information on Missing Adults Canadian Centre for Information on Missing Adults (CCIMA). The CCIMA is a bilingual online resource that acts as an information and referral centre for Canadian families and friends of missing adults. The goal of CCIMA is to provide Canadian families with useful and practical information to help them cope with the realities arising from having a missing adult loved one, some of who are victims of crime. To this end, CCIMA created a series of fact sheets addressing issues and processes that need to be negotiated by families whose loved ones have disappeared. As well, existing guidebooks and information sheets have been included in the online resources to further aid families. CCIMA also seeks to provide professionals working with victims of crime and trauma with information and resources that will help them better serve families who report a missing adult. The website also facilitates the development of relationships between law enforcement agencies, front line service providers, Internet volunteer groups, international agencies and Aboriginal groups in

order to exchange information and make referrals to appropriate agencies. This website was developed with project funding provided by the Department of Justice Victims Fund.

## **THE CRCVC'S RESEARCH WITH FAMILIES OF MISSING PERSONS**

Missing persons present unique challenges to law enforcement. Unless there are indicators of criminal activity, police have fewer investigative tools available to them particularly when working to locate missing adults. Police must balance an adult's right to voluntarily disappear and trying to locate the individual reported missing.

In the CRCVC's 2005 research, we surveyed families of missing persons and respondents said that police were not immediately responsive or were not appropriate in their responses when it was reported by family members. They complained that the missing person was treated as a runaway or someone who left on their own, not as a victim of foul play. While this may be an understandable position from a law enforcement view, it is difficult for families to accept. Many felt that they were not important, felt alienated, angry and foolish. They could not understand why police did not believe them. Two thirds (64%) of victims were unsatisfied with the police investigation. Many felt there was a lack of action taken as soon as missing person was reported, lack of sensitivity and a lack of communication. It may be that victims are not aware of all that police were doing, perhaps because police do not feel they can share those details or are too busy to do so. Respondents overwhelmingly (74%) said police did not keep them regularly informed of what they were doing. This was by far the most consistent complaint during the personal interviews, the questionnaire and the meeting we conducted with families. If there was ongoing contact in the beginning of the investigation, it subsided as time went on and often stopped altogether. Victims felt they had to initiate the contact. One family member said, "Nothing to report is something to report."

We also know from this research with families that police and victim services report that little specialized support is offered to families of missing persons. Although they have experienced traumatic incidents, families are often not considered victims of crime and thus do not fit into the service schemes and funding programs designed for crime victims.

Since its inception in 2007, OMA has heard, and continues to hear, many of the same sentiments expressed by families of the missing.

## **Legislation**

We agree legislation is overdue in Ontario to help police respond to missing persons' reports where there are no indications of foul play in a more comprehensive and timely manner. We believe law enforcement should be able to access records that may assist them in locating the missing person. Police services should be able to apply for a judicial order to allow them to access telephone or other records, and where the missing person could be at serious risk of harm, in order to permit police agencies to request from the record holder directly, and the record holder must comply. We agree that police services should be able to apply for a judicial order to enter a premise to search for a missing person, if there is a reasonable belief they are located there.

It is also important to limit the powers of police to ensure that personal privacy is maintained and that there are requirements to destroy records. There must also be restrictions on the use and disclosure of said records.

There should be oversight and accountability measures built into the legislation, as well as a 5-year comprehensive review of the legislation.

We do not believe that the legislation can or should encompass the following areas because the scope would simply be too broad: 1) Justice sector training and education 2) Public education or 3) Supports for Families and Loved Ones. These are areas very important policy areas that require significant financial investments by the Ontario government, but they are separate in scope from police investigative matters, specifically access to records, where legislative action is needed.

### **1. Definitions**

We believe the definition of a missing person as per the Uniform Missing Persons Act is suitable, as it is not too broad. It can be applied to most circumstances that may arise for families, in our experience.

Vulnerable Person: The definition in B is more appropriate, as not all vulnerable persons are suffering from mental health issues.

### **2. Legislative Powers**

Access to records – What records are missing? None.

Any that should not be included? No.

Are there risks to privacy? Yes. Applying for a judicial order helps to mitigate the risks.

Other risks – what if they access mental health records and discover there is mental illness such as depression? Is there then a risk of ruling out foul play/criminal activity too

quickly and calling off the efforts to locate the missing person because they feel they have just gone away to complete suicide perhaps.

Access in Emergency circumstances – It is important for police to be able to serve an agency directly, for example, a telecommunications firm, with a written demand for records where they have a reasonable belief the missing person is at imminent risk of serious bodily harm or death. There should be a requirement as per the Uniform Missing Persons Act to require that the officer has sought approval from a supervisor and that a report is submitted that explains and justifies the circumstances surrounding the need.

Search Order – We agree that police should be able to apply for a judicial order to enter premises where police have reasonable grounds to believe that entering the premises may lead to the location of a vulnerable or minor missing person.

Risks – We are concerned that missing person legislation may be used to apply more broadly, for example for other types of crimes like, child pornography/sexual exploitation investigations in order to access premises.

### **3. Privacy Limitations**

#### **Retention, Use and Disclosure of Records**

There should be limitations placed on the retention of personal information by the police, the disclosure of personal records of the missing person and direction to ensure the destruction of personal information within certain timeframes following the conclusion of the investigation. Information discovered during a missing person's investigation, such as criminal activity, cannot be utilized by the police for purposes other than to locate the missing person.

### **4. Oversight and Accountability**

#### **Review/Annual Report**

We believe each police service should prepare an annual report with respect to their missing persons data, including the number of judicial requests sought and emergency orders requested (information should be available to the public). Furthermore, the annual report should provide information that can be used to evaluate the efficacy of missing person legislation. For instance, did the records lead to the immediate location of the missing person?

There should be a comprehensive review of the legislation every five years and that the review should include reporting from each police service and determine patterns, characteristics, circumstances of missing persons. It is very important to examine the

number of missing persons reports made and to distinguish between those cases that are closed quickly and those that become long-term missing person cases. For the longer-term missing cases, it is important to breakdown biographical information about those who are reported missing (adults/children/men/women, race/ethnicity/geographic location, etc.), to give citizens an accurate picture of the missing persons population in Ontario (this data is currently very difficult to determine). It would be a good idea to profile cases and family stories in the annual reports and 5-year reviews to determine how the families were served by the police and whether their needs were met.

## **5. Any other provisions that should be included in missing persons' legislation?**

We feel it is always important to consult with families affected by long-term missing persons, not just those whose cases have been resolved. The families should have a voice in determining what they want and need specifically in legislation that will affect them personally.

## **OTHER AREAS OF CONCERN**

### **1. Education**

- Have a missing persons day and or week, as found in other provinces.
- Fund OMA to continue to do direct emotional support work with the families affected as well as developing resource materials for families.
- Raising awareness with youth is a very difficult task, as no one anticipates they will go missing or have this happen to them. Social media campaigns can be undertaken by an agency already working with the families, such as the Canadian Centre for Child Protection and/or the Missing Children's Society of Canada.

### **2. Supports for Families and Loved Ones**

- The Canadian Centre for Information on Missing Adults (CCIMA) provides information to help families to help them raise awareness in the media of their missing loved one.
- OMA provides information, emotional support and guidance to families searching for their loved ones.
- Some families express that talking to others who understand what they are going through is beneficial (support groups). However, steps need to be put into place to ensure that facilitators are properly trained to limit the likelihood of adding to the trauma experienced by having a missing loved one.

- Some family members may not necessary need counselling or mental health supports. Although many victims may suffer from trauma as a result of being victims of crime, workers need to be wary of a “trauma bias” where one assumes that crime victims are automatically traumatized when they may not be (Nelson et al. 2002). Workers should remain sensitive to the possibility that certain victims may be hiding trauma while others are actually coping well. Respecting victims means trusting their self-assessment of their internal state. Many can be provided support and education (Nelson et al. 2002) that helps them cope.
- It is important to recognize that not all families may want on-going counselling or support. Our experience has shown that some prefer to have a place to contact for support and information at intervals that relate to developments of their individual investigations. Services that can meet these needs must also be made available.
- Yes, a dedicated liaison would be beneficial in police-service settings as they have done in Saskatchewan for a number of years. It is also important to provide supports separate from police as not all families are comfortable dealing with police and some may require advocacy support, which police-based services cannot always provide.

### **3. Police Investigative Tools, Protocols and Policies**

It would be pertinent for all police services in Ontario to have common standards for missing persons’ investigations, and particularly important policy would with respect to communications with family or those who have reported the missing persons (regular updates even if there is nothing new to report).

### **4. Justice Sector Training and Education**

It is important to train new police recruits on missing persons given the various inquiry reports related to the handling of reports by police. Incoming constables do not all necessarily need to be trained in missing person investigative practices, but they need heightened awareness of particularly vulnerable groups (children, seniors or those with mental health issues) who go missing and would all benefit from cultural sensitivity training around indigenous peoples. Additionally, training should encompass best practices when reaching out to the public for assistance in missing person cases.

### **5. Data Collection and Management**

It is important for official sources to collect data about long-term missing persons in Ontario (defined as those missing for 6 months or longer). We should track the total number of persons reported missing each year while noting the number of cases solved quickly (and timelines) while distinguishing those that become long-term missing cases.

The question is who should collect it provincially, if at all, given the National Centre for Missing Persons and Unidentified Remains (NCMPUR) now exists at the RCMP. It is probably best that all police forces, including the OPP, submit their data to the national entity so there is not duplication of efforts. Alternatively, collection and consolidation of the annual reports could be completed by the Ministry of Community Safety and Correctional Services. We believe the Office of the Chief Coroner should provide descriptive details about unidentified human remains on their website (gender, age, biological affinity (if known), location found, clothing at the time, etc.), so the public can access this information. This could help foster community engagement. Having publicly available statistical information about missing persons would allow stakeholders and affected families to gain an understanding of how much is changing on an annual basis.

It should be noted that NCMPUR is not a website intended for families to access information about investigations or updates about the progress of the loved one's file. If the investigating agency does not submit the information to NCMPUR, family may be very disappointed to know their loved one has not been listed on this website. It should be a requirement in Ontario that long-term missing person cases are submitted to NCMPUR within a timely manner. For example, it may be beneficial to require that any case that has used the provisions of Missing Person Legislation to obtain records or entry to premises be immediately submitted to the NCMPUR website should the information obtained not lead to the recovery of the missing person.

Ontario's Missing Adults is very helpful agency for affected families because they can personally submit cases to the owner, as well as access emotional support and guidance through the website. It should be funded by the government, as other countries have funded. It is a unique organization in that it is the only Canadian organization – other than the Canadian Centre for Information on Missing Adults - that focuses specifically on missing adults. In this way, it may be possible to address other areas of concern relating to missing persons that fall outside of the police mandates. Many missing persons' detectives simply do not have the time, resources or expertise to conduct emotional support with family.

Thank you for the opportunity to participate in this important consultation.