



Developing a Modernized Federal Response Plan for Canadians Victimized Abroad in Acts of Mass Violence:

*How Canada can address the needs of cross-border victims
based on international best practices*

PART II. ANALYSIS OF THE FIVE EYES' SYSTEMS FOR ADDRESSING
CROSS-BORDER VICTIMS' NEEDS – DISCERNING BEST PRACTICES AND
PROPOSING TARGETED RECOMMENDATIONS FOR CANADA

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Executive Summary

Canadian citizens have long been victim to terrorist attacks, both at home and abroad. Despite this long-standing phenomenon, there is a pressing policy gap when it comes to these Canadians that are victimized abroad.¹ With multiple jurisdictions involved, and little to no policy direction, these vulnerable individuals can frequently fall through the cracks, without having their needs met nor respected.

With transnational terrorism ever-present and growing, it is more important than ever to ensure that Canada has a comprehensive and coherent policy to address the dynamic needs of Canadians victimized abroad. This report aims to assist in closing this gap, and to begin the process of developing a comprehensive, federal, victims-centred policy with respect to Canadians victimized abroad in acts of terrorism, war, and mass violence.

In “Part I. The Needs of Cross-Border Victims and the Current Systems Across the Five Eyes” [\[hyperlink\]](#) – we undertook a comprehensive review of the literature and the current systems across the Five Eyes to identify and explain the needs of cross-border victims and the current systems at play to address those needs.

This lay the groundwork for this present report –Part II of the series– which analyzes the current systems across the Five Eyes, in connection with each other and with the literature, to examine how the various Five Eyes’ systems are presently addressing (or not addressing) cross-border victims’ needs. These analyses discern a series of *best practices* that illuminate how governments should best address the dynamic needs of cross-border victims over time. These best practices then ground specific recommendations for Canada.

¹ Throughout this report, “cross-border victims” will be used as a shorthand to refer to *Canadians who have been victimized abroad* (or nationals of the state that is being discussed, that were victimized abroad). Although *foreign nationals who are victimized in Canadian/domestic terrorist attacks* are also a type of cross-border victim that merits discussion, this is beyond the scope of this present report.

1. How do the Five Eyes Address Emergency Needs of Cross-Border Victims?

Part I of this report series discussed the importance of providing emergency services to victims, especially in the aftermath of terrorism, acts of war, and mass violence. It is well-established in the literature that an emergency response should encompass both physical and psychological responses (EU Centre of Expertise for Victims of Terrorism 2021; Smith & Jankoski 2012; Cloak & Edwards 2004). Psychological “first aid” has been shown to significantly reduce long-term psychological effects of trauma and enhance resilience in the aftermath of an attack (Smith & Jankoski 2012; Cloak & Edwards 2004).

The provision of emergency response measures can be more complex and challenging when it is in response to terrorism, an act of war, or mass violence; this is even more so when this occurs overseas. Collaboration between multiple agencies, and across multiple jurisdictions, will be necessary. Victims will be more vulnerable, and they will have unique and complicated needs. There may be language barriers, poor local infrastructure, or security complications. So how do the Five Eyes’ systems handle emergency response in these situations? How do they address cross-border victims’ emergency response needs? What can Canada learn from these systems?

1.1. The United States

When U.S. nationals are victimized abroad, both the Department of State and the Federal Bureau of Investigation (FBI) are empowered to provide emergency assistance. Department of State personnel can provide assistance in a variety of ways. When it comes to emergency response measures, they can do a number of things, including (1) contact family, friends, or employers with written permission; (2) provide information to facilitate access to medical care; (3) explain financial assistance options; (4) provide information about local points of contact or organizations who discuss relevant host country laws and implementation of those laws; (5) connect victims to overseas and U.S.-based resources for victims of crime, if available; and (6) provide a list of local lawyers who speak English. The FBI emergency assistance, for its part, includes (1) explaining the process to the family, (2) coordinating

medical evacuations, (3) coordinating autopsies and obtaining death certificates (if necessary), and (4) arranging crisis intervention services if appropriate.

The Department of State services essentially boil down to the ability to contact people (family, friends, employers) and the ability to provide information (about medical, financial, legal, and organizational resources). The FBI appears able to take greater action – they have the ability to coordinate medical evacuations, autopsies, death certificates, and intervention services – as well as the ability to provide information by explaining the process to the family. Noticeably absent are psychological services, although this may be ambiguously covered by the service, “connect victims to overseas and U.S.-based resources for victims of crime, if available”.

1.2. The United Kingdom

When U.K. nationals are victimized overseas in a crisis situation, the Foreign, Commonwealth & Development Office (FCDO) is empowered, on a case-by-case basis, to work with local authorities and to provide a wide range of emergency services. The FCDO may, among other things, (1) provide information via local radio, community notice boards, warden networks, or a desk at the airport; (2) deploy staff to support victims and reinforce embassies if required; (3) open up a dedicated hotline, SMS and online web form facilities for people to contact the FCDO about British nationals that require assistance in a crisis; (4) support the families of any British nationals killed or seriously injured in an incident, for example in providing information to support the making of arrangements for repatriation or medical evacuations; (5) provide family members of victims with local information or support coming out to the scene; (6) charge a reasonable fee for seats on charter flights, to be paid at a later date; (7) in exceptional circumstances, use military aircraft or vessels to evacuate British nationals; and (8) in the event of an evacuation, provide transport to a place of safety, usually a safe third country and not the U.K.

There are additional Exceptional Assistance Measures (EAMs) that may be used in cases of terrorist attacks abroad (Support for British nationals abroad 2020). These can include medical evacuation; repatriation; and payment of immediate medical expenses. EAMs only cover incidents that have been deemed to be acts of terrorism by the U.K. government; they

are only available on a case-by-case basis; and they are only available as a last resort (Exceptional Assistance Measures for British nationals affected by terrorist incidents abroad 2016; Support for British nationals abroad 2020).

An interesting insight from both the U.S. and U.K. systems analyzed thus far is the importance placed on the provision of information as part of the initial emergency response effort. This jives with the U.K. cross-border victim's insights on the importance of being kept in the loop, starting immediately after the incident. Moreover, the U.K. systems allows for deployment of emergency personnel, which is a step beyond what the United States can do in terms of assistance (unless "arranging crisis intervention services if appropriate" includes such deployment). The U.K. system is silent on psychological first aid.

1.3. Australia

When Australian citizens (and Canadian citizens in some cases) need assistance overseas, Australian consular officials may (1) provide emergency consular support, (2) provide a list of local hospitals with doctors who speak English, (3) contact relatives or friends, with consent, (4) help victims access local support and counselling services, where available, and (5) transfer victims to Australian counselling service upon their return. Further, in cases of terrorism or mass violence, the Australian government may launch a crisis response. The additional services that may come into play in a crisis include (1) deployment of expert teams to support affected Australians; (2) liaison with the families of any Australians who are killed or injured; (3) work with local authorities to support affected Australians; (4) support for Australians trying to leave the area; (5) provision of crisis updates; and (6) evacuations, in exceptional circumstances. Notably, the Australian system explicitly covers psychological support in its emergency response – this is unique thus far.

1.4. New Zealand

New Zealand's Ministry of Foreign Affairs and Trade (MFAT) has primary responsibility for responding to the needs of New Zealanders victimized abroad. Areas in which New Zealand officials may assist include (1) locating appropriate medical care, including providing a list of

English-speaking medical professionals; (2) locating appropriate counselling options; (3) trying to locate missing persons overseas; (4) helping to contact family members, friends, insurance providers; (5) transferring funds for a fee; and (6) assisting with the facilitation of medical evacuation, at victim's own cost (or that of their insurance provider). Additional services become available in a crisis situation through New Zealand Victim Support. Their support is not specific to cross-border victims, and in fact, many of their services only apply to domestic crises. The services they offer that are non-specific – in other words, the services that may apply to cross-border victims, but only upon their return to New Zealand – include (1) emotional first aid, (2) referral to counselling and other services, (3) help dealing with grief, loss, trauma and shock, (4) follow up on well-being / safety after crisis and further emotional support if required, (5) help and support through the coronial process, and (6) advocacy with other organizations.

1.5. Canada

Canada's emergency response is presently laid out in the Canadian Consular Services Charter (CCSC). It empowers Canadian officials to help overseas victims in a number of ways. Most relevantly, Canadian officials can (1) provide a list of local doctors and hospitals, (2) provide advice and contact information for local police and medical services, (3) provide assistance in cases of missing persons, (4) contact relatives or friends, (5) transfer funds if urgent and if all other options have been exhausted, (6) provide assistance to repatriate remains, (7) provide a list of local lawyers, and (8) provide sources of information about local laws and regulations. Further, in cases of large-scale emergency, officials may (1) deploy expert teams, (2) help Canadians depart to the nearest safe haven on a cost-recovery basis, (3) liaise with families back in Canada, and (4) provide timely information and updates.

1.6. Comparison, Discussion, Best Practices

The following table depicts and compares how the U.S., the U.K., Australia, and New Zealand address cross-border victims' emergency needs, namely, medical, psychological, and other, as reviewed. The ensuing discussion elucidates best practices that ultimately ground recommendations for Canada.

Table 1. Comparison of Five Eyes' Emergency Responses to Terrorism and Mass Violence

United States	United Kingdom	Australia	New Zealand
<i>Medical Care</i>			
Provision of information (see subsequent section) including to "facilitate access to medical care"		Provision of information (see subsequent section) including a list of local hospitals with English-speaking doctors	Locating appropriate medical care, including providing a list of English-speaking medical professionals
Coordinate medical evacuations	Coordinate medical evacuations	Support Australians trying to leave the area; evacuations	Assisting with the facilitation of medical evacuation, at victim's own cost
	Payment of immediate medical expenses (in exceptional circumstances)		
<i>Psychological "First-Aid"</i>			
Connect victims to overseas and U.S.-based resources for victims of crime, if available		Help victims access local support and counselling services; transfer victims to Australian counselling service upon their return	Locating appropriate counselling options
<i>Other</i>			
Provision of information (see subsequent section for details)	Provision of information (see subsequent section for details) – including providing family members of victims with local information or support coming out to the scene	Provision of information (see subsequent section for details)	Provision of information (see subsequent section for details)
Coordinate autopsies and obtaining death certificates			
"Arrange crisis intervention services"	Deploy staff to support victims and	Deployment of expert teams to support affected	Trying to locate missing persons overseas

	reinforce embassies if required	Australians and work with local authorities to support affected Australians	
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CASE STUDY OF A DOMESTIC BEST PRACTICE: FAMILY ASSISTANCE CENTERS

In the aftermath of domestic attacks, the U.K. and the U.S. may set up Family Assistance Centers (FACs) at the scenes of terror attacks or events of mass violence. These centers offer victims a central point or area to go to access support, services, and updates, specifically those that will help them locate family members or gather as families (INVICTM 2018). These centers can be thought of as “one-stop knowledge centers”; they operate as safe spaces where families can connect, both with each other and others in the same situation, allowing them to build a social support network (Mancini 2009). FACs are typically set up by the state in which the terrorist attack occurred. But in order to assist cross-border victims, it has been suggested that foreign affairs representatives should be present, to best ensure coordinated communication between overseas victims and their relevant embassies (INVICTM 2018). This is important as these centers may be the first point of contact for victims to access support.

Based on the above summaries, and the above table, we can identify a series of best practices when it comes to responding to cross-border victims’ emergency needs:

1. **The provision of information as part of emergency response.** Every jurisdiction in the Five Eyes, including Canada, places some emphasis on government officials providing information in the immediate aftermath of a terrorist attack or an act of mass violence. The extent to which each state covers informational needs varies, and this will be discussed in the information subsection below. For purpose of this emergency response evaluation, it is sufficient to note that the provision of information should be included from the start. The importance of this is indicated in the U.K. cross-border victim’s insights on the importance of being kept in the loop (covered in detail in Part I). Although she was evacuated fairly quickly, she essentially viewed this experience as somewhat soured by her feelings that she was essentially left “out of the loop”.
2. **The locating of appropriate emergency medical care, including the provision of a list of English-speaking medical professionals.** Only New Zealand does this; the remaining

Five Eyes' jurisdictions only speak of facilitating access to medical care through the provision of information (by providing a list of which doctors and hospitals speak English). Canada, as well as the other Five Eyes, should incorporate a service to this effect, mirroring New Zealand's approach in this regard.

3. **The coordination of medical evacuations, back to home country, not at victim's cost.** Every Five Eyes jurisdiction provides for evacuations, but the parameters sometimes vary. This version encompasses the maximum possible servicing.
4. **The payment of immediate medical expenses.** The United Kingdom does this in exceptional circumstances.
5. **Psychological "first-aid" – and a smooth transition back to home country's services upon arrival.** Australia provides these services. New Zealand assists victims in accessing local counselling but is silent on transitioning to long-term care upon arrival at home. The U.S. can "connect victims to overseas and U.S.-based resources for victims of crime, if available", which may or may not include counselling. U.K. and Canada are both silent on psychological response, which is considered essential in the literature to promoting healing and long-term resilience (Smith & Jankoski 2012; Cloak & Edwards 2004).
6. **The provision of information and support for family members of victims to come out to the scene.** This is a service that the U.K. provides in some circumstances.
7. **The coordination of autopsies and obtaining death certificates.** This is a service that the U.S. may provide.
8. **Deployment of personnel to assist.** The U.K., Australia, and Canada engage in this response; Australia's deployment of assistance to Bali in 2002 (covered in detail in Part I) was particularly noteworthy in its scope. The U.S. and New Zealand may engage in this in some measure; the U.S. system provides for "crisis intervention services", which may include deployment of personnel, while New Zealand may assist in locating missing persons overseas.
9. **Attendance of Foreign Affairs Representatives at any Family Assistance Centers that have been arranged.** This is not in any Five Eyes' policy, but it is recommended in the literature (INVICTM 2018).

2. How do the Five Eyes Address Respect and Recognition Needs of Cross-Border Victims?

2.1. Treating Victims with Respect and Dignity

The need for recognition is “one of the most important needs voiced by victims of terrorism” (Ivanković et al 2017). Victims need to be recognized as victims *of terrorism*, and their suffering must be acknowledged (Ivanković et al 2017; EU Centre of Expertise for Victims of Terrorism 2021). They need to be treated with sensitivity, respect, fairness, empathy, and dignity – and this is especially important when it comes to vulnerable groups such as cross-border victims (EU Centre of Expertise for Victims of Terrorism 2021; Ivanković et al 2017).

Despite the fact that these needs are well-established in the literature, there is no specific, publicly available policy guidelines to this effect, in any of the Five Eyes systems.

Almost every victim interviewed for this report series expressed disappointment and frustration in the treatment they received from government and support personnel. The U.K. cross-border victim described feeling mistrusted by government officials and as if they had to justify their victimhood to them. Helen Wilson described being interrogated by FBI officers in an excessive and insensitive manner in the immediate aftermath of the attack, and then a couple of years later when she reached out for help, being dismissed by officials who told her that she “seemed to be doing fine”. Other victims interviewed described officials they had to deal with in terms that included “insensitive” and “unprofessional”. In multiple instances, victims described government-arranged or government-facilitated therapists as being completely out of their depth when it came to treating trauma caused by terrorism – engaging in behaviours so insensitive that they actually went beyond disrespect and constituted further trauma on these victims.

This was a common thread. The ubiquitousness of this type of experience suggests that perhaps this requires explicit policy – for all the Five Eyes.

2.2. Commemoration and Memorials

Organizing commemorative events and setting up memorials are aspects of respect and recognition (INVICTM 2018). “Primary” memorials include days of remembrance, physical memorials, and spontaneous memorials (Ivanković et al 2017). Secondary forms of memorials include commissions of inquiry, government statements, and peer support groups (Ivanković et al 2017). Both are important. Peer support groups are particularly important, as these serve additionally to help mitigate the psychological aftereffects of victims of mass violence and terror (Hoffman & Kasupski, 2007; Watkins, 2017).

Commemorative events and memorials likewise do not appear to be part of any Five Eyes’ specific policy – but many of these jurisdictions have taken such actions in efforts to respect and recognize their victim populations. This has occurred on a more-or-less ad-hoc basis. The U.K. has a national memorial for British victims of overseas terrorism, called Still Water, dedicated after public consultations. Australia held numerous services across the country in commemoration of the 2002 Bali bombings, including on the 10th anniversary of the attacks. Canada established the National Day of Service to commemorate the September 11 attacks – although not purely for Canadian cross-border victims of the attacks, the National Day of Service was an initiative that was championed by cross-border victims of 9/11 including Maureen Basnicki (see case study in Part I).

Peer groups have largely resulted through the efforts of non-profit organizations, such as *Strength to Strength* (discussed in the “Sarri Singer” case study in Part I), which includes victims from all over the world.

2.3. Respect and Recognition and the Other Needs

Many of the victims interviewed for purposes of this report described their feelings of being disrespected in terms referencing their other needs. Some described feeling disrespected by virtue of the lack of information they received. Others described feeling disrespected by virtue of the inadequacy of emergency services, or the inadequacy of the psychological support offered. Still others described feeling disrespected by the fact that they haven’t been

reimbursed all their costs, or by the fact that there has been little in the way of terrorist prosecutions as this relates to their distributive justice needs. These insights gleaned from the interviews suggest that victims' respect and recognition needs are closely interconnected with their other needs; and that these other needs must be appropriately tackled so as to adequately respect and recognize these victims.

2.4. Best Practices

Although explicit policies on this need category may be lacking, best practices can be discerned from both the literature and from the insights gleaned from the victim interviews:

1. **Government and other support personnel must treat cross-border victims with sensitivity, respect, fairness, empathy, and dignity.** This is well-established in the academic literature and should be an obvious proposition.
2. **Governments should commemorate attacks that occurred abroad in which their nationals were killed** by establishing memorials, days of remembrance, and commissions of inquiry where appropriate, and by making government statements that respect and recognize the victims. The academic literature indicates that commemoration and memorials are important aspects of respect and recognition, and the various Five Eyes countries, including Canada, have taken efforts in this regard in various cases. Families should be included in the consultation process, as the literature suggests is best practice (INVICTM 2018). Notably, the U.K. Still Water project included public consultations, and out of 525 responses, 59 respondents indicated that they had lost a loved one in an overseas terrorist attack and 17 indicated that they themselves were victimized abroad in a terrorist attack (The National Memorial to British Victims of Overseas Terrorism 2016).
3. **Governments should assist civil society organizations in establishing and supporting peer support groups.** Non-profit organizations like *Strength to Strength* provide peer group support to victims of terror globally. Governments should support these efforts.
4. **Governments should recognize that respect and recognition must also be grounded in adequately addressing victims' needs,** including their need for specialized support. Victims may continue to feel disrespected if they are not properly supported.

3. How do the Five Eyes Address Protection Needs of Cross-Border Victims?

Victims have a variety of needs relating to protection. They need protection from re-victimization and protection from secondary victimization. Secondary victimization in particular may be caused by insensitive government officials or other service providers; by insensitive or “victim-blaming” psychologists; or by excessive or insensitive media attention (Ivanković et al 2017). Secondary victimization may also arise from having to come face-to-face with the offender in a courtroom (Ivanković et al 2017). Specific protective measures, such as appearing by video link, can assist in instances of the latter.

The likelihood of re-victimization in cases of terrorism, acts of war, and mass violence might be higher or lower, depending on the circumstances of the attack. Circumstances to consider might include the motivations behind the attack and the prevalence of like-minded others (Netten & van de Donk 2018). For instance, if a Jewish synagogue was attacked by a member of a growing white supremacist terrorist group – there might be a higher risk of re-victimization, and protection measures in the form of added security might be needed. Alternatively, if a series of random bombings were to occur at transport hubs throughout a city, for example, added security at transport hubs might be required. So how do the various Five Eyes’ systems address these protection needs?

3.1. The United States

There are only a handful of provisions that speak to protection in the U.S. context. First, the Federal Bureau of Investigation (FBI) can, in the medium term, provide “appropriate intervention with employers and creditors”. This could be construed as protecting victims from the secondary victimization that might arise if employers or creditors were to penalize them for their trauma. Second, if there is a domestic prosecution with regards to an overseas terrorism incident, the U.S. Attorney’s Office, as part of its mandate to assist the relevant victims, can take a number of actions to combat the secondary victimization that might arise. They may provide counselling referrals, assist with court accompaniment, provide assistance with completing victim impact statements, and support victims through court proceedings.

There is nothing that explicitly addresses protection from re-victimization, unless one counts the emergency response measures, particularly the ones that deal with evacuation, as serving this purpose. Further, there is nothing that explicitly addresses protection from media, and there is nothing that protects victims from insensitive or victim-blaming government officials or government-assigned therapists. This should be easy enough to accomplish – a policy can easily incorporate mandatory sensitivity and trauma training for officials (and for government-arranged support providers) that come into contact with victims of terrorism.

3.2. The United Kingdom, Australia, New Zealand, and Canada

The U.K. has nothing explicitly addressing protection, and neither does Australia, New Zealand, or Canada. As noted, comprehensive emergency response measures might somewhat serve this purpose: robust measures to immediately secure victims' safety prevents re-victimization. Robust psychological assistance, both immediate and long-term, may assist with secondary victimization. However, in order to address victims' needs as identified in the literature, all these countries should likely provide explicit policy directives that address these issues.

3.3. Best Practices

Although explicit policies on this need category may be lacking, best practices can be discerned from both the literature and from the insights gleaned from the victim interviews:

1. **Governments should explicitly address protection from re-victimization.** This should go beyond evacuating victims. Government should have a policy in place to assess the risk of re-victimization, according to some of the factors articulated in this report series, and should have a policy in place to provide protective measures in proportion to the risks.
2. **Governments should explicitly address protection from secondary victimization.** This should be a multi-faceted approach to address secondary victimization from multiple sources.

- a. **Implement mandatory sensitivity and trauma training for all government officials who come into contact with cross-border victims.** This would help ensure that cross-border victims are only speaking with people who know how to speak with them.
- b. **Implement enhanced screening protections for government-facilitated or government-arranged psychologists and therapists.** If the government is facilitating psychologist and therapist appointments for cross-border victims, these professionals must be specialized and trained in dealing with the particular trauma that is caused by terrorism and mass violence.
- c. **Follow-up with all victims after at least their first psychologist/therapist appointment,** to ensure that all of these professionals have good “reviews” in terms of their sensitivity and professionalism. If an inadequate psychologist or therapist happens to fall through the cracks of the above screening, government officials should at least ensure they do not remain on the roster.
- d. **Secure locations, as appropriate, to prevent secondary victimization by media.** As the U.K. cross-border victim noted, they were further traumatized by media at a location which was supposed to be secured but was not.
- e. **Implement training for media personnel.** To prevent secondary victimization from the media, it may be important to train media personnel in how to interact with these victims without further traumatizing them.
- f. **Train cross-border victims in media, other organizations.** Cross-border victims should be equipped with the knowledge of how media works, how to ignore them, and/or how to deal with media personnel in a manner that will assist and not hurt. This training should ideally also include how best to deal with other organizations: one of the victims interviewed for this report series described coming home to numerous voicemails from scam-like non-profits that wanted to exploit their suffering to fundraise. Victims should be equipped with the knowledge of how to deal with these types of people.
- g. **In court proceedings.** As the U.S. Attorney’s Office does, governments should provide supports for victims in cases of criminal proceedings, in order to protect against the secondary victimization that can arise.

4. How do the Five Eyes Address Support Needs of Cross-Border Victims?

Cross-border victims of terrorism, acts of war, and mass violence are particularly vulnerable, and in many cases will need a great deal of support. This encompasses the need for practical assistance, specialized medical care, specialized psychological trauma care, and information (EU Centre of Expertise for Victims of Terrorism 2021; INVICTM 2018).

The literature on practical support indicates that a navigator or case-manager would be valuable to assist victims in making sense of the maze of information and support options. Practical assistance should also address language/ translating, making various arrangements, and assisting in dealing with local authorities and support providers (INVICTM 2018). Specialized, adequate, and affordable medical and psychological care should be provided, and this should be able to continue or transition into long-term care. Information should be provided to victims, starting immediately and continuing over the long-term. The various Five Eyes' systems address these needs in a variety of ways.

4.1. The United States

The United States has multiple departments that respond to the support needs of overseas victims of terrorism. They are the Department of State, the Federal Bureau of Investigation Victim Services Division, the U.S. Attorney's Office, and the Department of Justice. They each have specific services that they can offer.

The Department of States' Bureau of Consular Affairs assists U.S. citizens who become victims of crime abroad. Their duty personnel can provide a number of services. Those most relevant to victims' support needs include the following: (1) replace a lost or stolen passport, (2) contact family, friends, or employers with written permission, (3) provide information to facilitate access to appropriate medical care, (4) explain financial assistance options, such as assistance available to return to the U.S., (5) provide information about local points of contact or organizations who discuss relevant host country laws and implementation of those laws, (6) share information about the status of a victim's case in the local criminal justice process

when applicable, (7) connect victims to overseas and U.S.-based resources for victims of crime, if available, and (8) provide a list of local lawyers who speak English.

The Federal Bureau of Investigation (FBI) Victim Services Division (VSD), for its part, can assist victims' support needs, in the immediate term (defined as one to four weeks), by (1) explaining the process to the family, (2) meeting with victims, (3) coordinating medical evacuations, (4) coordinating autopsies and obtaining death certificates (if necessary), (5) arranging crisis intervention services if appropriate, and (6) facilitating investigative interviews with family members (Specialized Assistance 2008). In the medium and long term, VSD assistance includes (1) identifying additional federal, state, and local victim resources, (2) providing appropriate intervention with employers and creditors, (3) providing case status updates, (4) arranging briefings with investigative officials, and (5) responding to inquiries from victims and families and providing updates on case developments.

The U.S. Attorney's Office provides – only if there is a domestic proceeding that relates the victim – (1) information on court proceedings and case status, (2) referrals to counselling, medical and other social services, (3) court accompaniment, (4) special services for child victims, the elderly and handicapped victims, (5) crime victim's compensation claims assistance, (6) assistance with completing victim impact statements, (7) support for victims throughout court proceedings, and (8) assistance with restitution issues.

The Department of Justice Office of Justice for Victims of Overseas Terrorism (DOJ/OVT) is involved in advocating for victims to obtain information and participate in foreign criminal proceedings. The foreign criminal proceeding segment of their assistance will be discussed in the access to justice section. More relevant for purposes of victims' support needs, is that the DOJ/OVT may utilize a password-protected website to facilitate participation of victims and the provision of information (Our Activities 2018). The use of websites to provide victims with information is considered a good practice internationally (INVICTM 2018).

Across all these departments, the relevant services can be split into practical assistance, specialized medical care, specialized psychological care, and the provision of information.

Many of these naturally overlap with emergency needs – since all of these support needs begin immediately. Notably, most of the services offered by the U.S. relate to practical support or the provision of information. The only medical-related supports offered are ones to provide information to facilitate access to medical care, and medical evacuations. In terms of psychological support, “referrals to counselling” is available, but only by the U.S. Attorney’s Office and only if there is a domestic proceeding relating to the specific victim. Given how infrequently terrorist attacks from abroad are charged in U.S. courts – it is reasonable to state that psychological care is effectively not offered.

4.2. The United Kingdom

When U.K. nationals are victimized overseas in a “crisis situation”, the Foreign, Commonwealth & Development Office (FCDO) has specified a number of services they may provide, on a case-by-case basis. Most relevant in terms of support needs are the following: (1) working with the local authorities to provide clear information about their response to incidents and signpost victims to relevant sources of assistance; (2) in some circumstances, working with airlines, airports and travel companies and highlight their advice and services; (3) providing information via local radio, community notice boards, warden networks, or a desk at the airport because cell phones and internet can go down during a crisis; (4) opening up a dedicated hotline, SMS and online web form facilities for people to contact the FCDO about British nationals that require assistance in a crisis; (5) providing family members of victims with local information or support coming out to the scene; (6) medical evacuation and repatriation; and (7) payment of immediate medical expenses.

The FCDO discusses the importance of transitioning to long-term care once a victim returns to the U.K., and notes that they work with support organizations at U.K. airports in order to provide returning victims with “as much relevant information as possible” on long-term emotional and practical support resources (Support for British nationals abroad 2020). However, it is unclear to what extent – if any – there is follow-up in this regard. Notably, the U.K. cross-border victim interviewed expressed frustration at the lack of information received, the inadequacy of specialized psychological support, and the inadequacy of follow-ups. As discussed in previous sections, when this victim was provided with therapy, the

therapist appeared unspecialized, as the victim noted that she was “[ill-equipped to treating] trauma with regards to terrorism”.

The opening of a dedicated hotline is considered good practice in the literature (INVICTM 2018). Specifically, the coordination that may occur between the U.K. hotline and law enforcement was particularly lauded (INVICTM 2018).

4.3. Australia

Australia adheres to its Consular Services Charter in determination of services offered to overseas victims. The Charter includes the following available services that are related to support needs: (1) providing a list of local hospitals with doctors who speak English; (2) contacting relatives or friends, with victims’ consent; (3) helping victims access local support and counselling services, where available; (4) transferring victims to Australian counselling service; (5) liaising with the families of any Australians who are killed or injured; (6) working with local authorities to support affected Australians; (7) providing crisis updates; and (8) evacuations, in exceptional circumstances.

The supports by Australia span practical supports, medical, psychological, and information. The practical, medical, and informational supports are somewhat limited. The practical supports really only encompass the ability to contact friends and family, with permission, and the ability to work with local authorities to support affected Australians. Medically, they can provide a list of hospitals that have English-speaking doctors, and/or evacuate. They can provide information, somewhat generally. Where Australia is unique (in a positive way) is in psychological supports. They explicitly state that they can help victims access local support and counselling services, where available, and then transfer victims to Australian counselling service once back at home.

4.4. New Zealand

The Ministry of Foreign Affairs and Trade (MFAT) has primary responsibility for responding to the needs of New Zealanders victimized abroad. In terms of support needs, New Zealand

officials may assist with: (1) locating appropriate medical care, including providing a list of English-speaking medical professionals; (2) locating appropriate counselling options; (3) providing a list of English-speaking lawyers; (4) helping contact family members; (5) helping contact insurance providers; (6) assisting with the facilitation of medical evacuation, at victim's own cost (or that of their insurance provider); (7) helping family or friends to transfer a victim money, if the victim is having trouble contacting them directly; (8) transferring funds through the Ministry or via an embassy, if no other option, for a fee; and (9) discussing other ways of resolving financial issues. Additional services are available in a crisis situation or a situation of terrorism/mass violence through New Zealand Victim Support. These supports are only available while in New Zealand, and only the following apply to cross-border victims: (1) referral to counselling and other services; (2) help dealing with the criminal justice system, for example, attending court, restorative justice, parole board, preparing victim impact statements, and help organizing travel and accommodation if required; (3) help dealing with grief, loss, trauma and shock; (4) help and support through the coronial process; and (5) advocacy with other organizations.

Notably, while other Five Eyes' systems simply provide lists of English-speaking doctors or hospitals to facilitate access to medical care, New Zealand policy actually states that they will locate appropriate medical care for their nationals. Like Australia, but unlike the U.S., the U.K., and Canada, psychological care is also addressed.

4.5. Canada

The supports that Canada can offer are contained in the Canadian Consular Services Charter. It provides that consular officials can provide a number of services, including: (1) help in a medical emergency by providing a list of local doctors and hospitals; (2) contact relatives or friends, with permission; (3) transfer funds if urgent financial assistance is required and all other options are exhausted; (4) provide victims with a list of local lawyers; (5) provide victims with sources of information about local laws and regulations; (6) liaise with families back in Canada or try to put Canadians in touch with their families; and (7) provide timely information and updates through their website and social media as well as by phone, SMS and email.

4.6. Comparison, Discussion, Best Practices

The following table depicts and compares how the U.S., the U.K., Australia, and New Zealand address cross-border victims' support needs, namely, practical, medical, psychological, and information. As noted, there is some natural overlap between this section and the emergency response section. The ensuing discussion elucidates best practices that will ultimately ground recommendations for Canada.

Table 2. Comparison of Five Eyes' Supports to Terrorism and Mass Violence

United States	United Kingdom	Australia	New Zealand
<i>Practical Supports</i>			
Contact family, friends, or employers with written permission	Provide family members of victims with support coming out to the scene	Contact relatives or friends, with victims' consent	Help contact family members, insurance providers
Connect victims to resources for victims of crime, if available	Signpost victims to relevant sources of assistance	Work with local authorities to support affected Australians	Advocacy with other organizations (when back in New Zealand)
Coordinating autopsies and obtaining death certificates (if necessary)			Help and support through the coronial process
			Help family or friends to transfer a victim money; if no other option, transfer funds through Ministry or embassy, for a fee; discuss other ways or resolving financial issues
			Help dealing with the criminal justice system, for example, attending court, preparing victim impact statements, help organizing travel and accommodation

<i>Specialized Medical Care</i>			
Provide information to facilitate access to appropriate medical care		Provide a list of local hospitals with doctors who speak English	Locating appropriate medical care, including providing a list of English-speaking medical professionals
Medical evacuations	Medical evacuation and repatriation	Evacuations	Medical evacuation at victim's cost
	Payment of immediate medical expenses		
<i>Specialized Psychological Care</i>			
Referral to counselling – <i>only applies if domestic U.S. prosecution; effectively unavailable</i>		Help victims access local support and counselling services, where available	Locating appropriate counselling options
		Transfer victims to Australian counselling service	Referral to counselling and other services (when back in New Zealand – through Victim Support)
			Help dealing with grief, loss, trauma, and shock (when back in New Zealand – through Victim Support)
<i>Information</i>			
Meeting with victims			
Explain the process to the family	Provide family members of victims with local information	Liaise with the families of any Australians who are killed or injured	
Providing case status updates		Provide crisis updates	
Responding to inquiries from victims and families			
Use password-protected website	Provide information via local radio, community notice boards, warden		

	networks, or a desk at the airport		
Explain financial assistance options, including to get home	Work with airlines, airports and travel companies and highlight their advice and services		
Provide a list of local English-speaking lawyers			Providing a list of English-speaking lawyers
Provide information about local points of contact or organizations who discuss local laws			
	Open up a dedicated hotline, SMS and online web form facilities for people to contact the FCDO about British nationals that require assistance		

CASE STUDY OF AN INTERNATIONAL BEST PRACTICE: THE MH17 WEBSITE

Although beyond the scope of this report, there is one particular non-Five Eyes best practice that must be noted for completeness, and that is the MH17 website, launched in the aftermath of the Malaysian Airlines flight MH17 attack in 2014. Malaysian Airlines flight MH17 was shot down while in flight over Ukraine on July 17, 2014 – all 298 passengers and crewmembers were killed. 193 of the dead were Dutch. In the immediate aftermath of the attack, Slachtofferhulp Nederland (Victim Support Netherlands) set up a website: www.planecrashukraine.nl. Government institutions agreed that information would be provided to the victims, then posted on the website, then shared with the media and others. This made the website the most reliable and current information source. In addition, the website housed a private section for victims, for information and discussions (INVICTM 2018).

Based on the above summaries, and the above table, we can identify a series of best practices when it comes to responding to cross-border victims' support needs.

Practical Assistance:

1. **The contacting of friends, family, employers, and/or insurance providers, with consent.** The U.S. provides for the contacting of family, friends, or employers, with written permission. Australia and Canada both provide for the contacting of friends or relatives with permission/consent. New Zealand provides for the contacting of family members or insurance providers. So, this represents the maximum possible servicing as it relates to contacting relevant people and companies.
2. **The provision of support for family members of victims to come out to the scene.** This is a service that the U.K. provides in some circumstances.
3. **Assisting victims to connect or communicate with local systems.** Some states do this, to some extent. The facilitation of connection and communication with local systems is noted in the literature as especially important in situations where there may be a language barrier and added difficulty for these cross-border victims (INVICTM 2018).
4. **Working with local authorities to support those affected.** Australia works with local authorities to support affected Australians.
5. **Helping and supporting through the coronial process.** As U.S. and New Zealand do.
6. **Providing financial assistance.** New Zealand can help family or friends to transfer a victim money; transfer funds through the Ministry or an embassy, for a fee, if no other option; and finally, discuss other ways of resolving financial issues. Canada provides that consular officials can “transfer funds if urgent financial assistance is required and all other options have been exhausted”.
7. **Assistance dealing with the criminal justice system.** New Zealand does this, for example, by helping victims attend court, prepare victim impact statements, and organize travel and accommodation.
8. **Assistance dealing with language-barrier issues, including the translating of documents.** This isn’t explicitly in any of the Five Eyes’ systems, but it is noted in the literature (INVICTM 2018; Ivanković et al 2017).
9. **Assign each cross-border victim a navigator or case-manager.** This is noted as being done by both the Netherlands and the U.S. in the literature, and it is lauded as critical in assisting victims to make sense of the maze of information and support options available (INVICTM 2018).

Medical:

1. **The locating of appropriate emergency medical care while abroad.** Only New Zealand does this; the remaining Five Eyes' jurisdictions only speak of facilitating access to medical care through the provision of information.
2. **The coordination of medical evacuations, back to home country, not at victim's cost.** Every Five Eyes jurisdiction provides for evacuations, but the parameters sometimes vary. This version encompasses the maximum possible servicing.
3. **The payment of immediate medical expenses.** The U.K. does this in exceptional circumstances.
4. **The provision of specialized medical care once back home, and a smooth transition from emergency to long-term care.** This is not explicitly referenced in any of the Five Eyes' systems, and it is noted as critical in both the literature and victim interviews.

Psychological:

1. **Assistance accessing local psychological support while overseas.** Both Australia and New Zealand provide these services.
2. **Facilitate the provision of specialized psychological support once home.** Both Australia and New Zealand provide for this. Australia can transfer victims to Australian counselling service. New Zealand provides that referrals to counselling and other services can be facilitated once back in New Zealand through Victim Support.
3. **Ensure a smooth transition from immediate care abroad to long-term care once home.** The Australian model explicitly speaks of the transfer of psychological support from the immediate/abroad to the long-term/home.

Information:

1. **Meet with victims and families, and regularly and promptly provide them with information and updates.** Meeting with victims and families, and providing information and updates to them, is a common feature in the Five Eyes' systems. The provision of regular and prompt information is noted as extremely important in both the literature and the victim interviews, and it is essential for other needs as well, such as respect and recognition.

- a. **Victims must be promptly informed of the current situation; where to obtain up-to-date information; where to go to receive support services; and the nature of their rights as victims.** This is noted as best practice (INVICTM 2018).
 - b. **Information provided should include: (1) updates regarding the crisis, (2) updates regarding the case, (3) information about financial assistance, (4) information about local English-speaking lawyers and organizations that can assist with local laws, and (5) the location and timing of memorial services.** A number of these are drawn from Five Eyes' systems. Australia explicitly provides for crisis updates. The U.S. provides for case updates and information about financial assistance options. The U.S. and New Zealand can provide a list of English-speaking lawyers, and the U.S. can further provide information about local points of contact or organizations who discuss local laws. The literature noted that the provision of information should include the location and timing of any memorial services (INVICTM 2018; Ivanković et al 2017).
2. **Utilize a password-protected website** to facilitate the provision of information, as the U.K. does, and as was done in the immediate aftermath of the MH17 crash.
 3. **Open a dedicated hotline, SMS and online web form facilities for people,** as the U.K. does to enable victims to contact the FCDO about British nationals that require assistance in a crisis. Note that the U.K. hotline permits coordination with law enforcement, which is lauded in the literature (INVICTM 2018).

5. How do the Five Eyes Address Access to Justice Needs of Cross-Border Victims?

Victims have access to justice needs that include the need to see justice done (distributive justice) and the need to see it done fairly (procedural justice) (Ivanković et al 2017). This is important for a victim's healing and resilience (INVICTM 2018).

5.1. Distributive Justice Needs – Current Practices and Discussion

Victims' need to "see justice done" is an established access to justice need in the literature. It was also articulated in many of the cross-border victim interviews that were conducted for

purposes of this report series. However, distributive justice needs are only limitedly addressed by the Five Eyes.

The U.S. Federal Bureau of Investigation can offer investigative assistance (by facilitating investigative interviews and arranging briefings), and Canadian consular officials can “request timely and transparent investigations” without interfering “in an investigation or legal matter” – and that’s it. Neither of these are all that effective. Requesting an investigation without follow-up or assistance may be limited in terms of its effectiveness. And investigative assistance, as it currently exists, may be more harm than help. One of the U.S. victims, Helen Wilson, described being interrogated by five FBI officers while she was still in the hospital, every day for a week.

Besides those two provisions, the rest of the access to justice -related provisions in Canada, the U.S., and New Zealand deal with procedural justice issues, and the U.K. and Australia appear silent on both types of justice issues. This is perhaps why there was a near-ubiquitous frustration expressed by the victims interviewed on these issues, particularly on distributive (or “outcome-focused”) justice. There was a common frustration expressed by the victims that so few terrorists are prosecuted and held accountable for the damage they have caused, and that the relevant departments do not seem to be making much headway in this regard.

Terrorist cases in general are few and far between, but in cases of cross-border instances, this is even more stark. According to Sarri Singer, as of 2016, there were 69 U.S. nationals murdered in terrorist attacks in Israel, and not one single prosecution from the U.S.

Unfortunately, there is likely very little that states can do about this. Addressing these victims’ distributive justice needs is difficult, if not near impossible. For a state whose nationals were attacked abroad, prosecuting foreign terrorists domestically would require the terrorist to be physically present. This may happen by happenstance, but more likely than not, an extradition would be required. In that circumstance, states are hamstrung by a number of factors that are outside of their control – namely, whether an extradition treaty exists with the country where the terrorist is located; whether that country cooperates and ultimately extradites the

terrorist; and whether the terrorist has already been tried in that foreign jurisdiction (in which case various legal principles might bar the terrorist from being re-prosecuted for the same case). Distributive justice might be accomplished by a foreign prosecution against the foreign terrorist, but in this case, there is again very little that can be done from the outside, besides offering investigative assistance (as the FBI does for the U.S.) and ensuring that the victims are involved (which strictly speaking relates to procedural justice and not distributive justice).

It is possible that the most that can be done is, (1) requesting investigations, as Canada currently does; (2) providing investigative assistance, as the U.S. does, but sensitively, so as to not further traumatize victims; and (3) pursuing extraditions and criminal proceedings where possible. Further, to pick up the slack caused by a dearth of prosecutions, Canada and other Five Eyes states can enable civil lawsuits to proceed where possible through legislation such as Canada's Justice for Victims of Terrorism Act (JVTA) (discussed in Part I).

5.2. Distributive Justice – Best Practices

As noted, there is little that Canada and other states can effectively do to address distributive justice needs; outcome-oriented needs are naturally nearly impossible to guarantee. However, the following best practices can be discerned from the above discussion:

1. **Request investigations where possible**, as Canada does.
2. **Provide investigative assistance, but ensure to do so sensitively, so as not to further traumatize victims.** The U.S. does this, but the U.S. victim described an interrogation being done in such a way that was more harmful than helpful.
3. **Pursue extraditions and domestic criminal proceedings where possible.**
4. **Enable civil lawsuits to proceed against state sponsors of terror through legislation restricting sovereign immunity.** Canada already does this in its Justice for Victims of Terrorism Act (JVTA), and other jurisdictions have similar legislation.²

² A comprehensive review of analogous legislations across the Five Eyes – was not considered necessary for purposes of this report. Since Canada already has the JVTA, and since it includes cross-border victims, there is no legal or policy gap that negatively impacts these victims. The only negative (general) effect of the JVTA, as discussed in Part I, is that restricted immunity only exists for states that are designated as “state supporters of terrorism”. However, sovereign immunity must remain the rule (and not the exception) pursuant to international legal norms, and there is no way to override the Minister's discretion on listing decisions.

5.3. Procedural Justice – Current Practices

Victims' need to "see justice done fairly" is the second established access to justice need in the literature. Unlike distributive justice needs, procedural justice needs are somewhat provided for in some of Five Eyes' systems, namely, in Canada, the U.S., and New Zealand.

5.3.1. Canada

Canadian cross-border victims may be (1) provided with a list of local lawyers, and (2) provided with sources of information about local laws and regulations. In addition, the Canadians Victimized Abroad Fund may help cover travel expenses to return to the state where the crime occurred in order to participate at the preliminary hearing and/or the trial.

5.3.2. The United States

In the U.S., there is some overlap in the procedural justice capabilities between the Department of State, the Federal Bureau of Investigation (FBI), and the Department of Justice Office of Justice for Victims of Overseas Terrorism (DOJ/OVT).

The U.S. Department of States' Bureau of Consular Affairs can provide a list of local lawyers who speak English. Both the Department of State and the Federal Bureau of Investigation (FBI) can assist by providing updates on a case, if applicable. The FBI can further assist with travel arrangements to attend trials. Finally, the DOJ/OVT is involved in (1) advocating for victims to obtain information and participate in foreign criminal proceedings; and (2) providing financial support to assist these victims to participate in foreign criminal proceedings, at least in cases where the foreign jurisdiction permits U.S. victims to attend, through the Criminal Justice Participation Assistance Fund (CJPAF).

In cases where domestic proceedings are underway, that are relevant to a cross-border victim, the U.S. Attorney's Office can provide a variety of services that are relevant to procedural justice needs: (1) information on court proceedings and case status; (2) referrals to counselling, medical and other social services; (3) court accompaniment; (4) special

services for child victims, the elderly and handicapped victims; (5) crime victim's compensation claims assistance; (6) assistance with completing victim impact statements; (7) support for victims throughout court proceedings; and (8) assistance with restitution issues. Of course, as already noted, these cases are quite rare.

An important element of procedural justice is legal aid. The U.S. has been particularly effective on legal aid. In the aftermath of 9/11, all U.S. victims received pro bono assistance.

CASE STUDY: PRO BONO ASSISTANCE FOR U.S. 9/11 VICTIMS

The September 11 attacks led way to the largest pro bono legal effort in the history of the United States: Trial Lawyers Care (TLC). TLC was developed by the Association of Trial Lawyers of American (ATLA). Over 1,100 attorneys participated and secured awards of over \$2.5 billion USD for over 1,700 plaintiffs. The value of the pro bono legal services that were provided was in excess of \$300 million USD. Volunteer attorneys for this project described it as the most rewarding experience of their careers (Historic 9/11 Pro Bono Effort).

5.3.3. New Zealand

The Ministry of Foreign Affairs and Trade (MFAT) assists procedural access to justice needs by (1) providing a list of English-speaking lawyers, and, once back in New Zealand, (2) providing help dealing with the criminal justice system, for example, attending court, restorative justice, parole board, preparing victim impact statements, and help organizing travel and accommodation if required.

5.4. Procedural Justice – Discussion and Best Practices

As the literature articulates, victims at a minimum have a right to be heard, and to be made aware of crucial dates and decisions (Ivanković et al 2017). In this sense there is natural overlap with the provision of information as discussed above. The provision of legal aid is another important element of procedural access to justice (Ivanković et al 2017).

Table 3. Comparison of Five Eyes' Procedural Access to Justice – Terrorism and Mass Violence

Canada	United States	New Zealand
Provided with a list of local lawyers, and with sources of information about local laws and regulations	Provide a list of local lawyers who speak English	Provide a list of English-speaking lawyers
Cover travel expenses to return to the state where the crime occurred in order to participate at the preliminary hearing and/or the trial or equivalent process	Travel arrangements to attend trials including financial support	Once back in New Zealand, help dealing with the criminal justice system, for example, attending court, restorative justice, parole board, preparing victim impact statements, and help organizing travel and accommodation if required
	Provide updates on a case, if applicable	
	Advocate for victims to obtain information and participate in foreign criminal proceedings	
	Court accompaniment, support, special services, and assistance with compensation claims, victim impact statements, and restitution issues – <i>for domestic proceedings only</i>	
	Legal aid efforts (nongovernmental)	

Looking at these practices of the Five Eyes, in concert with the relevant literature, a number of best practices can be discerned:

1. **Victims should be provided with a list of local lawyers who speak English, and sources of information about local laws and regulations.** This is presently provided for, in various capacities, by Canada, the U.S., and New Zealand.
2. **Governments should assist victims with foreign proceedings, where they occur.**
 - a. **Governments should keep track of case updates and keep the victim informed,** as the U.S. somewhat covers and as is advocated in the literature.
 - b. **Governments should assist the victim to make travel arrangements as needed to attend the preliminary hearing and/or the trial or equivalent**

process, as the U.S. and possibly New Zealand does (it is unclear if New Zealand Victim Support's ability to organize "travel and accommodation" extends internationally).

- c. **Governments should cover the relevant expenses**, as Canada and the U.S. do.
 - d. **Governments should advocate for victims to obtain information and participate in foreign criminal proceedings**, as the U.S. does.
3. **Governments should assist victims with domestic proceedings, if they occur.**
- a. **Governments should assist in attending court or other process (restorative justice, parole board, et cetera)**, as both the U.S. and New Zealand do.
 - b. **Governments should assist in preparing victim impact statements**, as both the U.S. and New Zealand do.
 - c. **Governments should assist in organizing travel and accommodation, if required**, as New Zealand does.
 - d. **Governments should generally support, provide special services if needed, and provide assistance with compensation claims and/or restitution issues, as appropriate**, as the U.S. Attorney's Office does.
4. **Governments should work with civil society to establish and support robust legal aid initiatives**, such as the initiative that was set up in the aftermath of 9/11 in the U.S.

6. How do the Five Eyes Address Compensation and Restoration Needs of Cross-Border Victims?

Compensation is an important need for victims. Terrorist attacks, acts of war, and mass violence can bring with them staggering financial costs for individual victims, and this is only exacerbated when the attack occurs abroad (INVICTM 2018). These victims may need to pay for flights and/or unexpected accommodations, food, international communications such as long-distance calling, and medical bills (INVICTM 2018).

The provision of compensation/restoration may be additionally complicated if the victim gets reimbursed by the state in which the attack occurred, but not sufficiently so. For instance, if an individual is victimized abroad in a state with a weaker economy, and they receive compensation from that state, the payout may be smaller than the victim needs to cover

expenses at home, where cost of living is higher (Albrecht & Kilching 2007). The various Five Eyes' systems can serve to shed some light on these issues and illuminate best practices.

6.1. The United States

Compensation for U.S. cross-border victims of terrorism comes largely from the International Terrorism Victim Expense Reimbursement Fund (ITVERP), and to some extent from the Criminal Justice Participation Assistance Fund (CJPAF).

The ITVERP is a large expense reimbursement fund administered by the Department of Justice Office for Victims of Crime (OVC). To qualify, the terrorist incident must have occurred abroad; the victim must have U.S. citizenship or employment with the U.S. government; and the expenses claimed must relate directly to the terrorist incident. The National Security Division of the Department of Justice is responsible for determining whether an act is considered a terrorist incident for the purpose of the ITVERP. The expenses that the ITVERP covers are as follows: (1) medical expenses³, up to \$50,000; (2) mental health counselling costs, up to \$5,000 for up to 12 months; (3) property loss, repair or replacement, up to \$10,000; (4) funeral and burial costs, up to \$25,000; and (5) miscellaneous costs⁴, up to \$15,000. Recall that Sarri Singer, a U.S. citizen victim of terror overseas, noted that ITVERP's structure is excellent and that they have even gone above and beyond what their policies state. Sarri's only negative comments were that it was sometimes tedious to deal with their bureaucracy; that it sometimes took months to receive reimbursement; and that since they do not engage in much outreach, many victims do not know about the program.

The Department of Justice Office of Justice for Victims of Overseas Terrorism (DOJ/OVT) also provides financial support to assist victims to participate in foreign criminal proceedings, at least in cases where the foreign jurisdiction permits U.S. victims to attend. This financial assistance is provided by the Criminal Justice Participation Assistance Fund (CJPAF).

³ Medical care, replacement of medical devices, physiotherapy, occupational therapy, counseling, upgrading of job skills or training for a different career, and workplace, vehicle and home modifications.

⁴ Including temporary lodging up to 30 days, local transportation, telephone costs, and emergency travel for two family members to the foreign jurisdiction.

6.2. The United Kingdom

The Victims of Overseas Terrorism Compensation Scheme permits individuals to claim compensation if they are victimized abroad by terrorism since November 27, 2012. Eligibility is limited to British, E.U., E.E.A. or Swiss citizens, or members of the U.K. armed forces, and claimants also must have lived in the U.K. for three years immediately before the terrorist attack occurred. Further, the Scheme is clear that its compensation should be seen as a last resort and can only be awarded if social security benefits, insurance payments, and damages or compensation are not available. Three categories of expense are included: (1) injury payments, if the injury is described in the tariff of injuries, and only up to three injuries; (2) loss of earnings payment, if totally unable to undertake paid work or in very limited capacity; and (3) special expenses, which can include property or equipment damage relied on for physical aid, costs arising from treatment under state health service, special equipment, home modifications, and cost of care. Funeral costs are covered to a maximum of £5,000. Mental health is included in the injury payments category. Most notable is the Scheme's loss of earnings payment, which is unique from most other compensation schemes analyzed.

In addition, the Foreign, Commonwealth & Development Office (FCDO) may cover immediate medical expenses pursuant to the Exceptional Assistance Measures (EAMs) – on a case-by-case basis and as a last resort.

6.3. Australia

The model of compensation in Australia is different. Instead of reimbursement or compensation for eligible expenses, the Australian Victim of Terrorism Overseas Payment is a one-time payment for victims or close relatives of victims of terrorist acts. The scheme is restricted to claimants that were Australian residents on the day the overseas terrorist act occurred and living permanently in Australia. Victims may receive up to \$75,000, depending on their circumstances and on whether they are considered a primary or secondary victim.

Victims claim payouts are determined by a number of factors including the impact of injury on the victim's life, their responsibility in taking reasonable steps to avoid such injury, and

whether they have received financial assistance from a foreign country. The exact rubrics for determining funds provided are not public.

6.4. New Zealand

New Zealand Victim Support can distribute financial grants to reimburse costs after some serious crimes – and they also may pay counselling costs – but cross-border victims are specifically excluded from this. The financial grants are offered under the Victim Financial Assistance Scheme (VAS), and this scheme only applies to victims of serious crimes that take place in New Zealand.

The Accident Compensation Corporation (ACC), which is the mandatory insurer for all New Zealanders, may provide coverage for injuries sustained while abroad – but it would only cover treatment received in New Zealand. This coverage is equivocal, and in any case, ACC assistance is a national insurance, and not a compensation or restoration measure.

6.5. Canada

The Canadians Victimized Abroad Fund provides some compensation for Canadians victimized abroad as of April 1, 2007. It is only available to Canadian citizens who have been victims of specified serious violent crimes abroad⁵, and where no other source of financial assistance is available to them. This Victims Fund may help cover: (1) travel expenses to return to the state where the crime occurred in order to participate at the preliminary hearing and/or the trial or equivalent process; (2) travel expenses for a support person to be with a Canadian victimized abroad, during the immediate aftermath of the crime; (3) expenses for a Canadian victim of crime to return to Canada; (4) hospital and medical expenses due to being victimized, up to \$10,000; (5) expenses to replace stolen official documents, up to \$10,000; (6) upon return to Canada, financial assistance for professional counselling, up to \$10,000; (7)

⁵ The serious violent crimes specified are homicide; sexual assault; aggravated assault; and other serious personal violence offences including against a child (this includes assault causing bodily harm, assault with a weapon, kidnapping, hostage taking, human trafficking, and forced marriage).

funeral expenses if the crime resulted in the death of the victim, up to \$10,000; and (8) out-of-pocket expenses due to being a victim of a violent crime, up to \$10,000.

Unlike the U.K., the Victims Fund does not cover loss of earnings. It does not cover expenses incurred for crimes that took place before April 1, 2007 – leaving out Canadian 9/11 victims, among others. Interestingly, the Fund covers professional counselling services up to \$10,000 – so although there is limited support available (as demonstrated in previous sections) to facilitate the obtaining of specialized psychological care, if a victim does find such care after they have returned to Canada, and pays for it, they will be reimbursed, up to \$10,000. Similarly, although medical evacuations are specified as being on a “cost-recovery” basis, the provisions of the Victims Fund suggest that victims might be able to claim reimbursement.

6.6. Comparison, Discussion, Best Practices

The following table depicts and compares how Canada, the U.S., and the U.K. address cross-border victims’ compensation and restoration needs. As noted, Australia has a different model – a one-time payment of up to \$75,000 – and New Zealand does not appear to address compensation, at least publicly, at all. The ensuing discussion elucidates best practices that ultimately ground recommendations for Canada.

Table 4. Comparison of Five Eyes’ Compensation/Restoration – Terrorism and Mass Violence

Canada	United States	United Kingdom
<i>Covered Items</i>		
Travel expenses to return to the state where the crime occurred in order to participate at court proceeding	Financial support to assist victims to participate in foreign criminal proceedings	
Travel expenses for a support person to be with a Canadian victimized abroad, during the immediate aftermath of the crime		
Expenses for a Canadian victim of crime to return to Canada		

Hospital and medical expenses due to being victimized, up to of \$10,000	Medical expenses ⁶ , up to \$50,000	Immediate medical expenses; injury payments up to three injuries (physical and/or psychological)
Upon return to Canada, financial assistance for professional counselling, up to \$10,000	Mental health counselling costs, up to \$5,000 for up to 12 months	
Funeral expenses if the crime resulted in the death of the victim, up to \$10,000	Funeral and burial costs, up to \$25,000	Funeral costs are covered to a maximum of £5,000
Out-of-pocket expenses due to being a victim of a violent crime, up to \$10,000	Miscellaneous costs ⁷ , up to \$15,000	Special expenses (can include property or equipment damage relied on for physical aid, costs arising from treatment under state health service, special equipment, home modifications, and cost of care)
Expenses to replace stolen official documents, up to \$10,000	Property loss, repair or replacement, up to \$10,000	
		Loss of earnings payment, if totally unable to undertake paid work or in very limited capacity

There are a few important points to note. First, at least with this model of reimbursing eligible expenses, this is simply compensation. In contrast, the literature is clear that victims have both compensation and restoration needs. Victims of terrorism require restorative measures to facilitate and enhance their recovery. This is important for healing (INVICTM 2018; EU Centre of Expertise for Victims of Terrorism 2021; Ivanković et al 2017). Second, the lack of retroactivity in the Canadian and U.K. compensation schemes is problematic. Recall the case study of Maureen Basnicki, outlined in Part I, and her almost-20-year struggle to receive compensation for counselling she had to pay for out-of-pocket. She is ineligible for the Canadians Victimized Abroad Fund, as a victim of 9/11.

Third, these schemes all operate as a last resort. This is reasonable, except in the hypothetical (that is not so hypothetical) raised by Albrecht & Kilching (2007): if an individual is victimized

⁶ Medical care, replacement of medical devices, physiotherapy, occupational therapy, counseling, upgrading of job skills or training for a different career, and workplace, vehicle and home modifications.

⁷ Including temporary lodging up to 30 days, local transportation, telephone costs, and emergency travel for two family members to the foreign jurisdiction.

abroad in a state with a weaker economy, and they receive compensation from that state, the payout may be smaller than the victim needs to cover expenses at home, where cost of living is higher (Albrecht & Kilching 2007). Albrecht & Kilching (2007) praise the U.K. in particular for their efforts to “top up” those payouts for their overseas victims. However, they, along with other literature on this topic, trend towards continued calls for increased cooperation among governments involved to aid in providing adequate resources the first time around. It is unclear what the appropriate solution is to this dilemma, and no Five Eyes system has yet to speak to it explicitly. Does the state in which the attack took place, make payments adjusted to each victim’s nationality/cost-of-living? This would be in line with the “thin-skull” principle in criminal law –this is the principle that says that if you hit someone over the head with a beer bottle, for example, and that person had a thin skull and died when he otherwise might not have, you are still criminally responsible for murder– but this requires much further study and discussions. There should be multilateral collaboration and, ideally, some consensus, with regard to these complex interplays of multijurisdictional compensation. Poorer countries may not be able to afford more, and top-ups might in fact be the most appropriate method – this requires further research and international consultations.

Fourth is the importance of outreach. Recall that Sarri Singer noted, that although ITVERP’s structure is excellent, many victims do not know of the program. This is where the provision of information becomes important, and outreach is important.

Based on the above summaries and discussions, we can identify a series of best practices:

1. **If using the “*reimbursing eligible expenses*” system, cover the following categories:**
 - a. **Travel – to participate in foreign criminal proceedings, to fly out a support person in the aftermath of the attack, and to fly the victim home.** Canada already does all of these things.
 - b. **Medical and psychological expenses, from any jurisdiction, with no maximum dollar figure.** Canada, the U.S., and the U.K. all already cover medical and psychological care. Jurisdiction should not be limited; only Canada specifies that psychological counselling is upon return to Canada. Dollar maximums should not be specified either – unlike Canada and the U.S., which have maximum dollar amounts, the U.K. leaves this flexible, recognizing that

every case is different. Consider Canada's maximum limit of \$10,000 for professional counselling: if a victim requires twice a week counselling, and each session costs \$100 – that \$10,000 is already maxed out in under one year.

- c. **Funeral expenses.** Canada, the U.S., and the U.K. all already cover this.
 - d. **Miscellaneous/special expenses,** with all the specific examples that are mentioned across Canada, the U.S. and the U.K. – included.
 - e. **Loss of earnings payment,** as the U.K. does. Consider Maureen Basnicki, the flight attendant whose late husband was murdered in 9/11; she was unable to continue working as a flight attendant due to her trauma.
2. **Go beyond compensation/reimbursement, and institute restorative measures,** as the literature considers essential for recovery and healing (INVICTM 2018; EU Centre of Expertise for Victims of Terrorism 2021; Ivanković et al 2017).
 3. **Consider whether to move to a system that has a one-time payment, as opposed to eligible expenses** – as Australia does. In order to consider which model is most appropriate for the Canadian context, further research and consultations will have to be undertaken. Among other things, this analysis should consider if an Australian-type model would better enable the government to address restorative measures.
 4. **Ensure that older victims are provided compensation and restoration – compensation and restoration schemes should be made retroactive.**
 5. **Engage in outreach** so that victims know what is available.
 6. **Engage in further research and international consultations to determine how best to address the complex interplays of multijurisdictional compensation** – should governments “top-up” a poorer country's compensation package, as the U.K. has done? Should the foreign jurisdiction adjust compensation packages by country of residence's cost of living? There may be further options to consider as well.

7. Recommendations for Canada

The best practices discerned in the previous sections ground specific recommendations for Canada. Simply, where Canada presently falls short on the articulated best practices, that should be remedied.

With transnational terrorism ever-present and growing, it is more important than ever to ensure that Canada has a comprehensive and coherent policy to address the dynamic needs of Canadians who are victimized abroad. It is essential to ensure that this growing and vulnerable segment of the victim population does not fall between the cracks.

This report aims to assist in closing this gap by proposing this series of targeted recommendations designed to address these victims' needs.

These recommendations that follow are specific towards Canada, but the best practices that precede and ground each section of recommendations, can be equally adapted and applied to the other Five Eyes systems; they can advise improvements to all. Likewise, although many of the recommendations specifically address the needs of *cross-border* victims, many address needs that are common to all victims of terrorism and mass violence. In this way, this report has the potential for broad applicability. The best practices elucidated have the potential to benefit every Five Eyes country and all victims of terrorism.

7.1. Recommendations for Canada – Emergency Response

That Canadian officials can provide information and liaise with families; repatriate remains; deploy expert teams; and help Canadians evacuate – are positive inclusions in the current system. However, there are a number of gaps that Canada should address.

1. **Canada should facilitate Canadian cross-border victims obtaining appropriate emergency medical care** – in line with the literature and New Zealand's approach.
2. **Canada should facilitate Canadian cross-border victims obtaining psychological first aid**, as several jurisdictions already do; this is considered essential for long-term outcomes (Smith & Jankoski 2012; Cloak & Edwards 2004).
3. **Canada should provide for emergency evacuations, back to Canada as opposed to the "nearest safe haven", and not on a cost-recovery basis.**
4. **Canada should reimburse immediate medical expenses**, as the U.K. provides for.
5. **Canada should provide family members of victims with local information or support coming out to the scene**, as the U.K. does.

6. **Canada should coordinate autopsies and obtain death certificates**, where necessary.
7. **Canada should ensure that foreign affairs representatives are present at any Family Assistance Centers arranged.**

When Canadians are victimized abroad, much of the emergency response is likely to come from local teams. However, this does not abdicate Canada from its duty to respond to the emergency needs of these victims. This is especially pressing for Canadians victimized in states where English is not the primary language (INVICTM 2018), or that have poor supports for victims. Any Canadian policy with respect to cross-border victims should be in line with the existing academic literature and best practices of the other Five Eyes' countries in this regard.

7.2. Recommendations for Canada – Respect and Recognition

In order for a Canadian federal policy to adequately respond to cross-border victims' needs, it must explicitly provide for and ensure the respect and recognition of these victims.

1. **Canadian government and support personnel must treat cross-border victims with sensitivity, respect, fairness, empathy, and dignity.**
2. **Canada should commemorate attacks that occurred abroad in which Canadians were killed** by establishing memorials, days of remembrance, and commissions of inquiry, where appropriate and with appropriate consultations with victims; and by making government statements that respect and recognize these cross-border victims.
3. **Canada should assist in establishing and supporting peer support groups.**
4. **Canada should recognize that respect and recognition must also be grounded in adequately addressing victims' needs**, including their needs for specialized support, access to justice, and compensation.

7.3. Recommendations for Canada – Protection

1. **Canada should explicitly address protection from re-victimization**, by having a policy in place to assess the risk of re-victimization and provide protective measures in proportion to the risks.

2. **Canada should prevent secondary victimization by government officials by implementing mandatory sensitivity and trauma training** for all officials who come into contact with cross-border victims.
3. **Canada should protect against secondary victimization by government-facilitated psychologists and therapists by implementing enhanced screening protections** – to ensure they are specialized and trained in dealing with the particular trauma that is caused by terrorism and mass violence.
4. **Canada should follow-up with all victims after at least their first psychologist/therapist appointment**, to “catch” any inadequate psychologists or therapists that happen to fall through the cracks of the above-noted screening.
5. **Canada should secure locations, as appropriate, to prevent secondary victimization by media.** As the U.K. cross-border victim noted, they were further traumatized by media at a location which was supposed to be secured but was not.
6. **Canada should arrange training for media personnel**, so that media personnel interacting with victims are trained in how to interact with them without further traumatizing them.
7. **Canada should train cross-border victims in media**, so that victims have knowledge of how media works and how to deal with them.
8. **Canada should train cross-border victims to recognize organizations that might scam or exploit them.**

7.4. Recommendations for Canada – Support Response

Practical Assistance:

1. **Canada should contact friends, family, employers, and/or insurance providers, with consent.**
2. **Canada should provide support for family members of victims to come out to the scene**, as the U.K. does.
3. **Canadian officials should assist victims to connect or communicate with local systems**, recognizing that additional assistance may be required when there is a language barrier (INVICTM 2018).
4. **Canada should work with local authorities to support the affected**, as Australia does.
5. **Canada should provide support through the coronial process**, like U.S. and New Zealand.

6. **Canada should assist victims in dealing with the criminal justice system**, as New Zealand does.
7. **Canada should assist cross-border victims in dealing with language-barrier issues, including the translating of documents**, as noted in the literature (INVICTM 2018; Ivanković et al 2017).
8. **Canada should assign each cross-border victim a navigator or case-manager**, as the Netherlands and the U.S. are noted as doing, and as is lauded in literature (INVICTM 2018).

Medical and Psychological:

1. **Canada should assist by locating appropriate emergency medical care while abroad**, as New Zealand does.
2. **Canada should assist victims to access adequate local psychological support while overseas**, as Australia and New Zealand do.
3. **Canada should coordinate medical evacuations, back to Canada, not at victim's cost.**
4. **Canada should assist with paying immediate medical expenses**, as the U.K. does.
5. **Canada should ensure that the victim is provided with specialized medical care once home and should ensure a smooth transition from emergency to long-term care.**
6. **Canada should facilitate the provision of specialized psychological support once home and should ensure a smooth transition**, as Australia does.

Information:

1. **Canada should meet with victims and families, and regularly and promptly provide them with information and updates**, as is provided for, to some extent, in many of the Five Eyes' systems, and as is noted as critical in the literature and victim interviews.
 - a. **Canada should promptly inform cross-border victims of the current situation; where to obtain up-to-date information; where to go to receive support services; and the nature of their rights as victims** – as is noted as best practice in the literature (INVICTM 2018).
 - b. **Canada should provide information and updates regarding (1) the crisis, (2) the case, (3) financial assistance, (4) local English-speaking lawyers and organizations that can assist with local laws, and (5) the location and timing of**

memorial services – as many of the Five Eyes’ systems provide for, and as is noted in the literature (INVICTM 2018; Ivanković et al 2017).

2. **Canada should utilize a password-protected website** to facilitate the provision of information, as the U.K. does and as was done in the aftermath of the MH17 crash.
3. **Canada should open a dedicated hotline, SMS and online web form facilities for people, and enable coordination between the hotline and law enforcement**, as the U.K. does.

7.5. Recommendations for Canada – Access to Justice

1. **Canada should continue to request investigations where possible.**
2. **Canada should provide investigative assistance, but ensure to do so sensitively, so as not to further traumatize victims**, improving on and learning from U.S. systems.
3. **Canada should pursue extraditions and domestic criminal proceedings where possible.**
4. **Canada should continue to enable civil lawsuits to proceed, where possible, against state supporters of terrorism, through the Justice for Victims of Terrorism Act.**
5. **Canada should provide overseas victims with a list of local lawyers who speak English**, as New Zealand does.
6. **Canada should assist victims with foreign proceedings**, as other Five Eyes’ systems presently do, by:
 - a. **Keeping track of case updates and keeping the victim informed;**
 - b. **Assisting the victim to make travel arrangements;**
 - c. **Continuing to cover the relevant expenses** (Canada already does this); and
 - d. **Advocating for victims to obtain information and participate in foreign criminal proceedings.**
7. **Canada should assist victims with domestic proceedings, if they occur**, as other Five Eyes’ systems presently do, by:
 - a. **Assisting with court attendance or attendance at other processes** (restorative justice, parole board, et cetera);
 - b. **Assisting with victim impact statements;**
 - c. **Assisting with organizing travel and accommodation, if required;** and
 - d. **Generally supporting victims, providing special services if needed, and providing assistance with compensation claims and/or restitution issues, as appropriate.**

8. **Canada should work with civil society to establish and support robust legal aid initiatives.**

7.6. Recommendations for Canada – Compensation and Restoration

There are only a handful of gaps to address in these recommendations, since the Canadian scheme already covers quite a lot of eligible expenses outlined, including travel, medical and psychological care, funeral expenses, and miscellaneous/out-of-pocket.

1. **If Canada continues with a system based on eligible expenses, Canada should make sure to cover the following expense categories, in addition to the ones it already covers:**
 - a. **Medical and psychological expenses, *from any jurisdiction, with no maximum dollar figure.*** Canada, U.S., and U.K. all already cover medical and psychological care. However, Canada has specified psychological counselling is upon return to Canada, with a maximum of \$10,000. Consider: if a victim requires twice a week counselling for 10 years, and each session costs \$100, \$10,000 is maxed out in under one year. In contrast, U.K. leaves this option flexible; each case is different.
 - b. **Loss of earnings payment,** as the U.K. does. Consider Maureen Basnicki, the flight attendant whose late husband was murdered in 9/11.
2. **Canada should go beyond compensation/reimbursement, and institute restorative measures,** as the literature considers essential for recovery and healing (EU Centre of Expertise for Victims of Terrorism 2021; Ivanković et al 2017).
3. **Canada should consider whether to move to a system that has a one-time payment, as opposed to eligible expenses,** as Australia does – this will require further research.
4. **Canada should make its compensation and restoration schemes retroactive,** so that older victims are covered and appropriately compensated.
5. **Canada should engage in outreach** to make sure that victims know what is available.
6. **Canada should engage in further research and international consultations to determine how best to address the complex interplays of multijurisdictional compensation –** should governments “top-up” a poorer country’s compensation package, as the U.K. has done? Should the foreign jurisdiction adjust compensation packages by country of residence’s cost of living? There may be further options.

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