

P&P Appendix 3



ARROWSMITH COMMUNITY JUSTICE SOCIETY

Appendix- Canadian Victims Bill of Rights

From: <https://crcvc.ca/for-victims/rights/>

Enacted

July 2015

Rights

* Update – In April 2015, the federal government passed Bill C-32, the *Victims Bill of Rights Act*. This law made a number of changes to the *Corrections and Conditional Release Act*. Many of these changes came into effect in July 2015. However, as of June 1st, 2016, upon request, victims can:

- receive information from the Correctional Service of Canada (CSC) about an offender's correctional plan and progress toward meeting the objectives of the plan;
- have CSC provide access to a photograph of the offender prior to certain releases into the community; and
- request access from the Parole Board of Canada (PBC) to listen to an audio recording of a parole hearing if unable to attend in person.

CSC and PBC have also modernized how registered victims can access information with the official launch of the Victims Portal on June 1, 2016. The Victim's Portal is a secure website where registered victims may obtain information about the federal offenders who harmed them. Victims may use the Portal in addition to, or instead of, the current methods of communication by phone and mail. The Portal will also allow registered victims to manage their information and preferences online. For further information about the *Canadian Victims Bill of Rights* and the other legislation that is currently in effect, please visit CSC's Victim Services website or PBC's website.

The Canadian Victims Bill of Rights

Enacted on July 23rd, 2015, the *Act* creates clear rights for victims of crime, and requires said rights to be considered during each step of the criminal justice system. The *Canadian Victims Bill of Rights* provides 4 principal rights to victims: Information, Protection, Participation and Restitution.

Government of Canada / Gouvernement du Canada

canada.ca/victimsbillofrights

CANADIAN VICTIMS BILL OF RIGHTS

The rights of victims of crime need to be considered during every stage of the criminal justice process...

... by police, prosecutors, courts, review boards, corrections, and parole boards.

The **CANADIAN VICTIMS BILL OF RIGHTS** will give victims of crime a:

- Right to information**
Ask for information about the justice system, victim services, and the progress of their case.
- Right to participation**
Present a victim impact statement and give views on decisions that affect their rights.
- Right to seek restitution**
Restitution orders must be considered and can be enforced through civil courts.
- Right to protection**
Consideration of the security and privacy of victims, and reasonable and necessary protection from intimidation and retaliation.

Disclaimer: This infographic is not intended as legal advice.

Canada

INFORMATION

General Information

6. Every victim has the right, on request, to information about
 - a. the criminal justice system and role of victims in it;
 - b. the services and programs available to them as a victim, including restorative justice programs; and
 - c. their right to file a complaint for an infringement or denial of any of their rights under this Act.

Investigation and proceedings

7. Every victim has the right, on request, to information about
 - a. the status and outcome of the investigation into the offence; and
 - b. the location of proceedings in relation to the offence, when they will take place and their progress and outcome.

Information about the offender or accused

8. Every victim has the right, on request, to information about
 - a. reviews under the *Corrections and Conditional Release Act* relating to the offender's conditional release and the timing and conditions of that release; and
 - b. hearings held for the purpose of making dispositions, as defined in subsection 672.1(1) of the *Criminal Code*, in relation to the accused, if the accused is found not criminally responsible on account of mental disorder or unfit to stand trial, and the dispositions made at those hearings.

PROTECTION

Security

9. Every victim has the right to have their security considered by the appropriate authorities in the criminal justice system.

Protection from intimidation and retaliation

10. Every victim has the right to have reasonable and necessary measures taken by the appropriate authorities in the criminal justice system to protect the victim from intimidation and retaliation.

Privacy

11. Every victim has the right to have their privacy considered by the appropriate authorities in the criminal justice system.

Identity protection

12. Every victim has the right to request that their identity be protected if they are a complainant to the offence or a witness in proceedings relating to the offence.

Testimonial aids

13. Every victim has the right to request testimonial aids when appearing as a witness in proceedings relating to the offence.

PARTICIPATION

Views to be considered

14. Every victim has the right to convey their views about decisions to be made by appropriate authorities in the criminal justice system that affect the victim's rights under this Act and to have those views considered.

Victim impact statement

15. Every victim has the right to present a victim impact statement to the appropriate authorities in the criminal justice system and to have it considered.

RESTITUTION

Restitution order

16. Every victim has the right to have the court consider making a restitution order against the offender.

Enforcement

17. Every victim in whose favour a restitution order is made has the right, if they are not paid, to have the order entered as a civil court judgement that is enforceable against the offender.

REMEDIES for breaches of rights:

When a victim believes that his or her rights have been breached, the victim would first file a complaint with the appropriate federal department or agency. The legislation includes a requirement for all federal departments and agencies that have responsibilities under the *Canadian Victims Bill of Rights* to have internal complaint mechanisms accessible to victims that would review complaints, make recommendations to correct any infringement, and notify victims about the results of the review. Complaints regarding a provincial or territorial agency, including police, Crown, or victim services, would be addressed in accordance with the applicable provincial or territorial legislation.

Important additional information about the CVBR:

Definitions:

The *Victims Bill of Rights Act* defines a victim of crime as any individual who has suffered physical or emotional harm, property damage, or economic loss as a result of an offence committed under the *Criminal Code*, the *Youth Criminal Justice Act*, the *Crimes Against Humanity and War Crimes Act*, and also applies to some offences under the *Controlled Drugs and Substances Act* and the *Immigration and Refugee Protection Act*.

The rights are only available to a victim who is in Canada, or who is a Canadian citizen or a permanent resident.

The following individuals may exercise a victim's rights when a victim is dead or incapable of acting on his or her behalf:

- The victim's spouse or an individual cohabiting with the victim in a conjugal relationship for at least one year prior to the victim's death;
- A relative or dependant of the victim; and,
- Anyone who has custody of the victim or of the victim's dependant.

The above would not apply in cases where the person has been charged, convicted, or found not criminally responsible due to a mental disorder for the offence that resulted in the victimization. For example, if a parent has been charged with abuse of a child, that parent would not be allowed to exercise the child victim's rights.

Exercising rights:

A victim is able to exercise the rights proposed in the Canadian Victims Bill of Rights while an offence is being investigated or prosecuted, or while the offender is subject to the corrections or conditional release process. For cases in which an accused has been found unfit to stand trial or not criminally responsible on account of mental disorder, the victim is able to exercise the rights while the accused is under the jurisdiction of a court or Review Board.

If there is an inconsistency between the *Canadian Victims Bill of Rights* and any other federal Act enacted on or after the day that the *Canadian Victims Bill of Rights* comes into force, the *Canadian Victims Bill of Rights* would prevail. In cases where the inconsistency is with the *Canadian Bill of Rights*, the *Canadian Human Rights Act*, the *Official Languages Act*, the *Access to Information Act*, or the *Privacy Act*, the rights under the *Canadian Victims Bill of Rights* will be balanced with these other quasi-constitutional rights.

Limitations to exercising rights:

The *Canadian Victims Bill of Rights* includes a limitation clause to specify that the proposed rights are to be applied in a reasonable manner so they do not interfere with police or prosecutorial discretion, cause excessive delay, compromise an investigation or prosecution, or cause a stay of proceedings. As well, the rights are not to endanger the life or safety of any individual, interfere with ministerial discretion, interfere with the discretion that may be exercised by any person or body authorized to release an offender into the community, or cause injury to international relations or national defence or security. This limitation clause is intended to ensure that the rights are interpreted and applied in a way that addresses victims' concerns while not over-burdening the criminal justice system.

Nothing in this proposed legislation would permit an individual to enter Canada or to remain in Canada longer than a previously authorized period, nor would it delay or prevent the removal of an individual or delay extradition proceedings.

The *Canadian Victims Bill of Rights* does not grant a victim, or anyone acting on the victim's behalf, the status of a party, intervener, or observer in any criminal proceedings. An infringement of any of the rights included in the legislation would not create a cause of action, a right to damages, or a right of appeal from any decision or order.

OFFICE OF THE FEDERAL OMBUDSMAN FOR VICTIMS OF CRIME

The Office of the Federal Ombudsman for Victims of Crime (OFOVC) is an independent resource for victims in Canada. The Office was created in 2007 to ensure the federal government meets its responsibilities to victims of crime.

Victims can **contact the Office** to learn more about their rights under federal law and the services available to them, or to make a complaint about any federal agency or federal legislation dealing with victims of crime. In addition to its direct work with victims, the Office also works to ensure that policy makers and other criminal justice personnel are aware of victims' needs and concerns and to identify important issues and trends that may negatively impact victims. Where appropriate, the Ombudsman may also make recommendations to the federal government.