

Right to Restitution

Victims have the right to have the court consider making a restitution order and have an unpaid restitution order enforced through a civil court. The Victims Services Restitution Program is available to help victims once restitution is ordered.

Victims may describe at sentencing the financial losses they have suffered because of the crime committed against them. A form is available for victims to claim their losses. The amounts claimed must be easy to calculate and based on records of actual financial loss. The amount can include losses only up to the date that the offender is sentenced. Future losses cannot be included.

Courts must consider ordering restitution for all offences. An offender's ability to pay is not a factor when courts order restitution. Courts can include information about payment schedules in their judgment. When restitution is sought and not ordered, the reasons the court did not grant it are to be included in the court record.

Financial Losses

A judge can order restitution for financial losses related to:

- damaged or lost property due to the crime;
- physical injury or psychological harm due to the crime;
- physical injury due to the arrest or attempted arrest of the offender;
- costs for temporary housing, food, childcare and transportation due to moving out of the offender's household (this applies only if victims moved because they were physically harmed or threatened with physical harm due to the offence, arrest, or attempted arrest of the offender); and
- costs that victims of identity theft had to pay to re-establish their identities and to correct their credit histories and their ratings.

Right to Participation

Victims have the right to present victim impact statements and have them considered in court. Victims may also express their views about decisions that affect their rights.

Victims may participate meaningfully in the criminal justice system through rights that:

- add the acknowledgement of harm done to victims and the community as a sentencing objective under the *Criminal Code*;
- allow victims to use a testimonial aid when presenting victim impact statements; and
- allow victims to bring a photograph of themselves - or the victim if someone is acting on behalf of the victim - taken prior to the offence to court when presenting their victim impact statement.

Victim impact statements may also be used by a review board when making a decision about accused persons found to be not criminally responsible on account of mental disorder.

Victims may participate in the federal parole and conditional release system through their ability to:

- listen to audio recordings of parole and conditional release hearings for those unable to attend; and
- designate a person to represent them to receive information on their behalf.

When Rights are Not Respected

Victims have the right to file a complaint if they believe there has been an infringement or denial of any of their rights under the *Canadian Victims Bill of Rights*.

Help is available...

if you have been the victim of a crime

The Victims Services Program helps victims involved in the criminal justice system in Saskatchewan by providing programs and services. If you need information about your rights as a victim of crime or help with your victim impact statement or statement on restitution, contact the police-based victim services program nearest you or your local police service or RCMP detachment.

For more information about the and/or a list of the police-based and specialized victim services programs in Saskatchewan go to www.saskatchewan.ca/victimsservices or contact:

Toll free: 1-888-286-6664

In Regina: 306-787-3500

Email: victimsservices@gov.sk.ca

If you have questions after restitution has been ordered contact:

Toll free: 1-888-286-6664

In Regina: 306-787-0173

Email: restitution@gov.sk.ca

Based on information from: "*Canadian Victims Bill of Rights*," Justice Canada, Government of Canada, at www.canada.ca/en/campaign/victimsbillrights/index.html.

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CANADIAN VICTIMS BILL of RIGHTS

Help is available...

if you have been the victim of a crime



Overview

The *Canadian Victims Bill of Rights* provides clear rights for victims of crime during every step of the criminal justice process. Under the *Canadian Victims Bill of Rights* victims of crime have the right to information, protection and participation, and the right to seek restitution. They also have the right to make a complaint if they believe that their rights have not been respected.

The *Canadian Victims Bill of Rights* is designed to give victims of crime more of a voice in the criminal justice system and make the criminal justice system more responsive to the needs of victims.

Definition of a Victim

Under the *Canadian Victims Bill of Rights* a victim is defined as a person who has suffered physical or emotional harm, property damage or economic loss as a result of a crime. The rights are available to victims in Canada and out of Canada if they are Canadian citizens or permanent residents.

The following people are able to exercise a victim's rights if the victim is not able to act on his or her own behalf:

- a victim's spouse;
- a common law partner who has lived with the victim for at least one year;
- a relative or dependant of the victim; or
- anyone who has custody of the victim or of the victim's dependant.

A person who has been charged, convicted or found not criminally responsible due to a mental disorder, for the offence that resulted in the victimization cannot exercise rights on behalf of a victim.

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.

Implementation

The rights under the *Canadian Victims Bill of Rights* are to be applied in a manner that is reasonable and is not likely to interfere with the proper administration of justice, or the discretion of police, prosecutors, prison administration, the parole board or government ministries. Application of the rights are not to cause excessive delay, endanger the life or safety of any individual, or cause injury to international relations or national defence or security.

Nothing in the 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.

An infringement of any of the rights under the *Canadian Victims Bill of Rights* does not create a cause for action, a right to damages, or a right of appeal from any decision or order.

Exercising Rights

Victims of crime are able to exercise their rights from the time they report the offence, throughout the investigation and prosecution of the offence, and all corrections, conditional release, court and review board processes.

The offence committed must fall under the *Criminal Code*, the *Youth Criminal Justice Act* or the *Crimes Against Humanity and War Crimes Act*. They also apply to some offences under the *Controlled Drugs and Substances Act* and parts of the *Immigration and Refugee Protection Act*.

The rights apply to offences that occur in Canada or that are investigated and prosecuted in Canada, and where the offender is serving a sentence or conditional release in Canada.

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 a review board.

Right to Information

Victims have the right to request information about the criminal justice system, their roles in it and the services available to them. They may also request information about their right to make a complaint if they believe their rights have not been respected.

Victims may request information about the case involving the person who harmed them, including:

- the status and outcome of the investigation;
- the scheduling, progress and final outcome of criminal proceedings; and
- information about an accused found unfit to stand trial or not criminally responsible on account of mental disorder while under the jurisdiction of a court or a review board.

The court is to inform every victim of sexual assault and every victim under the age of 18 years of their right to apply for a publication ban. Sexual assault victims are also to be informed by the court that they may be represented by legal counsel during third-party records production hearings.

Courts need to ask the Crown if reasonable steps were taken to let the victim know of a plea agreement for murder or serious personal injury offences, or on request by the victim for offences punishable by five years of imprisonment or more.

Victims may also get information about federal offenders upon request, including:

- progress related to the correctional plan;
- parole, release date, release destination and conditions of release;
- deportation before expiration of the sentence;
- changes to the conditions of offenders under long-term federal supervision; and
- to be shown a current photograph of the offender prior to release.

Note: These last provisions are not in force yet.

There are also mechanisms for victims to obtain certain information about provincial offenders.

Right to Protection

Victims have the right to protection at all stages of the criminal justice process.

The *Canadian Victims Bill of Rights* builds on existing laws by giving victims the right to:

- have their security and privacy considered by criminal justice personnel;
- have reasonable and necessary protection from intimidation and retaliation;
- have the judge consider their safety when the offender applies for bail, and state that they did so when making a bail order; and
- ask the court that their identity not be released to the public.

Publication bans are mandatory when requested for victims under 18 years of age, and victims may ask for copies of publication ban orders, as well as bail, probation, conditional sentences and restitution orders.

In sexual assault cases, third-party records may not be disclosed to the accused without the court's consent and victims are to be given 14 days notice prior to third-party records production hearings unless the court shortens the time. Sexual assault victims may make submissions and be represented by legal counsel during third-party production hearings.

Victims have the right to request testimonial aids when testifying in court and/or when presenting their Victim Impact Statement. This could include having a support person close by, or testifying or presenting from behind a screen or from another room using closed-circuit television.

Victims under 18 years of age, and sexual assault and criminal harassment victims regardless of age, have the right to request that self-represented accused not personally cross-examine them.

The Crown is now able to make a spouse testify in all cases to help ensure access to all relevant evidence.