

Are you a Victim of Crime?

# Know Your Rights



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*This publication does not contain a complete statement of the law in this area and laws change from time to time. Anyone needing advice on their specific legal position should consult a lawyer.*

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**Public Legal Education and Information  
Service of New Brunswick**

P.O. Box 6000

Fredericton, NB E3B 5H1

Tel.: 506-453-5369

Fax: 506-462-5193

Email: [pleisnb@web.ca](mailto:pleisnb@web.ca)

[www.legal-info-legale.nb.ca](http://www.legal-info-legale.nb.ca)

*and*



**Department of Justice and Public Safety**

P.O. Box 6000

Fredericton, NB E3B 5H1

Tel.: 506-453-3992

[www.gnb.ca/publicsafety](http://www.gnb.ca/publicsafety)



## *Canadian Victims Bill of Rights*

On July 23, 2015, a new Federal law came into force called the *Canadian Victims Bill of Rights*, often referred to as the “*Victims Bill of Rights*”.

The purpose of this publication is to outline the enhanced rights of victims of crime set out in the *Victims Bill of Rights*. These rights are intended to make sure crime victims are treated with compassion, fairness, and respect. This guide defines “victim,” discusses the various points in the criminal justice system where victims have express rights, and explains when victims can exercise these rights.

### **Who is a victim of crime?**

Under the new *Victims Bill of Rights* a victim is someone who has suffered **physical or emotional harm, property damage, or economic loss** as a result of an alleged or proven crime. To be considered a victim for the purpose of enforcing your rights, you need to contact the police and give a truthful report. Even if the police do not have sufficient evidence to charge anyone with the crime, or the **accused person** is not convicted, you may still be eligible for certain services available for victims.

*The accused* is someone who has been charged with an offence under the *Criminal Code*, the *Youth Criminal Justice Act* or other applicable Acts.

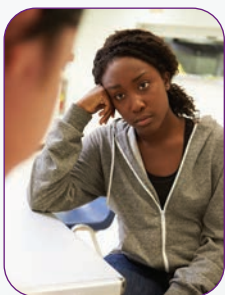
## What if a victim cannot exercise their rights?

Sometimes victims of crime cannot act on their own behalf. For example, the victim may be deceased, disabled or a minor. In these cases, it is possible for others to act on the victim's behalf. Specifically, the following people have the authority to do so:

- The **victim's spouse**;
- A **common law partner** who was living with the victim for at least one year before the victim's death;
- A **relative of the victim**, including children/dependants; *or*
- Someone who has **decision-making responsibility** or is **caring for the victim** or the **victim's dependant**.

## Can an accused who suffers harm because of an offence be considered a victim?

No. If a person is charged with an offence, or found guilty of an offence and suffered harm due to the commission of that offence, they are **not** considered a victim under the ***Victims Bill of Rights***. Similarly, a person is not considered a victim of a crime when that person has been found **unfit to stand trial** or **not criminally responsible due to a mental disorder** in relation to that crime.



## What about victims of crime who are not Canadian citizens?

These rights are available if you are present in Canada, a Canadian citizen, or a permanent resident.





## What if I am a victim of a crime in another country?

These rights only apply if:

- The offence occurred in Canada;
- The accused is being prosecuted in Canada;  
*or*
- The offender is serving their **conditional release** or **sentence** in Canada.

## When can I exercise my rights, as a victim?

There are certain points in the criminal justice system in Canada where victims are able to exercise their rights. These points include:

- When a crime (or alleged crime) is **being investigated**;
- When someone is **being prosecuted** for an offence; *or*
- When the offender is in the **corrections process** (jail, probation, parole,) or a **conditional release process**;
- When the accused person is found **not criminally responsible due to a mental disorder** or **unfit to stand trial** and is under the authority of the courts or Review Boards.

# Victims' Rights

The ***Victims Bill of Rights*** gives victims of crime the following rights:



## THE RIGHT TO:

- ☒ INFORMATION
- ☒ PARTICIPATION
- ☒ SEEK RESTITUTION
- ☒ PROTECTION
- ☒ MAKE A COMPLAINT

*Note: the **Victims Bill of Rights** does not grant victims, or those acting on behalf of victims, the status of a **party**, **intervener**, or **observer** in criminal proceedings.*



## THE RIGHT TO

### ☒ INFORMATION

**You have the right to information** about the criminal justice system and your case.

That includes specific information on the investigation, as well as information about the prosecution and sentencing of the person who harmed you. As a victim, you have the right to know about and access available victim services programs. (See the booklet ***Services for Victims of Crime***).

The police, public prosecution, corrections and review boards do not automatically give information to victims – **you must request it**. If you are a victim of crime, you can ask about:

- The status and outcome of your case;
- The scheduling of any criminal proceedings, as well as the outcome of these proceedings;
- The offender's conditional release and the timing and conditions of such release;
- Copies of orders about the offender's bail, probation, and conditional sentence; *and*
- Information about an accused who is under the jurisdiction of a Review Board or court, or who has been found unfit to stand trial.



Certain information is available to the public and you, as a victim, or your family, can request it. This includes:

- the offence that was committed and the court that convicted the offender;
- when the offender's sentence began and how long it is supposed to last; *and*
- when the offender is eligible for parole or unescorted absences.

Victim Services can explain your options for receiving information about the incarcerated offender. The information available may vary somewhat between federal and provincial authorities and the nature of each case.

Some victims do not want to know anything more about the offender after the trial. You do not have to register, nor do you have to ask for information about the case, if you do not wish to do so.



If you do wish to receive this information, you must register. If you are **under 18 years of age**, a parent or guardian

must register for you. Once you register, it is your responsibility to provide current contact information in order to continue to be notified about the offender.

In New Brunswick, you must register with Victim Services to obtain information on the release of an offender who was sentenced to a period of incarceration of **under 2 years**.

An offender sentenced to incarceration for two years or more will serve the sentence in a federal penitentiary. If this is the case, you are required to register with the ***National Victim Services Program***.

Once you register as a victim, you are able to ask for information about the person who harmed you from Correctional Service of Canada and the Parole Board of Canada. You can choose to name a person to receive notification on your behalf. If you choose this option, neither agency will contact you directly.



## THE RIGHT TO

### ☒ PARTICIPATION

The *Victims Bill of Rights* gives victims **two specific rights** that relate to participation in the criminal justice process:

- The right to present an **impact statement** and have it considered in court; *and*
- The right to **have your views considered** when a decision is being made that may affect your rights as victims.

### *An impact statement is...*

A written statement that a person affected by a crime can prepare for the court at the time of sentencing. A victim tells the court, in their own words, about the harm done by the crime. The victim may include pictures or drawings to help explain how the crime affected them. The victim may ask to read their statement at sentencing, have a support person sit nearby, or present it behind a screen or by closed circuit TV. Judges must take impact statements into account when sentencing. For more information, see the pamphlets "*Vulnerable Victims of Crime*" and "*Impact Statement Program*".

## How do I register as a victim with the *National Victim Services Program*?

To register with the *National Victim Services Program*, you must fill out an **Application to Receive Information as a Victim**. You can get this from Public Safety, Victim Services. Or, you can download the form on the website for **Correctional Service Canada** or the **Parole Board of Canada**. You can return the form to either Correctional Service Canada or the Parole Board of Canada. When you receive confirmation of registration with one agency, this will mean that you are also registered with the other. You do not have to register twice.

## Will I know about the offender's release?

**Yes.** Unless there is a risk to public safety, you can make a statement and submit it to the Parole Board of Canada, in which case the Correctional Service of Canada will give you a current photograph of the offender taken before their release.



The Parole Board of Canada will also give you the offender's release date, destination, conditions and copies of the decision(s). They will let you know if the offender's conditions are changed or removed.

Finally, as a victim, you have access to **victim-offender mediation services**, should you wish to have contact with your offender. **Click here** for more information about these services.

You can also check out ***Victims and the Parole Process*** when the offender is under the authority of the Parole Board of Canada on their website.



# THE RIGHT TO

## ☒ PROTECTION

The *Victims Bill of Rights* gives victims the right to both **security** and **privacy** at every step of the criminal justice process.

### How does the *Victims Bill of Rights* protect my security, as a victim?

Depending on the specifics of your case, when victims testify in court, they may be entitled to a variety of protections. These may include:

- giving testimony by closed-circuit television;
- testifying behind a screen; or
- testifying with a support person nearby.



These protections must be provided to victims from certain vulnerable groups; however, other victims can ask the judge to permit them to use testimonial aids to help them feel safe while testifying. When you ask for a testimonial aid, the court must consider your security and protection as well as the requirements for a fair and open criminal justice process.

## What if I am afraid that the accused will retaliate?

The *Victims Bill of Rights* provides you reasonable protection from intimidation and retaliation. If you are feeling fearful, you should tell the police that you wish to have no-contact as a condition of the accused's release. This information will be put in the police file and given to the Crown. A victim's right to security means that judges must take into account the victim's safety and security at various points in the process, such as when making decisions about the accused's bail. In some instances, the judge will automatically consider no-contact.



If the offender is under a long-term supervision order (a type of sentence that is served in the community) and you are worried about having contact with the offender, your impact statement to the Parole Board of Canada can ask for **no-contact**. The Parole

Board can reasonably restrict the accused from having contact with you. For example, they can issue an order that states the accused must stay a certain distance away from you. This is called a **non-contact order for certain geographic limits**.

## What if I want to have contact with the accused?

If there is a no-contact order in place, but you wish to have contact with the accused/offender, you can sign a form to **waive this condition** or **consent to having contact** with the accused/offender. However, any waiver or consent to contact must be confirmed by the court. If the accused is found guilty and you wish to stay in contact with the offender you **MUST** fill out a **Victim Consent Form BEFORE** sentencing. Talk to staff at Victim Services about this (*see contact information on page 16*).



For more information on when a **no-contact order** can help protect victims, see the booklet ***Are You a Victim of Crime? You can ask for No-Contact with the Offender.***



### **Does the *Victims Bill of Rights* protect my privacy as a victim?**

Any victim of crime may ask the court to consider protecting their identity during the trial. An example of this would be ordering a publication ban. This type of ban would relate to any public documents relating to the case. If you are a victim under 18 years old, there will always be a publication ban on your name and other information that might identify you, such as where you live, or work, or what your relationship is to the accused person. This will help to protect your privacy and stop harassment.

If you are a victim of sexual assault, the ***Criminal Code*** now protects the way third-party records are handled to keep your information private. Third-party records are documents that include information about you like medical records. The accused and their lawyer are not able to access these documents as easily as in the past because now the victim's safety and privacy must always be considered first.



# THE RIGHT TO



## RESTITUTION

The *Victims Bill of Rights* provides you with the right to ask the court to consider making a restitution order.

### What is “restitution”?

Restitution is money that the accused pays to a victim to cover financial losses that resulted from the crime. It may be ordered for damage or loss to your property; for financial loss or expenses due to a physical injury; where the victim of the offence shares a household with the offender, the actual expenses for moving out of the offender’s household for temporary housing, food, child care and transportation; for losses incurred by unknowingly purchasing stolen property or lending money on stolen property.

A court may order restitution as part of an offender’s sentence. It can be:

- part of a **probation order**;
- part of a **conditional sentence order**; or
- a **“stand-alone” order** – (meaning an order made in addition to the other parts of the sentence)

If the accused does not pay you the amount ordered, you have the right to have the order entered as a civil court judgment which means that it can be enforced in a civil court (as opposed to criminal). If the restitution order was part of a probation order or a conditional sentence order, it can be filed with the civil court until the concurrent order expires. If it was a stand-alone order it can be filed immediately

after sentencing. For more information on enforcing a judgment debt in civil court, see the pamphlet “**Judgment Enforcement.**”

Recent changes to the *Criminal Code* require that:

- courts must consider ordering restitution for losses that are easy to calculate;
- victims are allowed to describe easy-to-calculate losses at sentencing; *and*
- the offender’s ability to pay is not necessarily going to prevent the judge from ordering restitution.

## How can I ask for restitution?

As a victim, you are able to ask for restitution by completing a **Statement on Restitution Form**. This form will be provided to you by the police along with a fact sheet explaining restitution.

You should give the police the completed form and copies of any documents to support your claim for restitution (ie: bills, receipts letters from employers, estimates, etc.).

If you would like to request restitution and the police did not provide you with a form, or if you have changed your mind and would now like to request restitution, you ask for a copy of the form from Victim Services.

The police will provide the documentation you gave them to the Crown prosecutor. The Crown prosecutor will decide if there is enough information to ask for restitution from the court. If you have additional information to provide, you should contact the Crown prosecutor as soon as possible.

If the court makes a restitution order, a copy of the order will be provided to you by the court. Make sure that the court has your up to date contact information and address.



## THE RIGHT TO



### MAKE A COMPLAINT

The *Victims Bill of Rights* provides victims of crime with the **right to complain** if they feel that their rights were not respected or denied.

Each province has its own set of procedures regarding complaints against a provincial agency such as police, Crown prosecutors, and Victim Services. In exercising their rights, victims must understand that they do not have status as third parties to proceedings. Victim's rights are not intended to interfere with the discretion provided to police and prosecutors in carrying out their duties, nor can they cause long delays in the proceedings or compromise an investigation. As well, victims may not



exercise rights in a manner that might endanger the life or safety of anyone else or interfere with the decisions made by any person or agency authorized to release an offender into the community. The criminal justice

system must respect the rights of victims in a reasonable way by addressing the safety and concerns of victims while avoiding unintended consequences for the criminal justice system.



*Note:* It is important to note that if your rights under the ***Victims Bill of Rights*** have been violated, this does not create a cause of action. In other words, you do not have a right to damages or a right of appeal from a decision or order.

## Questions about the Complaint Process?

For more information on the complaint process in New Brunswick, see:



***Are You a Victim of Crime?  
Making a Complaint***



For complaints at the federal level:  
[www.csc-scc.gc.ca/  
victims/003006-6008-eng.shtml](http://www.csc-scc.gc.ca/victims/003006-6008-eng.shtml).

If you make a complaint with Correctional Service Canada and are not satisfied with the response, you can contact the **Office of the Federal Ombudsman for Victims of Crime**.

## Victim Services can Provide:

- information on the criminal justice system including extrajudicial processes (out-of court measures) and the court process;
- referrals for counselling to assist in dealing with the trauma of being victimized;
- court preparation and support;
- information about possible financial benefits and remedies that may be available for victims of crime;
- assistance in preparing an Impact Statement, if the accused is convicted;
- information on sentencing outcome, if the accused is convicted;
- victim notification of the offender's release, if the offender is incarcerated.

## Victim Services Offices:

<b>Bathurst</b>	506-547-2924
<b>Campbellton</b>	506-789-2388
<b>Edmundston</b>	506-735-2543
<b>Elsipogtog First Nation</b>	506-523-4747
<b>Fredericton</b>	506-453-2768
<b>Grand Falls</b>	506-473-7706
<b>Miramichi</b>	506-627-4065
<b>Moncton</b>	506-856-2875
<b>Saint John</b>	506-658-3742
<b>St. Stephen</b>	506-466-7414
<b>Tracadie-Sheila</b>	506-394-3690
<b>Woodstock</b>	506-325-4422

# Resources

The following resources were developed by *PLEIS-NB*, in collaboration with the *Department of Justice and Public Safety, Victim Services*, to help victims know their rights and access services.

- *Services for Victims of Crime*
- *Restitution: Repairing Financial Harm to Victims of Crime*
- *Vulnerable Victims of Crime: Making it Easier to Testify in Court*
- *Picture this... A Guide to the Criminal Justice System*
- *Picture this... Helpers Guide*
- *Being a Witness*
- *Victims of Family Violence: Testifying in Criminal Court*
- *Impact Statements (Brochure and Poster)*
- *Victim Referral Card*
- *Victim Services: Volunteer Program*
- *You Are Not Alone: Be Supported Through Difficult Times (Video)*
- *You Are Not Alone: A Parent's Guide to Helping Youth Victims of Crime*
- *You Are Not Alone: Tips for Teen Victims*
- *Are You a Victim of Crime? Making a Complaint*
- *Are You a Victim of Crime? You can ask for No-Contact with the Offender*
- *Child Internet Safety: A Guide for Parents*
- *Internet Safety: Tips for Youth*

## Federal resources for victims of crime include:

### Government of Canada: Information and assistance for Victims of Crime

Canadian Resource Centre for Victims of Crime: <http://crcvc.ca>

*Canadian Victims Bill of Rights:*  
[laws-lois.justice.gc.ca/eng/acts/C-23.7/page-1.html#docCont](https://laws-lois.justice.gc.ca/eng/acts/C-23.7/page-1.html#docCont)

Overview of the *Canadian Victims Bill of Rights*:  
<https://www.canada.ca/en/news/archive/2014/04/overview-canadian-victims-bill-rights-835999.html>

