

Are you a Victim of Crime?

You can ask for
No-Contact
With the Offender



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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 his or her specific legal position should consult a lawyer.

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Introduction

One of the ways the criminal justice system can protect victims of crime is by ordering accused persons and offenders not to communicate with the victim or go see the victim. This is called a “**no-contact condition**”.

An **accused person** is a person who has been arrested for a crime or charged with a crime. An **offender** is a person who has been convicted of a crime, either because he or she pled guilty or because there was a trial and the judge or jury found the person guilty.

How do no-contact conditions protect victims?

Sometimes victims, witnesses or their family members, are concerned that the accused person will contact them, harass or threaten them, or perhaps influence them to change their story about what happened. Some victims are even fearful of the accused.

A **no-contact condition** prohibits the accused person or offender from communicating with the victim. This means that the person is not allowed to contact the victim by telephone, e-mail, text message, social media or any other way. The person is also not allowed to communicate with the victim indirectly by asking someone to pass along a message, unless the court has allowed for a third party to communicate on specific issues (*for example: scheduling parenting time with children*).

A no-contact condition can require the accused person or offender to stay away from certain places, such as the victim’s home or workplace.

A no-contact condition is not a guarantee of safety. Victims should still take other precautions for their safety if they are concerned.

Do victims have to ask for a no-contact condition?

Victims who want a no-contact condition put in place should ask for one. It is important for victims to tell the police or the Crown prosecutor that they want a no-contact condition. The information will be put into the police file.

Victims can also ask for a no-contact condition through the **Impact Statement Program**. Victim Services will provide the necessary application form.

What about victims who want to stay in contact with the offender?

For certain offences, the Crown will ask for a no-contact order, even if the victim has not. In some circumstances the judge is required by law to impose no-contact provisions.

If a victim wants to have contact with the accused, they should tell the police and the Crown prosecutor right away. If they don't, they may find that the judge has ordered no-contact.

If the accused is convicted of the crime, a victim who wants to stay in contact with the offender **MUST** fill out a **Victim Consent Form BEFORE** sentencing. Victims should make sure they speak with a Victim Services Coordinator.

The victim can fill out a **Victim Consent Form** at the Victim Services Office.



After a no-contact condition is in place, can a victim change their mind?

If, after a no-contact condition is in place, a victim changes his or her mind and wants to have contact, the matter will have to go before the court and be approved by a judge.

If there is any contact before a new order, the offender could be charged with a new criminal offence and would likely be taken into custody. If the victim initiated the contact without following proper procedure, he or she could also be charged with a criminal offence.

When and how are no-contact conditions made?

No-contact conditions can be made at several different times. These include:

- When the police release a person on an undertaking
- When a judge releases a person on an undertaking
- When a judge sentences an offender to probation or a conditional sentence
- When a judge sentences an offender to jail
- When a judge sentences an offender for a sexual crime against a young person
- When an offender is released early from jail
- When a judge orders a peace bond

There are some differences in no-contact conditions depending on when they were made. This is explained below.



When the **police** release a person on an undertaking:

When the police arrest a person for a crime, they can either take the person to jail or release the person into the community. If they release the person, they usually require him or her to give an “**undertaking**” to the police. An undertaking is a promise to follow certain conditions. It can include a no-contact condition and other conditions such as not having firearms.



When a **judge** releases a person on an undertaking:

If the police arrest a person and do not release them, there will be a “bail hearing” in court.

If the judge decides to release the person, the judge can require that the person give an **undertaking** to the judge. The undertaking can include a no-contact condition. If the person is charged with a crime where they used or threatened violence, the judge **must consider** including a no-contact condition and a firearms condition.

Even if the judge decides that the accused person must stay in jail, the judge can order the person not to contact the victim from jail.

A condition in an undertaking to a judge usually lasts until the accused person is either found not guilty or is convicted and sentenced.



When a judge sentences an offender to probation or a conditional sentence:

Judges are required to include a no-contact condition when they sentence an offender to probation or to a conditional sentence.

Sometimes a victim (or a parent/guardian) may want to give their consent to have contact with the offender. Or there may be other exceptional circumstances that make a no-contact condition inappropriate.

A no-contact condition in a sentence of probation or a conditional sentence order usually lasts for as long as the sentence does. A sentence of probation can last for up to three years, and a conditional sentence can last for up to two years.

For more information on how to properly give consent for contact, see the question *What about victims who want to stay in contact with the offender?* (page 2).



When a judge sentences an offender to jail:

If a victim is concerned the offender may contact them from jail, the victim should tell the Crown prosecutor about their concern before the offender's sentencing date.

A judge can order the offender not to contact the victim from jail.



When a judge sentences an offender for a sexual crime against a young person:

When an offender is convicted of a sexual offence against a person **under sixteen years of age**, the judge must consider including in the sentence an order called a “**prohibition order**”. A prohibition order can require the offender to:

- not be within **two kilometres** (or another distance) of the victim’s home or other place set down in the order;
- not have **unsupervised contact** with a person **under sixteen**;
- not work or volunteer in a position where he or she has authority over persons **under sixteen**;
- not use the **internet**;
- not go to **daycare centres, schools, playgrounds or community centres**; *and*
- not go to public parks or swimming areas where persons **under sixteen** may be present.

A prohibition order can last for the offender’s lifetime or for a shorter period.





When an offender is released early from jail:

Offenders who are sentenced to jail are often released early, either on a “temporary absence”, “parole” or “statutory release”. This means they are released from jail before the end of their sentence, but they are supervised in the community and are required to follow conditions. The conditions can include a no-contact condition.

Offenders sentenced to incarceration for two years or more will serve the sentence in a federal penitentiary.

If a victim requests a no-contact condition, the Parole Board of Canada and Correctional Service Canada must include a no-contact condition or explain their reasons for not including one if they release the offender early.

A no-contact condition on a temporary absence, parole or statutory release can last for all or part of the early release period.

For more information, contact the **Parole Board of Canada** and **Correctional Service Canada**.

Contact information is on the last page of this pamphlet.

Offenders sentenced to jail for less than two years will serve their sentence in a provincial institution. Victims can register with provincial Victim Services to be informed if the offender applies for parole. *See page 11.*



When a judge orders a peace bond:

A **peace bond** is a criminal court order, intended to prevent one person from harming another.

You can apply for a peace bond for protection against anyone you are afraid will harm you, your family, or your property. The defendant could be your neighbour, an acquaintance, or a family member. The defendant may agree, or be ordered by the court, "to keep the peace and be of good behaviour".

When a judge orders a peace bond, the judge must consider including a no-contact condition. The judge must also consider including a condition that the defendant not be allowed to have any firearms.

Usually a peace bond lasts up to **one year**. When a peace bond ends, the person who requested it can request another one if they have new evidence to justify a fear that the defendant will harm them, a family member, or their property.



For more information, read the PLEIS-NB pamphlet called ***Peace Bonds and and Protective Orders.***



No-Contact Conditions

What if a victim doesn't want the offender to know their address?

If a victim does not want the accused person or offender to know where they live or work, the victim should explain this when making a request for a no-contact condition.



What should a victim do if a no-contact condition is broken?

If a person breaks a no-contact condition, the victim should call the police **immediately**.

The victim should also give the police anything that might help to prove that the condition was broken – for example, a text message or e-mail received by the victim.

What can happen to a person who breaks a no-contact condition?

The result of a person breaking a no-contact condition depends on when it was made.

If it was made as part of an undertaking to the police, an undertaking to a judge, a sentence of probation, a prohibition order or a peace bond, the person can be charged with a crime and, if convicted, can be fined or sent to jail.

If it was made as part of a conditional sentence, a temporary absence, parole or statutory release, the person can be required to serve the rest of their sentence in jail.

Are there other ways the justice system protects victims?

Yes. There are several things the criminal justice system can do to make it easier for vulnerable victims of crime (such as victims of sexual assault and domestic violence, children, and disabled adults) to testify. For more information, see the PLEIS-NB pamphlet *"Vulnerable Victims of Crime."*



There are also non-criminal methods the family law system uses to protect individuals from frequent unwanted contact, such as restraining orders. For more information, see the PLEIS-NB pamphlet *"Peace Bonds and Protective Orders."*

Resources

Victim Services Offices in New Brunswick

Bathurst	506-547-2924
Campbellton	506-789-2388
Caraquet	506-726-2417
Edmundston	506-735-2543
Elsipogtog First Nation	506-523-4747
Fredericton	506-453-2768
Grand Falls	506-473-7706
Miramichi	506-627-4065
Moncton	506-856-2875
Saint John	506-658-3742
St. Stephen	506-466-7414
Tracadie-Sheila	506-394-3690
Woodstock	506 325 4599

Websites

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

www.legal-info-legale.nb.ca

**Victim Services, Department of Public
Safety (New Brunswick)**

www.gnb.ca/publicsafety

**Policy Centre for Victim Issues,
Department of Justice (Canada)**

www.victimsmatter.gc.ca

**Victim Services,
Correctional Service Canada**

Atlantic Regional Headquarters

1045 Main Street, 2nd Floor

Moncton, NB E1C 1H1

Tel.: 1-866-806-2275

Fax: 506-851-4684

E-mail: GEN-ATLVictimServices@csc-scc.gc.ca

www.csc-scc.gc.ca/victims

Parole Board of Canada

Atlantic Regional Office

1045 Main Street, Unit 101

Moncton, NB E1C 1H1

Tel.: 506-851-6345

Fax: 506-851-6926

Email: info@PBC-CLCC.gc.ca

Information line for victims: 1-866-789-4636

www.canada.ca/en/parole-board.html