



CRIMINAL JUSTICE BRANCH, MINISTRY OF ATTORNEY GENERAL
CROWN COUNSEL POLICY MANUAL

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POLICY

Providing assistance to victims of crime is an important function of justice system personnel. Crown Counsel or support staff should ensure that victims are made aware of available community and police-based victim assistance programs.

Depending on the circumstances of the case, Crown Counsel prepare victims for court and provide such information as appropriate about the prosecution to victims and their families. In very serious cases, Crown Counsel are encouraged to meet with victims and their families to assist them to better understand the prosecution process.

DISCUSSION

1. *Victims of Crime Act* Obligations

Victim Impact Statements

Under section 4 of the *Victims of Crime Act*, Crown Counsel must ensure that victims have a reasonable opportunity to have the impact of the offence brought to the attention of the Court. The victim should be sent a victim impact package for completion of a Victim Impact Statement.

Only information which is admissible under the rules that apply in sentencing hearings should be presented to the court. Examples are: tendering a Victim Impact Statement or other similar document, reading from or summarizing that document, or presenting the testimony of the victim or other witnesses.

Where a victim wishes to submit a Victim Impact Statement or other victim impact information and that statement or information is not available by the time of sentencing, Crown Counsel may advise the Court of the situation, and where appropriate, apply for an adjournment.

Providing Information to Victims on Request

Subject to the *Youth Criminal Justice Act* and the requirement not to prejudice an investigation or prosecution, where a victim provides a request, Sections 6(1) (e) and (f) of the *Victims of Crime Act* impose a continuing responsibility to update the victim on court events likely to affect the final disposition, sentence or bail status of the accused, as well as the outcome of each of those court events.

Where there are particular concerns for the safety of the victim or there is a request by the victim for ongoing information, Crown Counsel should take reasonable steps to ensure that the victim is notified, either directly by administrative support staff or through a victim assistance program, of any changes in the course of the prosecution, any future court dates, and any bail conditions.

Information to be released is restricted to that outlined in s. 6(b), (c), (e) and (f) of the *Victims of Crime Act* and information which would not be apparent from the Court appearance reason on the court list.

Where there is an appeal to the Court of Appeal, a copy of the request noted above should be sent to the Branch Criminal Appeals and Special Prosecutions office and the victim or designate notified of the appeal.

If the accused is found not criminally responsible by reason of mental disorder (unless the accused is discharged absolutely), a copy of the request noted above should be forwarded along with the required report to Crown Counsel, Review Board.

Providing Information to the Victim about the *Victims of Crime Act*

Police are designated as having the primary responsibility under s.5 of the *Victims of Crime Act* which requires that justice system personnel must offer a victim general information concerning the structure and operations of the justice system, Victims Services, the *Freedom of Information and Protection of Privacy Act*, the *Criminal Injury Compensation Act* and the *Victims of Crime Act*.

If aware that a victim has not been offered the required information, Crown Counsel or support staff will provide the standard written information prepared by the Ministry of Attorney General for that purpose.

Definition of Victim

“Victim” is defined by section 1 of the *Victims of Crime Act*. The Criminal Justice Branch interprets this definition as follows: “victim” is any individual who, as a result of an offence pursuant to a provincial or federal statute has suffered:

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- actual or threatened physical contact
- an adverse emotional impact
- a threat to their physical, emotional, psychological or financial integrity
- an economic loss

The definition includes the spouse, sibling, child or parent of the victim, or persons who in fact (although not in law), stand in such relationships to the victim, and who suffer significant emotional trauma as a result of the offence being committed against the victim.

2. General

Applications for Production of Records Relating to a Victim

Where there has been an application by the defence for production of a record relating to a victim or witness and the victim or witness requests the opportunity to retain a lawyer, Crown Counsel will, where necessary, apply for an adjournment to facilitate that request. Further, in appropriate cases, Crown Counsel will refer the victim to the local office of the Legal Services Society.

The Ministry of Attorney General will fund independent legal advice and representation for all complainants and witnesses in sexual offence cases where an application is made under section 278.3 of the *Criminal Code*, regardless of the financial status of that person.

Assistance to Victims on Appeal to the Court of Appeal

As soon as practicable after the decision has been made by the Criminal Appeals and Special Prosecutions office (hereinafter called CASP) to launch an appeal, or after CASP receives the appellant's Notice of Appeal, the following apply where there has been a written request by the victim for information pursuant to section 6 of the *Victims of Crime Act*:

1. CASP will, if appropriate, contact the victim to determine the extent of the victim's interest in receiving information or attending proceedings.
2. CASP should notify the victim of the date of any application for bail pending appeal to enable the victim to provide any comments relating to bail.
3. CASP will notify the victim of the outcome of any bail application, and if appropriate, provide a copy of the order.
4. CASP will notify the victim of the date of the appeal and of any appearance that is likely to result in a final disposition of the appeal or a change in the

appellant's bail status, driving privileges or obligation to adhere to the terms of a probation order. In addition, where a new trial is ordered, CASP will notify the victim of this fact and provide the victim with a means of contacting a Crown Counsel office in the region where the new trial will be prosecuted.

Questions relating to eligibility for parole or temporary absences, or any other corrections-related matters, should be referred to the local parole or probation office or the institution where the offender is imprisoned.

Where personnel from police-based or specialized community-based victim assistance programs have provided services to victims, the CASP office where appropriate and with written authorization from the victim to do so, will provide information directly to the police-based or specialized community-based victim assistance program.