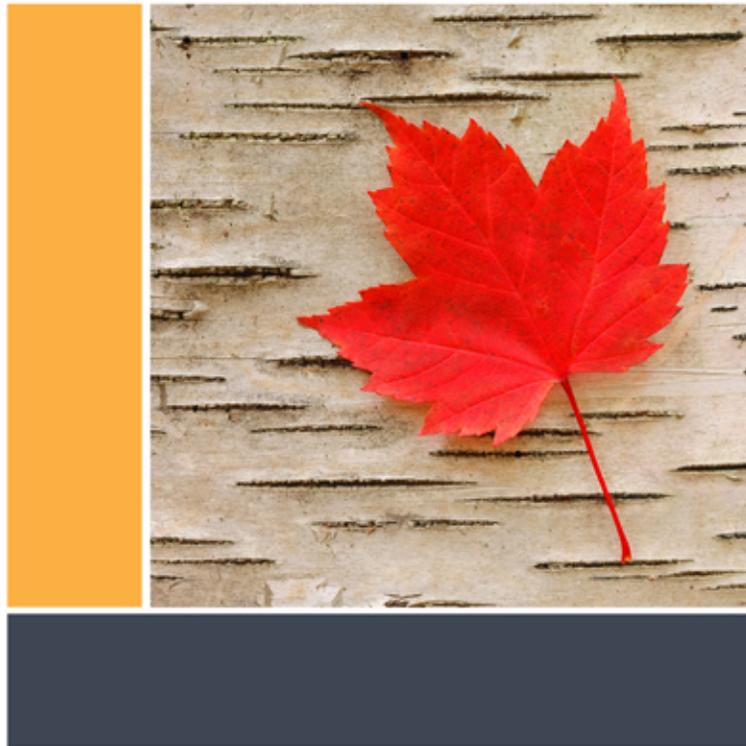




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BUILDING A **SAFE AND RESILIENT CANADA**



Public Safety Canada
National Victims Roundtable on the Right to Protection in
Federal Corrections and Conditional Release
Summary Report
September 2019

Canada 

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Executive Summary

On February 14th and 15th, 2019, Public Safety Canada's (PS) National Office for Victims (NOV) met with victim stakeholders and non-governmental organizations to discuss the role of victims in the federal corrections and conditional release system, and their *Right to Protection* under the *Canadian Victims Bill of Rights* (CVBR). The Roundtable event was divided into two sessions.

The first session focused on a victim's Right to Protection and how the federal government works to maintain this right throughout each stage of the corrections and conditional release process. The engagement session provided an opportunity to hear from victim stakeholders on protection issues, including:

- a) how to better meet the protection needs of victims;
- b) how to balance a victim's Right to Protection and an offender's safe reintegration into society;
and
- c) barriers to exercising a victim's Right to Protection.

The second session centered on restorative justice, specifically addressing victims' participation in the Correctional Service of Canada's Restorative Opportunities program and barriers to participating in restorative justice at the corrections and conditional release stages of the criminal justice system.

Discussions during the Roundtable highlighted that victims desire to have a more active role within the criminal justice system, with more options to participate and improved information dissemination.

The discussions that took place over the course of the day and a half demonstrated that information underpins the notions of participation and protection of victims in corrections and conditional release processes and that the protection of victims starts with *empowerment*; providing them with the tools and resources to regain a sense of control within their lives following their victimization.

Please note that this report summarizes group presentations as well as multiple breakout sessions which took place over the course of the event. The issues and participant recommendations outlined in this report fall within the responsibility of PS's Portfolio and any suggestions/recommendations pertaining to activities of provincial/territorial jurisdiction or matters for which other federal departments are responsible will not be included in this report but instead will be shared with appropriate partners.

Table of Contents

Executive Summary.....	3
Introduction	5
<i>Overview of PS Portfolio Victim Services.....</i>	5
<i>National Office for Victims</i>	6
<i>Correctional Service of Canada’s National Victim Services Program (NVSP).....</i>	6
<i>Parole Board of Canada Victim Services</i>	6
Day One: Victims’ Right to Protection and the Role of the Public Safety Portfolio.....	7
<i>Presentation Synopsis</i>	7
<i>What We Heard</i>	8
<i>Information Dissemination and Engagement</i>	8
<i>Participation and Available Services</i>	9
<i>Victims in the Parole Process</i>	10
<i>Victims’ Rights.....</i>	11
Day Two: Restorative Justice within Corrections and Conditional Release.....	12
<i>Presentation Synopsis</i>	12
<i>What We Heard</i>	12
<i>Information Dissemination and Engagement</i>	12
<i>Capacity Building.....</i>	13
Moving Forward on Understanding Victim Needs in Corrections and Conditional Release	14

National Victims Roundtable

Introduction

On February 14th and 15th, 2019, Public Safety Canada's (PS) National Office for Victims (NOV) hosted a National Victims Roundtable on the Right to Protection in federal corrections and conditional release. Representatives from the NOV, Correctional Service of Canada (CSC), Parole Board of Canada (PBC), Policy Centre for Victims Issues (PCVI), non-governmental organizations, and victim stakeholders met to discuss:

- a) victims' "Right to Protection" and their primary considerations while the offender who harmed them is in federal custody and when reintegrating back into society through the conditional release process;
- b) choices and options that might increase victims' protection when participating in the corrections and conditional release system, including restorative justice practices;
- c) possible amendments to the *Corrections and Conditional Release Act* (CCRA), *Corrections and Conditional Release Regulations* (CCRR), policies, procedures and practices that would better meet victims' protection needs and participation in restorative justice processes;
- d) how to better balance victims' Right to Protection and offenders' safe and gradual reintegration; and
- e) existing cultural, social or physical barriers that impinge the Right to Protection of certain victims in the corrections and conditional release processes or from participating in restorative justice processes.

During the day and a half event, presentations from government representatives focused on federal services offered to victims of federal offenders, offender case management, the parole process and decision making, as well as restorative justice. Breakout sessions engaged victim stakeholders in a series of discussions focused on:

- offender supervision;
- protection of victims when participating in the corrections and conditional release system;
- offender reintegration;
- reducing barriers to protection; and
- victim participation in restorative justice processes.

This summary report provides a brief description of the government presentations and themes of the breakout session discussions. The presentations described the services the PS Portfolio provides, as well as the stages and process of the corrections and conditional release system. It also served as a forum for victim stakeholders to ask questions and network with fellow victim advocates.

Overview of PS Portfolio Victim Services

The Roundtable began with federal partners providing a brief overview of current victim programming and services.

National Office for Victims

The NOV was established to ensure that victims' perspectives would be considered in the development of federal correctional policy; to provide a central resource that offers information to victims about federal corrections and conditional release; and to promote services offered by CSC and the PBC. The NOV plays an important co-ordination function in the PS Portfolio with a focus on working with victims of federal offenders (someone who has been sentenced to two years or more in federal custody), service providers and the general public to promote measures for victims related to federal corrections and conditional release. The NOV produces publications for victims of federal offenders, hosts annual roundtables to engage with stakeholders, co-hosts the Victims and Survivors of Crime Week Federal Symposium, and conducts outreach activities (e.g., targeted mailing of information materials and social media outreach).

Correctional Service of Canada's National Victim Services Program (NVSP)

The NVSP provides victims with case-specific, protected information in accordance with the CCRA, general information about CSC operations and invites victims to provide statements for consideration in offender case management decisions. In addition, the NVSP liaises with provincial and territorial jurisdictions and conducts outreach to inform the public and victim-serving organizations about their rights and the services provided by CSC.

CSC needs to be made aware of victims' safety concerns so they may implement reasonable measures to protect victims from intimidation and retaliation, and prevent unnecessary stress caused by involvement in the corrections and conditional release system. CSC aims to empower victims by engaging them in dialogue, answering their questions, providing requested information (see section 26 of the CCRA) and giving victims opportunities to express the impacts that crime has had on their lives.

Parole Board of Canada Victim Services

The PBC is an independent administrative tribunal that makes conditional release decisions for offenders in federal custody and provincial offenders (i.e., less than 2 years in custody) in all provinces except Ontario and Quebec. Similar to CSC, victims who register with the PBC are entitled to obtain information about the offender who harmed them (see section 142 of the CCRA), such as the offender's name, sentence, and eligibility dates for release. Victims are also entitled to participate in the conditional release process by submitting victim statements to the PBC describing the impact crime has had on them, requesting parole conditions, such as geographical restrictions and non-contact orders for consideration in decision-making and attending hearings, either as an observer or to present a statement. Should they not be able to attend in-person, video conferencing can be made available on a case-by-case basis, or victims can listen to an audio recording of the hearing at a later date.

Day One: Victims' Right to Protection and the Role of the Public Safety Portfolio

PS consulted stakeholders on the protection considerations for victims throughout the federal corrections and conditional release process, with an emphasis on offender case management, offender supervision, offender reintegration, and barriers to victim protection.

The purpose of the roundtable was to:

- obtain the views of participants on the impact changes to legislation, federal correctional policies, procedures and programs/practices could have on public safety and protection issues;
- the ability of federal corrections to better contribute to a more inclusive corrections and conditional release system in a manner that is consistent with the objectives of the criminal justice system; and
- seek recommendations regarding legislative changes and initiatives to better address the protection needs of victims.

Presentation Synopsis

Correctional Continuum

This presentation summarized the four main components of CSC's correctional process: a) intake assessment, b) institutional supervision, c) case preparation and release, and d) community supervision. Victims are able to provide information and statements describing how crime impacted them and share any safety concerns they may have, which can be considered in the offender's case management and release. The intake assessment helps: establish the offender's "criminal profile" (i.e., the factors that have led to the criminal behaviour); prepare the offender's correctional plan for treatment and intervention throughout the sentence; and recommend the level of security under which the offender should be supervised (minimum, medium, or maximum). While in a penitentiary, the offender is continually supervised and their progress towards meeting the objectives of their correctional plan is monitored. To be considered for a conditional release, offenders must prepare a detailed release plan, which includes selecting a community where they would like to be released and preparing employment and/or education plans. When an offender is granted conditional release, they remain under supervision in the community until their warrant expiry date.

The Parole Board of Canada: Contributing to the Protection of Society

This presentation described the protection considerations PBC takes into account when determining whether to release an offender. Since most offenders receive a determinate sentence they will eventually be released back into the community upon completion of their sentence. Conditional release contributes to public safety through gradual and supervised release with conditions into the community in a manner which supports safe re-integration and reduces their risk of reoffending. The PBC grants conditional release, also known as parole, only if, in its opinion, the offender will not present an undue risk to society before the end of the sentence and the release will contribute to the protection of society by helping the offender become a law-abiding citizen. Victims are able to register to receive information about the offender who harmed them, including their sentence information and eligibility dates for release. Victims are also able to submit a statement to be considered in release decisions by the Board, as well as request to attend their offender's parole hearing(s) as an observer or to present a victim statement.

What We Heard

During the breakout sessions, participants discussed a variety of issues and gaps in service provision as well as protection considerations for victims and survivors of crime. The following themes capture the overall discussions that took place on Day One.

Information Dissemination and Engagement

Information

One of the main themes raised by stakeholders throughout this session was information sharing between the government and victims to increase victim safety. Some participants indicated that the onus should not be on victims to seek out information and services. In general, participants felt that information should be proactively shared with victims rather than by request. Examples of the types of information that participants thought should be proactively shared include offender information, restorative justice opportunities, parole eligibility dates, and decisions made by criminal justice actors. Many stakeholders felt that information about victims' rights is lacking and increased public awareness is needed. It was also suggested that victims should be able to access information retroactively (i.e., before the CVBR was enacted) and that CSC or the PBC should proactively provide victims with information, whether or not they have registered to receive information.

Participants articulated the need to engage and educate, specifically marginalized communities, but also victims, in general, in regards to their rights, how to exercise them, and what to expect when involved in the criminal justice system. They also suggested that all information provided to victims should be succinct, simple, and easy to understand. In particular, information needs to be communicated to diverse groups in applicable formats and languages. For example, easily accessible victim information should be made available in various Indigenous languages.

In addition, participants suggested that there is a need to promote the opportunities currently available in corrections and conditional processes to provide input that may impact offender case management and supervision. Another suggestion was for Crown Attorneys to provide victims with information on their rights and the federal services available to them once an offender is sentenced to two years or more in custody. Participants noted that all information provided to victims can enhance their protection and that more efforts are needed in reaching out to the general public.

Perception Management

During the breakout sessions, stakeholders discussed the need to ensure victims and survivors know what they can expect from submitting and presenting victim statements within the corrections and conditional release process. They noted that not having realistic expectations can lead to heightened disappointment and feelings of being re-victimized, this time by the system. Some stakeholders believed that CSC and the PBC should be more transparent in regards to the difference between the types of information to which victims and survivors are automatically entitled versus information that is released at the discretion of the CSC Commissioner and/or the PBC Chairperson as set out in the CCRA. In regards to information that is discretionary, participants thought it would be beneficial to provide a rationale for withholding some protected offender information. Improving victims' general understanding of the corrections and conditional release system, ensuring victims expectations about their role and impact they can have on decision making, and either explaining how specific decisions are made or providing the rationale for decisions was thought by participants to be integral to improving confidence in the system.

Community Approach

Stakeholders believed that engaging the broader community in victim issues could help connect more people to victim serving organizations. Community members and organizations that serve specific populations, but not necessarily victim services, should be made aware of information available to victims of crime and how they can contribute to offender release plans. These types of partnerships and connections may help build trust between government, specific victim communities and the general public. One example provided was the fractured relationship the LGBTQ2+ community has with the criminal justice system because of historic injustices and fear for their safety when dealing with state actors and how partnering with credible and trusted organizations with established community ties is an effective means of reaching some marginalized populations. Another example given was working with recognized and credible organizations who work with Inuit people to enhance outreach to victims of federal offenders in Northern communities.

Participation and Available Services

Victim Services

Stakeholders discussed the need for more direct community services and resources¹ for victims and survivors of crime to ensure they can find a way forward or to some form of healing after a crime has occurred. Participants talked about the importance of a continuum of care between orders of government (i.e., municipal/provincial and federal) and where victims are supported by different systems (e.g., health, social, criminal) from the offence itself throughout the criminal justice process until sentence expiry. This would require a client-centered approach where services are flexible to the needs of victims rather than a siloed approach where individual organizations are focused on their legislated mandates. This was said to ensure that victims can exercise their rights with a better understanding of the criminal justice system.

Victims' Voice

Participants mentioned that victims and survivors of crime want their voices heard throughout the criminal justice process and to have a meaningful role. Victims want options throughout the corrections and conditional release process that would allow them to remain informed and active participants, but also protected from the offender (i.e., risk of further reprisal). However, many stakeholders mentioned that most victims lack an understanding of the methods of enforcement of their CVBR rights. Stakeholders stated their belief that Canada's system of laws is focused on offenders' rights and much less on victims' human rights. It was recommended that a checklist be created for victims that could assist them in regaining a sense of security. That is, a list of actions victims can undertake to increase their protection, such as, changing their locks or email address².

¹ Under the *Canadian Constitution*, responsibility for victims is shared between the federal and provincial-territorial governments. Most direct victims' programs and services, such as financial assistance for victims of crime, fall within the purview of the respective provinces and territories.

² Provincial and territorial victim service programs can help victims prepare safety plans to help reduce the risk of further victimization.

Victim-Offender Empathy Programs

Victim stakeholders talked about how offenders rarely have the opportunity to understand the harm their actions have caused and to take responsibility for their actions. Victim-Offender Empathy Programs were suggested as a means to help offender rehabilitation and reintegration efforts by having the victims speak about the impact of their actions and how to move forward through reparation. Importantly, some victims stated that they wanted offenders to return to the community with the knowledge and skills to remain law abiding and not further victimize others.

Inclusivity and Sensitivity Training

Participants discussed the need for further training for victim services workers³ about inclusivity, intersectionality, and trauma to better understand the effects of victimization on marginalized groups, such as Indigenous peoples, LGBTQ2+, ethno cultural groups, and immigrants. Services for victims can sometimes be generic as opposed to specialized to the needs of diverse groups of victims. In order for victims to recover from the harm experienced, services and assistance should focus on holistic approaches. Stakeholders discussed that offender information should be provided to victims using counseling techniques so that information is communicated more effectively to victims of crime.

Prevention of Victimization

Participants discussed developing preventative and proactive programs funded by governments that can address social issues, such as poverty, homelessness, mental health, and addictions to decrease the risk factors associated with recidivism. By preventing further harm through employment and educational opportunities, society can protect itself.

Victims in the Parole Process

Parole Conditions

Multiple participants talked about the difficulty of non-contact orders and geographical restrictions for offenders on parole in small and remote communities where offenders are more likely to come into contact with victims. Some participants stated that there are instances where victims are forced to leave their community due to safety concerns when an offender returned to that community. It was suggested that due to the proliferation of online technology, non-contact orders should include all online forms of communications (i.e., email, direct messaging through social networking platforms, etc.).

In addition, participants raised concerns about the complexity of cases and complications that can arise when a crime was committed within a family. Release conditions can become problematic when trying to balance reintegration and safety needs within a family unit.

³ In the case of federal corrections and conditional release this refers to CSC Victim Services Officers and PBC Regional Communications Officers.

Parole Hearing

Stakeholders talked about how parole hearings should be flexible to victims' needs by providing them with options. For example, some victims:

- want to face the offender when making their victim statement rather than be positioned with the offender's back to them;
- would participate in a healing circle hearing or elder-assisted hearing, should the offender agree;
- would participate in parole hearings via video conference, if given the choice;
- would like to be able to listen to audio recordings anytime following the hearing, whether or not they attended; and
- would like to have the opportunity to respond⁴ to what the offender says to Parole Board members, while ensuring that victims are protected from intimidation tactics after presenting a statement at a parole hearing.

Participants felt that victims should be notified months prior to scheduling a hearing and be permitted input on the scheduling of the hearing date to a) avoid causing unnecessary stress⁵ and b) increase their ability to attend. Another suggestion made in respect of victims' role was for the PBC to consider asking the media not to report details of parole decisions or hearings prior to the victim(s) being notified especially in cases that are considered high profile or known to the general public and media.

Participants also recommended making more information available on how the parole hearing will unfold through a series of short videos on the process from offender eligibility for parole to the release decision. Additionally, it was recommended that there be more flexibility with regards to the victim statement since victims do not necessarily know how the offender will react to their statement and the questions from Parole Board members. Moreover, an offender accountability statement was suggested as a way for victims to hear the details of the offender's role in the offence in their own words, receive a formal apology and how the offender has made changes in their lives. To increase a victim's protection it was suggested that a security guard or correctional officer be assigned to escort victims while attending parole hearings in federal institutions. In addition, participants suggested that certified counselors be on hand before, during and immediately after a hearing to provide emotional support to victims in addition to RCOs who would explain the hearing proceedings.

Victims' Rights

Stakeholders acknowledged that the CVBR is broad legislation that does not clearly define what is meant by information, participation, protection and restitution so that victims of crime can effectively exercise their rights. Some participants felt that for the CVBR to be implemented practically by all provinces and territories, financial support is needed from all orders of government. Other participants questioned if the federal government is measuring the impacts of the CVBR and its effectiveness based on appropriate monitoring and evaluative techniques.

⁴ Victims sometimes feel that statements provided by offenders to Parole Board members are false or riddled with inaccuracies.

⁵ To avoid scheduling a hearing on a date of significance for a victim or survivor, for example, the anniversary of the crime or a birth or death date of a deceased victim.

Day Two: Restorative Justice within Corrections and Conditional Release

On the second day of the Roundtable, PS consulted stakeholders on the use of restorative justice within the corrections and conditional release process, with an emphasis on participation in CSC's Restorative Opportunities program and barriers to participation.

The purpose of this portion of the roundtable was to:

- learn if victims may be interested in participating in restorative processes throughout the corrections and conditional release system;
- identify any barriers to participation in restorative justice for victims and methods to address these barriers; and
- seek recommendations regarding options for victims, as well as legislative changes, policies, procedures and practices that would assist their participation in the Restorative Opportunities program.

Presentation Synopsis

Restorative Opportunities

This presentation explained restorative justice from a victim-centered approach and CSC's Restorative Opportunities program. Restorative Opportunities is a program based on restorative justice principles, which seek to address the harm caused by crime by focusing on the needs and issues of the people affected. Through Restorative Opportunities, victims can describe the crime's impact to the offender and find ways to address, where possible, the damage caused by the offender's criminal offending. For offenders, the program emphasizes taking responsibility for their actions, while promoting empathy for the victim, reparation and prevention of future harm. This voluntary program allows a victim to communicate with the federal offender who harmed them in their preferred format, whether it be face to face, in writing, via video message or shuttle communication, where a mediator acts as a go-between.

What We Heard

During the breakout sessions, victim stakeholders mentioned a variety of issues and gaps in their understanding of restorative justice within the correctional and conditional release process. The following themes capture the overarching discussions that took place on Day Two.

Information Dissemination and Engagement

Definition of Restorative Justice

Some stakeholders expressed that restorative justice is a broad term that has come to be used for varied processes and practices not all of which are victim-centered. It was suggested that processes be specifically aimed at the relationship between victims, offenders and community members and recommended using alternative terms, such as pathways to healing, transformative opportunities, and addressing the harm. Participants also noted that we need to recognize and better understand Indigenous traditions and practice of restorative justice and integrate these into the concept.

Information about Restorative Justice

Participants believed that victims needed to be better informed about the restorative justice processes available to them and the possible positive healing outcomes; however, information should be provided in a safe and compassionate manner. There were conflicting beliefs on when victims should be provided with information about the Restorative Opportunities program. Some felt that when victims first register as a victim is an appropriate time to inform victims about Restorative Opportunities in corrections. Others felt that victims' needs and desires on when to receive this information should be considered because the beginning of an offender's sentence remains a traumatic time for victims and it may not be appropriate until later and in some cases it may never be appropriate. A suggestion was made that a brochure be created which provides a comprehensive explanation of restorative justice principles and the Restorative Opportunities program, which could be distributed broadly to increase awareness of the program and its outcomes.

Lack of Awareness /Information

During the Roundtable, it became evident that a number of initiatives that had been put in place by the government or services that already existed were not known to participants. For example, some participants did not have knowledge of:

- allowing victim statements to be submitted throughout the correctional stage;
- online access to information through the Victim Portal;
- allowing community members to submit impact statements; and
- options that may facilitate victims' participation in a parole hearing, such as videoconferencing.

This lack of awareness suggests that increased outreach and awareness raising activities are needed so victims, victim advocates and victim serving organizations are aware of victims' rights, available services and how to participate in corrections and conditional release system.

Capacity Building

It was suggested that increased funding and resources need to be put into restorative justice at the corrections and conditional release stage of the criminal justice system. Engaging the community could help make connections with other organizations to promote restorative justice. However, it was also noted that support needs to be available for victims while engaging in the Restorative Opportunities program.

Moving Forward on Understanding Victim Needs in Corrections and Conditional Release

The roundtable wrapped up with a commitment from PS to host another roundtable the following year and that the recommendations made as part of this roundtable will be examined and considered. Recommendations that fall outside the scope of the NOV's mandate will be shared with appropriate agencies or departments. Those recommendations applicable to the NOV and its Portfolio partners will be analyzed and those deemed feasible, will be further explored.

While this roundtable focused on the Right to Protection, participants highlighted a number of issues and presented recommendations for problems related to other victims' rights, such as the Right to Information and the Right to Participation. The discussion that took place over the course of the day and a half demonstrated that information underpins the notions of participation and protection of victims in the corrections and conditional release context and that the protection of victims starts with *empowerment*; providing them with the tools and resources to regain a sense of control within their lives following their victimization.