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BUILDING A **SAFE AND RESILIENT CANADA**

Public Safety Canada Portfolio Report: Victim Complaint Resolution Mechanisms

Canadian Victims Bill of Rights

December 2019



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Cat. No.: PS1-17E-PDF
ISSN: 2562-637X

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Overview

On July 23, 2015, the *Canadian Victims Bill of Rights* (CVBR) came into force enshrining into law statutory rights for victims of crime to information, protection, participation, and to seek restitution¹.

Under the *Victims Bill of Rights Act*, a victim of crime may file a complaint if they are of the opinion that their rights have been infringed or denied by a federal department or agency during their interaction with the Canadian criminal justice system².

This report compiles standardized information and summarizes aggregate data with respect to the number, nature and resolution of CVBR-related complaints received by Public Safety Canada (PS) and its Portfolio agencies, from April 1, 2018 to March 31, 2019.

Section I: Public Safety Portfolio Victim Services

PS provides advice and support to the Minister of Public Safety and Emergency Preparedness on legislation and policies governing federal corrections and conditional release and shares some criminal justice responsibilities with the Minister of Justice, including the rights of victims of crime. Below are the PS Portfolio agencies that provide services for which the CVBR must be considered.

The **National Office for Victims**³ (NOV) is a central resource working to improve victims' experience with the federal corrections and conditional release system by coordinating and engaging with partners and stakeholders, providing a 'victim lens' on correctional policy development and developing and disseminating information to help victims better understand and navigate federal corrections and conditional release.

The **Correctional Service of Canada's** (CSC) National Victim Services Program⁴ assists victims of federal offenders in registering to receive the information to which they may be entitled, provides registered victims with case-specific information in accordance with the *Corrections and Conditional Release Act* (CCRA) and advises victims about the opportunity to provide victim statements for consideration in CSC decisions made throughout the management of an offender's sentence.

The **Parole Board of Canada**⁵ (PBC) provides registered victims with information about the offender who harmed them in accordance with the *Corrections and Conditional Release Act* (CCRA). Registered victims can also request to attend hearings, submit and present a victim statement, request special conditions be placed on an offender's release, request to listen to the audio recording of the hearing, and request written decisions from the PBC's Decision Registry⁶.

The **Royal Canadian Mounted Police** (RCMP) provides referrals⁷ to Victim Services Programs across Canada, who in turn work to: lessen the impact of crime and trauma on victims and their families and to

¹ A full description of each right under the *Canadian Victims Bill of Rights* is listed in Appendix A

² Section 25 of Bill C-32 the *Victims Bill of Rights Act*

³ <https://www.publicsafety.gc.ca/cnt/cntrng-crm/crrctns/ntnl-ffc-vctms-en.aspx>

⁴ <https://www.csc-scc.gc.ca/victims/003006-index-en.shtml>

⁵ <https://www.canada.ca/en/parole-board/services/victims.html>

⁶ Since November 1, 1992, the *Corrections and Conditional Release Act* requires the PBC to maintain a registry of its decisions along with the reasons for those decisions in order to contribute to public understanding of conditional release decision making and to promote openness and accountability.

⁷ <http://www.rcmp-grc.gc.ca/ccaps-spcca/vic-eng.htm>

assist them in their recovery; enhance victim safety and help reduce the risk of further victimization; increase victims’ level of participation in the criminal justice system; and prepare victims acting as witnesses for court proceedings.

The **Canada Border Services Agency (CBSA)** may come into contact with victims of crime while leading criminal investigations into offences under the *Immigration and Refugee Protection Act*, at which point, CBSA must consider victims’ rights to information, participation and/or protection, under the CVBR.

Section II: Victim Complaint Resolution Mechanisms

The following information provides an overview of the federal CVBR complaint resolution process⁸.

An Overview of the Public Safety Portfolio Complaints Process under the CVBR

Step 1 Complaint submitted and received

Confirmation of receipt is sent to complainant.

Step 2 Complaint assessed under the terms of the CVBR

Complaint meets criteria if it meets the definitions and conditions set out in the CVBR and falls under the organization’s responsibility. If information is missing, the victim will be contacted to seek additional information.

Meets Criteria - Founded	Meets Criteria - Partly Founded	Meets Criteria - Unfounded	Does not Meet Criteria
Victim’s rights were found to have been infringed or denied.	Some, but not all, issues identified in the complaint were found to infringe or deny a victim’s rights.	The organization followed policy and legislation.	The complaint is inadmissible.

Step 3 Written response

A written response is sent, explaining the founded results of the complaint, actions taken, and any relevant referrals.	A written response is sent, explaining the partly founded results of the complaint, actions taken, and any relevant referrals.	A written response is sent, explaining the unfounded results of the complaint and any relevant referrals.	A written response is sent, explaining that the complaint does not meet the criteria and providing related referrals to other organizations or services.
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Step 4 Follow-up

Satisfied - Complaint process completed and file is closed.
Not Satisfied - Contact information for the Office of the Federal Ombudsman for Victims of Crime (OFOVC) is provided. Complaint process completed and file is closed⁹.

⁸ Each federal department and agency with responsibilities under the CVBR has developed a complaints resolution system. The diagram above was developed as an overall summary and is not intended to reflect the level of detail contained in each department’s/agency’s complaints system.

Section III: Profile of Victim Complaints

In the 2018-2019 fiscal year, a total of 27 complaints were received by PS and its Portfolio agencies with CVBR responsibilities. Of the 27 complaints, 19 were admissible and 8 were deemed inadmissible. (See Table 1).

It is important to note that efforts are made by PS and its Portfolio agencies to address a number of informal CVBR-related inquiries/concerns without a formal complaint being submitted.

Table 1: Portfolio-Wide CVBR Complaints (April 2018 – March 2019)

PS Dept. or Agency	Admissible	Inadmissible*	Total Received
NOV	-	2	2
CSC	13	5	18
PBC	6	1	7
CBSA ¹⁰	-	-	-
RCMP ¹¹	-	-	-
Grand Total	19	8	27

*Inadmissible also includes complaints referred to another department or agency¹².

Admissible Complaints

Once an admissible complaint is received, the responsible department or agency will determine if it is **founded, partly founded, or unfounded**. A founded complaint refers to instances whereby a victim's right was denied or infringed due to non-compliance with law and/or policy. Partly founded refers to instances where some, but not all, issues identified in the complaint were found to deny or infringe on a victim's rights. Unfounded complaints refer to instances whereby the department or agency is deemed to be compliant with policy and legislation.

In 2018-2019, only CSC and PBC received CVBR complaints deemed to be admissible. It should be noted that CSC and PBC have legislated obligations under the CCRA to provide information to victims of federal offenders. In order to exercise their right to information, victims must make a formal request to receive information by registering. In 2018-2019, there were 8,480 victims registered to receive information.

⁹ If unsatisfied with the outcome of a complaint submitted to the RCMP, a victim may contact the [Civilian Review and Complaints Commission for the RCMP](#).

¹⁰ To date, CBSA has not received any complaints under the CVBR.

¹¹ To date, the RCMP has no recorded complaints under the CVBR. During fiscal year 2018-2019, CSC forwarded one complaint to the RCMP flagging it as CVBR-related but upon further analysis by the RCMP it was determined that the complaint was outside the realm of the CVBR.

¹² Where a complaint falls outside the scope of a federal department/agency's mandate, with the victim's consent, the complaint is forwarded to the appropriate federal department/agency for follow-up.

Similar to previous years, the NOV received few complaints; two complaints were received both of which were determined to be inadmissible. No complaints were received by CBSA and of the complaints received by the RCMP none were identified as pertaining to the CVBR.

Table 2: Portfolio-Wide CVBR Admissible Complaints by type (April 2018 – March 2019)

PS Dept. or Agency	CVBR Rights	Admissible Founded	Admissible Unfounded	Admissible Withdrawn	Total
CSC	Information	1*	1	-	2
	Participation	-	1	-	1
	Protection	-	8	-	8
	Restitution	-	-	-	-
	Multi-rights	-	1**	1***	2
PBC	Information	-	1	-	1
	Participation	1	-	-	1
	Protection	1	2	-	3
	Restitution	-	-	-	-
	Multi-rights	-	-	1	1

*In one case it was alleged that the right to protection was infringed; however, CSC’s findings determined that it was the right to information that had been infringed.

**In the multi-right complaint it was alleged that the rights to protection and restitution were infringed.

***It was alleged that the rights to protection and participation were infringed; however, the complaint was later withdrawn.

Figure 1: Percentages of Portfolio-Wide Admissible Complaints by CVBR Right (April 2018 – March 2019)

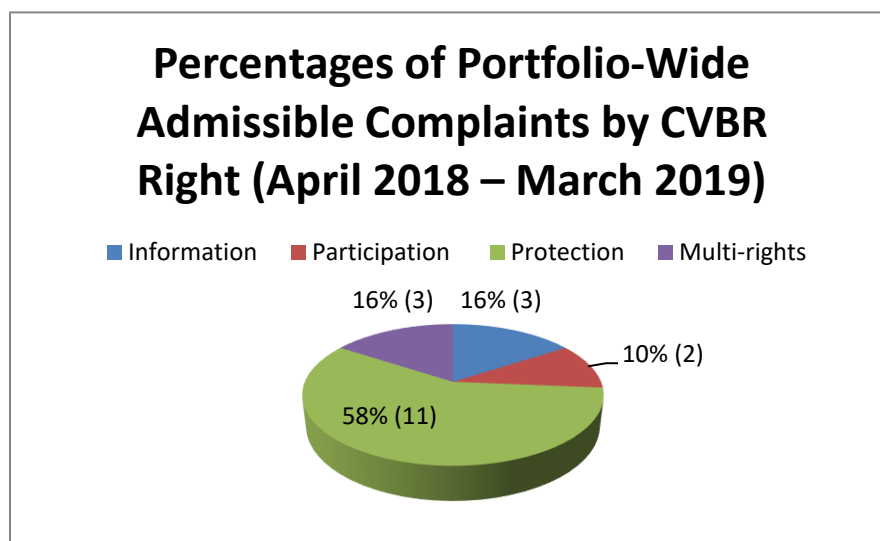


Image description: Of the admissible complaints received Portfolio-wide, the majority, 11, pertained to a victim’s right to protection. 3 complaints were about the right to information, 2 were about a victim’s right to participation, while 3 complaints were related to multiple CVBR rights.

NOV Complaints Overview

Table 3: NOV Complaints by Fiscal Year (July 2015 to March 2019)

Fiscal Year	Inadmissible*	Admissible	Admissible in Part**	Outcome for Admissible
2015-2016	-	-	-	-
2016-2017	1	-	-	-
2017-2018	2	-	-	-
2018-2019	2	-	-	-

*Inadmissible also includes complaints referred to another department/agency.

**NOV does not categorize complaints as admissible in part.

The complaints received by NOV in 2018-2019 were not related to the CVBR and therefore were inadmissible. One complaint fell under the responsibility of the Department of National Defence while the other was related to a provincial/territorial matter.

NOV Complaint Process Developments

NOV made several updates to its complaints webpage to help clarify how victims can make a CVBR-related complaint to the PS Portfolio. Changes to the website include a chart which outlines which CVBR rights each Portfolio organization is responsible for providing to victims of crime¹³.

CSC Complaints Overview

Table 4: CSC Complaints by Fiscal Year (July 2015 to March 2019)

Fiscal Year	Inadmissible	Admissible	Admissible in Part*	Outcome for Admissible or Admissible in Part
2015-2016	2	4	1	2 Founded 3 Unfounded
2016-2017	4	15	-	5 Founded 2 Partly Founded 8 Unfounded
2017-2018	7	8	2	5 Founded 4 Unfounded 1 Withdrawn
2018-2019	5	13	0	1 Partly Founded 11 Unfounded 1 Withdrawn

*Admissible in part includes complaints in which several issues are raised, but only some fall within the jurisdiction of the CSC.

¹³ [Making a Complaint to the Public Safety Portfolio under the Canadian Victims Bill of Rights](#)

Admissible Complaints

Of the 13 admissible complaints in 2018-2019, one was deemed **partly founded** and one was **withdrawn**. The remaining 11 admissible complaints were determined to be **unfounded** since in each case CSC complied with law and policy.

When CSC determines that one or more rights under the CVBR have been infringed, measures are taken at the local, regional and/or national levels to address the presenting issue(s) and to prevent similar infringements:

- Local: review of current policy and practice with some or all related staff groups; remedial training and/or a period of targeted supervision with specific individuals; creation of site-specific reporting tools/templates for certain case management tasks.
- Regional: discussion of relevant issues at meetings of regional management, policy clarification to operational sites from Regional Headquarters, targeted in-reach to sites by the Victim Services Unit.
- National: review of current policy documents (i.e., Commissioner's Directives, guidelines, tools, Victim Services protocols and/or letter templates) and/or training material for relevant occupational groups, clarification of policy or processes via national bulletins, and revision of policy documents and/or training material.

The **partly founded** complaint pertained to the **right to information**. CSC determined that the Case Management team did not incorporate victim information into the offender case preparation in accordance with policy. As a result, incomplete and untimely sharing of information between CSC and PBC led to the victim receiving contradictory information. In this case, where the complaint was deemed partly founded, measures taken at the local level were deemed satisfactory to appropriately address the issue.

One complaint concerning the **Right to Protection** and the **Right to Participation** was **withdrawn** when CSC resolved the issue to the victim's satisfaction before sending its final response. The victim had disagreed with the facility in which the offender was placed following revocation of a conditional release. When CSC clarified that a Regional Treatment Centre is a correctional institution and explained its security level, the victim no longer had concerns about CSC's decision.

Inadmissible Complaints

CSC determined that 5 complaints were inadmissible. Of these complaints, one fell exclusively under the PBC's jurisdiction; another did not involve an offender under federal sentence or information sharing within CSC's responsibility and finally, three others did not meet the definition of a victim of crime under the CVBR.

CSC Complaint Process Developments

No changes were made to CSC's CVBR complaints resolution process.

PBC Complaints Overview

Table 5: PBC Complaints to date by Fiscal Year (July 2015 – March 2019)

Fiscal year	Inadmissible*	Admissible	Admissible in Part**	Outcome for Admissible
2015-2016	1	3	-	3 Unfounded
2016-2017	4	7	-	4 Partly Founded*** 3 Unfounded
2017-2018	2	4	-	1 Founded 1 Partly Founded 2 Unfounded
2018-2019	1	6	-	1 Founded 1 Partly Founded 3 Unfounded 1 Withdrawn

*Inadmissible also includes complaints referred to another department/agency.

**PBC does not categorize complaints as admissible in part.

***Partly founded refers to cases where not all issues identified in the complaint are considered founded.

Admissible Complaints

Of the 6 admissible complaints, one was **founded**, one was **partly founded** and one was **withdrawn**. The remaining 3 complaints were deemed **unfounded** when it was determined that PBC acted in accordance with internal policy and law.

The single **founded** complaint, related to a victim’s **Right to Protection**, centred on the disclosure of the victim’s married name to the offender without her consent. In response to this privacy breach, training was provided to relevant regional staff.

One complaint, concerning the **Right to Participation**, was **partly founded**. The victim expressed concern regarding conflicting information received from a Regional Communications Officer (RCO) about whether a recording of their victim statement could be submitted for the offender’s paper review. In response, the correct process was explained to the victim and an Information Communiqué distributed to clarify the legislation and policy pertaining to a victim’s right to present victim statements when a hearing is not being conducted.

The **withdrawn** complaint alleging infringements on the **Right to Protection** and the **Right to Participation** pertained to the victim’s concerns about the removal of an offender’s special conditions, as well as their treatment at, and placement in, a CSC Regional Treatment Centre.

Inadmissible Complaints

One complaint was submitted by a family member of a federal offender who expressed concerns about the media's portrayal of the offender's parole hearing. The complainant was not a victim, and the issue raised did not fall under the CVBR, therefore the complaint was deemed **inadmissible**.

PBC Complaint Process Developments

No changes were made to the PBC's CVBR complaint mechanism in 2018-2019.

Section IV: Looking Ahead – Policy / Process Considerations

Four years after the coming into force of the CVBR, there continues to be a small number of CVBR-related complaints across the PS Portfolio. It is important to note that in 2018-2019, there were approximately 23,000 offenders under federal supervision and 8,480 victims registered with the federal correctional system. In this context, the number of victim complaints submitted to the PS Portfolio is very low. This may suggest that victims might not know they have a right to file a complaint. Furthermore, PS and its Portfolio agencies make every effort to address victims' concerns without a formal complaint being submitted.

PS and its Portfolio agencies with responsibilities under the CVBR will continue to work in partnership to raise awareness about victims' rights under the CVBR and their right to file a complaint if they believe these rights have been infringed or denied. Looking ahead, work continues to streamline the provision of information for victims across the PS Portfolio in order to better meet the needs of victims of crime.

Appendix A

Victims of crime have the:

Right to Information

- General information about the criminal justice system and the role of victims within it;
- Information about available victim services/programs, including restorative justice;
- Request information about the status and outcome of the investigation into the offence, the location and timing of proceedings and on the progress and outcome of their case (including information related to the investigation, prosecution and sentencing of the person who harmed them);
- Request information with respect to the offender's conditional release (including the timing and conditions thereof); and
- Request information with regard to hearings held for the purposes of dispositions rendered with respect to persons found unfit to stand trial or not criminally responsible (NCR) on account of mental disorder.

Right to Protection

- Have both their security and their privacy considered at all stages of the criminal justice process;
- Have reasonable and necessary measures taken to protect them from intimidation and/or retaliation;
- Request that their identity be protected from public disclosure where they are either a victim or a witness in proceedings related to an offence; and
- Request testimonial aids when appearing as witnesses in proceedings related to an offence.

Right to Participation

- Convey their views concerning decisions to be made by criminal justice professionals and to have these views considered at various stages across the criminal justice process;
- Present victim impact statements for consideration during sentencing and at hearings where the accused has been deemed unfit or NCR; and
- Present victim statements for consideration by correctional and paroling authorities for the purposes of conditional release hearings.

Right to Seek Restitution

- Have the court consider making a restitution order against the offender for all offences for which there are financial losses; and
- Have the orders entered as enforceable civil court judgements against the offender, for those who have not been paid.

All victims of crime may exercise their rights under the CVBR while they are in Canada. Canadian citizens or permanent residents may exercise these rights even if they are outside of Canada, as long as the crime took place in Canada.

Glossary

Public Safety Canada (PS) – was created in 2003 to ensure coordination across all federal departments and agencies responsible for national security and the safety of Canadians.

Canada Border Services Agency (CBSA) – ensures Canada’s security and prosperity by facilitating and overseeing international travel and trade across Canada’s border.

Corrections and Conditional Release Act (CCRA) – the legislation that governs the corrections and parole system in Canada. The CCRA outlines the responsibilities and authorities of Correctional Service of Canada, the Parole Board of Canada and the Office of the Correctional Investigator.

Correctional Service of Canada (CSC) - is the federal government agency responsible for administering sentences of a custodial term of two years or more, as imposed by the courts. CSC is responsible for managing institutions of various security levels and supervising offenders under conditional release in the community.

National Office for Victims (NOV) – a central resource, located at PS, working to improve victims’ experience with the federal corrections and conditional release system by coordinating and engaging with partners and stakeholders, providing a ‘victim lens’ on correctional policy development and developing and disseminating information to help victims better understand and navigate federal corrections and conditional release.

Parole Board of Canada (PBC) – is an independent administrative tribunal that, as part of the Canadian criminal justice system, makes quality conditional release and record suspension decisions, can order expungement of a conviction and makes clemency recommendations.

Royal Canadian Mounted Police (RCMP) – is the Canadian national police service.

Victim of crime - an individual is considered a victim of crime if they have suffered physical or emotional harm, property damage or economic loss as the result of the commission of an offence.

PBC Regional Communications Officers (RCOs) – provide services to registered victims in each of PBCs regional offices across Canada. RCOs assist victims in accessing and understanding the parole process and answer questions or address concerns victims may have.