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CRIMINAL JUSTICE BRANCH, MINISTRY OF JUSTICE  
**CROWN COUNSEL POLICY MANUAL**

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ARCS/ORCS FILE NUMBER: <b>15-20/VCR1</b>	EFFECTIVE DATE: <b>September 20, 2016</b>	POLICY CODE: <b>VIC 1</b>
SUBJECT: <b>Victims of Crime – Providing Assistance and Information to</b>		CROSS-REFERENCE: <b><u>CHI 1</u> <u>SEX 1</u> <u>SPO 1</u> <u>VIC 2</u> <u>VUL 1</u> <u>Practice Bulletin</u></b>

### **POLICY**

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

**Where applicable, Crown Counsel should also consider the guidance relating to victims in the following Branch policies:**

- **Children and Vulnerable Youth – Crimes Against (CHI 1)**
- **Sexual Offences against Adults (SEX 1)**
- **Spousal Violence (SPO 1)**
- **Vulnerable Victims and Witnesses – Adult (VUL 1)**

**Crown Counsel and administrative staff should be mindful of their obligations under the BC [Victims of Crime Act](#) (VOCA) and federal [Canadian Victims Bill of Rights](#) (CVBR).**

**Crown Counsel should prepare victims for court and provide them appropriate information about the prosecution and the criminal justice system as outlined below (see Further Information). In very serious cases, Crown Counsel should meet with victims and their families to assist them in understanding the prosecution process.**

**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 staff or through a victim assistance program, of the course of the prosecution, any future court dates, and any bail conditions and any changes in those proceedings or conditions.**

## Further Information

### Providing Information to Victims

- Under VOCA

Police are designated as having the primary responsibility under section 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 administrative staff will refer them to the standard information prepared by the Ministry of Justice for that purpose.

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 VOCA 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.

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

- Under the CVBR

Section 6 of the CVBR provides that a victim has a right, on request, to general information about the criminal justice system and the role of victims in it, the services and programs available to them and their right to file a complaint for an infringement or denial of any of their rights under the CVBR. In addition, sections 7 and 8 provide that a victim has a right, on request, to certain case specific information, such as the location of proceedings, when they are to be held, their progress and outcome. Section 20 sets out limitations to the above to ensure there is no interference with the proper administration of justice.

### Victim Impact Statements

Victims should be given the opportunity to provide a victim impact statement. Under Section 4 of the [Victims of Crime Act](#), Crown Counsel must ensure that every victim is given a reasonable opportunity to have admissible evidence concerning the impact of the offence, as perceived by the victim, presented to the court before sentence is imposed. As well, section 722(2) of the *Criminal Code* requires the court to inquire with the prosecutor whether reasonable steps have been taken to provide the victim with an opportunity to prepare a victim impact statement.

In addition, sections 15 and 19 of the [Canadian Victims Bill of Rights](#) provide that every victim has the right to present a victim impact statement to the appropriate authorities in the criminal justice system and to have it considered, through the mechanisms provided by law.

## Preparation

Section 722(4) of the *Criminal Code* allows victims to prepare victim impact statements in accordance with procedures established by a program designated for that purpose by the lieutenant governor in council of the province. The Victim Impact Statement Program of the Criminal Justice Branch, Ministry of Justice has been designated by a provincial order-in-council as the program responsible for developing procedures for preparing victim impact statements in British Columbia under that subsection. Appendix A describes the procedures that have been developed for preparing victim impact statements.

## Presentation

Although victim impact statements are often presented by filing them with the court under section 722(1) of the *Criminal Code*, sections 722(5) to (7) permit additional ways for victims to present them during sentencing proceedings.

Section 722(5) provides that a victim may, on request, present their victim impact statement to the court by reading it, reading it in the presence and close proximity of a support person of their choice, reading it outside the courtroom (subject to section 722(7)), or behind a screen or other device that would allow the victim not to see the offender, or in any other manner that the court considers appropriate.

Section 722(6) permits a victim, or their representative, to have a photograph of the victim taken before the offence, with them when presenting a victim impact statement, if it would not, in the opinion of the court, disrupt the proceedings.

The Victim Impact Statement and Statement on Restitution Information Guide instructs victims to advise Crown Counsel, as far in advance of the sentencing date as possible, if they wish to request any of these options under sections 722(5) and 722(6).

## Restitution

Crown Counsel should consider whether a restitution order is appropriate under section 738 or 739 of the *Criminal Code* and take reasonable steps to provide victims with an opportunity to indicate whether they are seeking restitution for their losses and damages.

## Community Impact Statements

Section 722.2 of the *Criminal Code* allows individuals to prepare community impact statements in accordance with the procedures established by a program designated for that purpose by the lieutenant governor in council of a province. The Community Impact Statement Program of the Community Safety and Crime Prevention Branch, Ministry of Public Safety and Solicitor General has been designated by an order-in-council as the program responsible for establishing procedures for preparing community impact statements in British Columbia as referred to in section 722.2(2).

**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 Legal Services Society to make an application for legal representation.

The Ministry of Justice 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 Branch's Crown Law Division office (CLD) to launch an appeal, or after CLD 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 VOCA:

- CLD will, if appropriate, contact the victim to determine the extent of the victim's interest in receiving information or attending proceedings.
- CLD 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.
- CLD will notify the victim of the outcome of any bail application, and if appropriate, provide a copy of the order.
- CLD 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, CLD 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 and where the program has received written authorization from the victim to do so, the CLD office where appropriate, will provide information directly to the police-based or specialized community-based victim assistance program (Victims of Crime – Providing Information to (VIC 2)).

Crown Counsel should refer to the Practice Bulletin on "Victim Impact Statements, Community Impact Statements, and Statements on Restitution" for further advice.

## Appendix A

### Procedures for Preparing Victim Impact Statements

Victim Impact Statement Program of the Criminal Justice Branch, Ministry of Justice

Branch responsible for program:

- Criminal Justice Branch

How do victims obtain the Victim Impact Statement (VIS) form?

- Crown Counsel offices will provide victims with the VIS forms. In many cases, a VIS package containing the VIS form and Victim Impact Statement and Statement on Restitution Information Guide is sent to victims by Crown Counsel offices once charges are approved. The VIS form is available on the CJB's website.

How can victims get assistance with completing the form?

- Victim service workers can help victims complete a VIS. Victims can contact VictimLinkBC to get a referral to a victim service worker.

Where do victims send their completed form?

- Victims will provide completed VIS forms to the Crown Counsel office responsible for the prosecution.

Are forms vetted and reviewed by Crown Counsel?

- Crown Counsel are responsible for reviewing and vetting VIS forms.

Are forms disclosed to the accused or defence counsel?

- Crown Counsel are responsible for disclosing VIS forms to the accused or defence counsel.

Who files the forms with the Court?

- Crown Counsel file VIS forms with the court after a finding of guilt and before the court imposes a sentence.