

PRACTICE BULLETIN

Assisting Victims with Victim Impact Statements and Statements on Restitution

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What is a Victim Impact Statement?

Crime can cause physical or emotional harm, property damage or economic loss. The degree of harm done to the victim is a factor which the judge may consider for the purpose of determining an appropriate sentence.

A Victim Impact Statement (VIS) is a written description of how a crime has affected the victim. A VIS does not include a description of the crime or how the crime occurred. That information should be included in statements to the police. The VIS is used at sentencing if the accused is found guilty or pleads guilty.

Under B.C.'s *Victims of Crime Act*, Crown Counsel must ensure that a 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 sentencing. Under the federal *Canadian Victims Bill of Rights* every victim has the right to present a VIS to the appropriate authorities and have it considered through the mechanisms provided by law. The federal *Criminal Code* governs the use of VISs and other victim impact information considered by the court in determining the offender's sentence. Section 722 of the *Criminal Code* requires the court before imposing the sentence to ask the Crown whether reasonable steps were taken to provide the victim with an opportunity to prepare a VIS. If necessary, the court can grant an adjournment of proceedings to allow a victim to prepare a VIS or for the presentation of other admissible evidence concerning the victim. [Section 722](#) sets out the manner in which the court considers VISs and other victim impact information at sentencing.

Who may complete a Victim Impact Statement?

A VIS may be completed by a person who has suffered physical or emotional harm, property damage or economic loss because of an offence. If a victim is not able to complete a VIS, someone else, such as a family member or victim service worker, may complete the VIS on their behalf. The reason the victim cannot complete the VIS must be explained and the name of the person completing the statement and the nature of the relationship to the victim should be provided.

Does a victim have to complete a Victim Impact Statement?

Completing a VIS is the choice of the victim. The information in a VIS is valuable to Crown Counsel and to the judge because it helps them understand how the victim has been affected by the crime.

How do victims complete a Victim Impact Statement?

When completing a VIS, the form prescribed in the *Criminal Code* must be used. The VIS form and Victim Impact Statement and Statement on Restitution Information Guide, (that provides guidance about completing a VIS and Statement on Restitution) are available in several languages. In many cases, Crown Counsel offices mail a VIS package containing the form and information guide (and Statement on Restitution form) to victims once charges are approved. The [forms and guide](#) are available for you to print.

Victims can complete all or some portions of the VIS and may include a picture they have drawn or a poem or letter they have written, if it will help them express the impact that the offence has had on them.

If a victim has safety concerns for themselves or their family and wish to have no-contact with the accused, they should describe that concern in their VIS. However, if victims have immediate safety concerns you can help them communicate this to the police and/or Crown Counsel. If a victim has immediate safety concerns regarding the accused, and/or the accused is contacting a victim in breach of a no-contact order, the victim should report this immediately to the police.

While many victims are able to complete a VIS based on the instructions provided, others may have questions or concerns, or require additional assistance. In cases where the victim has difficulty writing the VIS, you may assist by writing down what a victim says. However, the VIS must be written in the victim's own words. If you assist victims by writing out the statement for them, you must indicate that on the form. There is a section on the bottom of the VIS form to indicate this.

The completed VIS should be submitted to Crown Counsel so they can review the VIS and ensure it does not include inappropriate comments.

How will the Victim Impact Statement be used and presented?

The VIS is given to the judge by Crown Counsel at the time of sentencing or used by Crown Counsel to tell the judge about the impact of the crime on the victim. Victims may attend the sentencing hearing and may request to read their VIS in person at the hearing. Victims can request a testimonial accommodation while reading their VIS (e.g., reading the VIS behind a screen or outside of the courtroom or with a support person nearby). It is important to let Crown Counsel know as early as possible if the victim wishes to read their VIS or request a testimonial accommodation. If a victim wants to have a testimonial accommodation when they read their VIS, Crown Counsel must provide advance notice about this to the Court Services Branch so that arrangements can be made to have this equipment available for the sentencing date.

During the presentation of their VIS, victims may also have with them a photo of themselves taken before the offence, if in the opinion of the judge, it would not disrupt the proceedings. If the VIS is being presented by someone other than the victim (e.g., if the matter involved a fatality), that individual may have with him or her a photograph of the victim taken before the offence, again if in the opinion of the judge this would not disrupt the proceedings.

Statement on Restitution

When a victim experiences a financial loss or property damage as a result of a crime, they have the right to have the court consider making a stand-alone restitution order at sentencing under section 738 or 739 of the *Criminal Code*. A new Statement on Restitution form has been introduced and is the form victims complete to request restitution. In many cases Crown Counsel offices will typically mail the new Statement on Restitution form to victims along with a VIS form after charges are approved. Victim service workers can also find and [print this form](#).

For the courts to consider making a restitution order, losses must be "readily ascertainable" or easily determined. This means victims must be able to clearly document their damages and losses (supported by receipts, estimates, etc.), and must submit supporting documents with their Statement on Restitution.

If the accused is found guilty, the judge can order an offender to make restitution to a victim for their losses or damages. There are different ways restitution can be ordered, either as a condition of an offender's probation or conditional sentence, or as a stand-alone restitution order, enforceable by the victim in civil court.

Whether or not the judge orders the accused to repay the victim does not affect their right to seek compensation through a civil lawsuit or to apply to the Crime Victim Assistance Program. Information about starting a civil lawsuit and about the enforcement of restitution orders can be obtained at the Court Registry. Victims may also contact the Ministry of Justice Restitution Program toll-free at 1-844-660-4898 or email: Restitution@gov.bc.ca.

Tips for Assisting Victims with the Process

Victim service workers are mandated to provide victims with information about Victim Impact Statements and Statements on Restitution and to provide assistance in preparing them. Here are some tips to assist you in supporting a victim through this process:

1 | *Start early*

Once a charge is approved, advise the victim about the right to submit a Victim Impact Statement and Statement on Restitution and about how you can help. Find out if the victim has the Victim Impact Statement/Statement on Restitution Information Guide and forms; if not, provide them a [copy of the guide](#) or request a copy of the forms from the Crown Counsel office.

Starting early provides more time:

- to help the victim understand what a Victim Impact Statement is/is not, and how it is used;
- to help the victim understand what a Statement on Restitution is and what information should be included for the court to consider ordering restitution;
- for the victim to decide whether to prepare a VIS and Statement on Restitution;
- for the victim to prepare a VIS and Statement on Restitution, if desired; and
- to make arrangements if the victim requires supports to assist them in preparing the VIS.

Starting early means the VIS and Statement on Restitution is more likely to be ready if the accused pleads guilty, which could happen at any stage of the court process, including on the first appearance. If a VIS is prepared early and the victim experiences other effects of the crime before sentencing, the VIS may be updated.

Bear in mind that the VIS and Statement on Restitution is disclosed to defence counsel and the accused. If these are submitted before trial, the victim may be cross-examined on its their contents at trial. As suggested below, seek advice from Crown Counsel on the timing for submission of the VIS and Statement on Restitution and other issues.

Use or refer to other resources for victims, such as www.victiminfo.ca and www.courtprep.ca.

2 | *Clarify what a Victim Impact Statement is*

Review the Victim Impact Statement and Statement on Restitution Information Guide and VIS form with the victim and encourage questions.

The VIS must be in the victim's own words and must describe the victim's feelings and thoughts, even if someone else writes it. Its focus is on the harm or loss suffered by the victim as a result of the offence, and it may address:

- emotional harm;
- physical harm;
- property damage;
- economic loss; and
- how the victim feels about future contact with the perpetrator.

It is up to the victim to decide which types of impact apply, and what information to include in the VIS; they are not required to complete every section of the VIS form.

3 | Clarify what a Victim Impact Statement is not

Since a Victim Impact Statement is about the victim—not the crime or accused—it should *not* include:

- a description of the crime or how it occurred, such as its details, time, date, location, or sequence of events;
- comments about the accused, such as the accused's character or characteristics, or past or subsequent criminal activity;
- the impact of offences for which charges were not laid;
- suggestions about the type or length of sentence, or comments about punishment the accused deserves; and
- comments about the criminal justice system or personnel, or handling of the case.

If the VIS contains inappropriate information, it will need to be amended or parts of it may be disallowed. Crown Counsel is required to ensure that any parts of the VIS provided to the court for determining sentence reflect only the harm or loss suffered by the victim as a result of the offence.

4 | Emphasize it is the victim's choice

Victim Impact Statements and Statements on Restitution are voluntary. Completing either of these documents is the victim's choice, something over which the victim has control. To make an informed decision on whether or not to submit a Victim Impact Statement, the victim needs to understand what a Victim Impact Statement is and is not, and the implications of completing one (see tips two and three).

If the victim does not want to prepare a Victim Impact Statement or Statement on Restitution, advise the victim to let you or Crown Counsel know if he or she later changes their mind. If the victim chooses, information on the impact of the offence can be conveyed to Crown Counsel in another way, such as the victim discussing the impact of the offence directly with Crown Counsel. Victims may also have an opportunity to describe how they were impacted by the crime if a pre-sentence report is ordered; in these cases, corrections staff will interview the victim.

5 | Collaborate with Crown Counsel

Crown Counsel reviews the VIS to ensure it focuses on the harm or loss suffered by the victim as a result of the offence and does not contain inappropriate information. Similarly, Crown Counsel reviews the Statement on Restitution to ensure it does not contain inappropriate information. If the VIS and/or Statement on Restitution are appropriate, Crown Counsel will provide them to the court if the accused is found guilty or pleads guilty.

Connect with Crown Counsel to:

- get answers to specific questions about the content, process, or timing for submission of Victim Impact Statements and Statements on Restitution;
- ensure Crown Counsel is aware whether a victim intends to submit a Victim Impact Statement and/or Statement on Restitution;
- flag any inappropriate content in the VIS that you may be aware of;
- discuss a request from a victim to read his or her VIS in court;
- ensure Crown Counsel is aware whether a victim wishes to use a testimonial accommodation or have a picture with them while presenting their VIS; and
- discuss whether the victim has any communication, medical or other needs that will need to be accommodated.

6 | Help prepare the victim for emotional ups and downs

Though the Victim Impact Statement process can be time-consuming and emotionally difficult, it can also be empowering and therapeutic. Where a VIS is provided to the court, the victim may feel that his or her voice was heard by the judge and others in the court, including the offender.

It is important to talk with a victim about when and how a VIS can be used. For example, a VIS can only be considered by the court for sentencing where the accused is found guilty or pleads guilty. Be aware that if the VIS is used but the offender does not acknowledge the harm done, or the sentence does not seem to reflect it, the victim may not feel heard.

Try to find out if the victim has any misconceptions about the Victim Impact Statement process; if so, address them. It may help to reiterate the expressive and participatory aspects of the process for the victim.

7 | Provide tips on completing the forms

Advise a victim writing a VIS on his or her own to:

- Take their time. Write a rough draft first, or start in point form and then fill in the details.
- Use the questions in the information guide and form to organize their thoughts. If they have previously listed their injuries or losses in another document, such as an application for crime victim assistance benefits, they may find that looking at that document may be helpful.
- Remind them about the purpose of the VIS and what to include. Ask them to call if they are unsure about including something or want their draft reviewed before finalizing it.
- If the victim has asked someone to transcribe the VIS for them, ensure it is the victim's words and thoughts.
- If no one is helping the victim, ask them to consider having a support person with them as they write their VIS. It can be an emotional process.
- Work with the victim to ensure their VIS is legible (readable) and signed.
- Remind them to number and sign any pages that are attached to the form. If attaching documents (e.g., on financial loss), ask them to delete personal information such as their address or credit card number.

8 | Directly assist a victim who needs help writing a VIS ...

If the victim needs help with writing, you may write/transcribe the Victim Impact Statement for him or her.

- Indicate on the form why you are completing the VIS for the victim.
- Try to ensure the victim does not feel rushed. Avoid finishing his or her sentences.
- Ask the victim questions about the effects of the crime, using or paraphrasing the questions in the information guide and form as appropriate.
- Ask the victim whether they previously listed their injuries or losses in another document, such as an application for Crime Victim Assistance Program benefits. Existing documentation maybe a helpful starting point for their VIS.
- Avoid suggesting what thoughts or feelings the victim might have.
- Write the VIS using the victim's words.
- If the victim wants to include inappropriate information (such as a description of the crime or how it occurred), revisit tips two and three above. Reiterate that Crown Counsel is required to examine the VIS and that any inappropriate content will be removed prior to the VIS being submitted to the court.
- Do not underestimate the emotional effect this process may have on the victim, and on you.

9 | Discuss what happens after a VIS and Statement on Restitution are provided to Crown Counsel

The victim needs to know:

- Copies of the VIS and Statement on Restitution (the "statements") are provided by Crown Counsel, to defence counsel and, through defence counsel, to the accused person.
- The statements are used at sentencing if an accused pleads guilty or is found guilty—if the accused person is not convicted, they will not be used.

- The statements are filed in court by Crown Counsel before sentencing and become part of the public record (in cases where there is a publication ban on the victim's name, details of the VIS, though not identifying information, may be reported in the media). As described above, Crown Counsel review the statements before they are provided to the court to ensure they do not contain inappropriate information. Any inappropriate content will be removed prior to the statements being provided to the court.
- The statements may be updated by the victim before sentencing by completing a new VIS and/or Statement on Restitution.
- The victim's decision to read their VIS in court should be discussed with Crown Counsel before the date of the sentencing hearing.
- Although rare, the victim may be required to testify or be cross-examined on the contents of the statements.
- The judge must consider a VIS and Statement on Restitution that are prepared in accordance with the requirements in the *Criminal Code*, and filed with the court, in determining the sentence to be imposed on an offender. The judge's consideration of the statements does not mean the offender will receive a more severe sentence or that the court will automatically order that the offender make restitution to the victim.
- The Victim Impact Statement may be considered in post-sentence proceedings or decisions (e.g., by a probation or parole officer).

10 | **Follow-up and offer support**

Ensure the victim knows when the Victim Impact Statement and Statement on Restitution should be sent to Crown Counsel. A reminder phone call may be helpful. This follow-up provides an opportunity to find out how the victim is feeling about completing the statements and, if applicable, any questions the victim has about completing the statements or how the VIS may be presented, including any questions about reading their VIS at the sentencing hearing. You can also offer to send the completed VIS and Statement on Restitution to Crown Counsel on behalf of the victim.

Ensure victims communicate to Crown Counsel their requests to read their VIS, use a testimonial accommodation when reading their VIS, or to have a picture with them while presenting their statement, as early as possible in the process. Ensure the victim knows the date of the sentencing hearing. Offer to support the victim at the hearing.

[DOWNLOAD THE **VICTIM IMPACT STATEMENT AND STATEMENT ON RESTITUTION GUIDE AND FORMS**](#)