



HOUSE OF COMMONS  
CHAMBRE DES COMMUNES  
CANADA

# **IMPROVING SUPPORT FOR VICTIMS OF CRIME**

**Report of the Standing Committee on Justice and Human  
Rights**

**Randeep Sarai, Chair**

**DECEMBER 2022  
44th PARLIAMENT, 1st SESSION**

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# **IMPROVING SUPPORT FOR VICTIMS OF CRIME**

## **Report of the Standing Committee on Justice and Human Rights**

**Randeep Sarai  
Chair**

**DECEMBER 2022**

**44th PARLIAMENT, 1st SESSION**

## **NOTICE TO READER**

### **Reports from committees presented to the House of Commons**

Presenting a report to the House is the way a committee makes public its findings and recommendations on a particular topic. Substantive reports on a subject-matter study usually contain a synopsis of the testimony heard, the recommendations made by the committee, as well as the reasons for those recommendations.

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# **THE STANDING COMMITTEE ON JUSTICE AND HUMAN RIGHTS**

has the honour to present its

## **SEVENTH REPORT**

Pursuant to its mandate under Standing Order 108(2), the committee has studied government's obligations to victims of crime and has agreed to report the following:



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# LIST OF RECOMMENDATIONS

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*As a result of their deliberations committees may make recommendations which they include in their reports for the consideration of the House of Commons or the Government. Recommendations related to this study are listed below.*

## **Recommendation 1**

**That the Department of Justice establish a national working group with federal and provincial government officials, representatives from community organizations that work with victims, and victims’ representatives to agree on national best practices and minimum standards for victims of crime, particularly as regards the level of support and the services available to victims. .... 14**

## **Recommendation 2**

**That the *Canadian Victims Bill of Rights* be amended to establish a right to access victim assistance and support. .... 17**

## **Recommendation 3**

**That the Minister of Justice work with their provincial and territorial counterparts as well as victims and community organizations to agree on minimum standards for supports to be provided to victims of crime across Canada, including mental health supports, and that increased funding be provided to the provinces and territories to support victims’ access to these supports. .... 17**

## **Recommendation 4**

**That sections 6, 7 and 8 of the *Canadian Victims Bill of Rights* be amended to clarify that the information to which victims of crime are entitled should be provided automatically rather than on request, and that the government of Canada work alongside the provinces and territories, as well as with victims and community organizations, to determine the best ways to uphold the right to information outlined in the *Canadian Victims Bill of Rights*. .... 30**

**Recommendation 5**

**That the Department of Justice lead a national effort to develop responsibility training on victims’ rights for criminal justice personnel across Canada to ensure national standards for the treatment of victims, and so all personnel fully understand that they will be held accountable for ensuring that victims have access to the rights stated in the law. The training must be evaluated on an ongoing basis to determine its effectiveness. .... 31**

**Recommendation 6**

**That the Department of Justice lead a national public education campaign including television and social media to inform Canadians of their rights as victims of crime. The campaign should target victims’ right to information, as this right opens the gate to other rights. Such a campaign would empower victims and enhance their trust in the criminal justice system..... 31**

**Recommendation 7**

**That the Minister of Justice consult their provincial and territorial counterparts, the various criminal justice system stakeholders, community organizations that work with victims, and victims in order to determine the best way to support victims’ participation in the justice system. .... 35**

**Recommendation 8**

**That the Department of Justice promote and expand restorative justice opportunities, and that adequate funding be provided to restorative justice programs..... 37**

**Recommendation 9**

**That the government of Canada examine, through consultation with victims and community organizations, how to make the parole board process more conducive to victims’ and family participation. .... 39**

**Recommendation 10**

**That the Department of Justice work with the provinces and territories to agree on how victim impact statements could be delivered in a less prescriptive manner to allow victims to express their feelings, as well as the impact of the crime on their lives and their families, more flexibly. .... 41**

**Recommendation 11**

**That section 486.4 of the *Criminal Code* be amended so that victims must be informed before a publication ban is imposed and given the opportunity to opt out at any time in the process. .... 45**

**Recommendation 12**

**That, recognizing the importance of the principle of prosecutorial independence, training be given to Crown prosecutors across the country with regard to the needs of victims concerning publication bans. .... 46**

**Recommendation 13**

**That the Department of Justice work with the provinces and territories to agree on effective means to assist victims in the enforcement of restitution orders. .... 49**







# IMPROVING SUPPORT FOR VICTIMS OF CRIME

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## CHAPTER 1: INTRODUCTION

### 1.1 Context of the Study

On 8 February 2022, the House of Commons Standing Committee on Justice and Human Rights (the Committee) agreed to undertake a study of the federal government's obligations to victims of crime, including the review of the *Canadian Victims Bill of Rights*<sup>1</sup> (the CVBR), and to report its findings to the House of Commons.<sup>2</sup>

The Committee agreed to bring forward evidence it heard during its study on the CVBR during the 43<sup>rd</sup> Parliament.<sup>3</sup> Thus, between 3 June 2021 and 17 October 2022, the Committee held nine meetings to hear evidence from a wide variety of witnesses.<sup>4</sup> In total, the Committee heard from more than 30 witnesses and received 10 briefs.

The Committee recognizes each victim's resiliency and strength in sharing their story and wishes to acknowledge the expertise and important contributions of the witnesses who took the time to participate in this study. The Committee also wants to underline the important work of organizations dedicated to supporting victims of crime. The Committee has listened carefully to each witness's testimony and drew upon the evidence it received to formulate key findings and recommendations aimed at strengthening the federal government's response to victims of crimes.

Throughout the study, the Committee heard of the multifaceted nature of victims' lived realities. The Committee understands that victims of crime require adapted services and support particular to them. There are opportunities for action at the federal level to protect and assist victims of crime; the federal government can play a proactive role supporting victims in a variety of ways. However, the Committee acknowledges that collaboration between governments and community organizations is key to providing holistic, effective services to victims. In addition, the Committee recognizes that justice is a matter of shared jurisdiction and that victims' rights must be respected and addressed

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1 [Canadian Victims Bill of Rights](#), S.C. 2015, c. 13, s. 2.

2 House of Commons, Standing Committee on Justice and Human Rights (JUST), [Minutes of Proceedings](#), 8 February 2022.

3 JUST, [Minutes of Proceedings](#), 29 March 2022.

4 A list of witnesses who appeared before the Committee is set out in Appendix A and a list of briefs submitted to the Committee, in Appendix B of this report.



by all levels of government. The Committee’s recommendations arising from this study are to be read with this in mind.

## 1.2 Organization of the Report

In Chapter 2, this report provides a general overview of the federal initiatives for victims of crime. Chapter 3 discusses the division of power regarding victim support in Canada and the need for federal and provincial collaboration. Chapter 4 examines various issues related to victim services. Chapter 5 to Chapter 8 focus on the issues surrounding the CVBR’s four central rights: to information, participation, protection and restitution. Finally, Chapter 9 outlines complaint mechanisms a victim of crime may turn to when their rights under the CVBR are denied or infringed.

## CHAPTER 2: GENERAL OVERVIEW OF FEDERAL INITIATIVES FOR VICTIMS OF CRIME

Since 2000, the federal victims strategy has coordinated policy and legislative measures in support of the Canadian government’s commitment to ensure victims of crime may access justice and effectively participate in the criminal justice system.<sup>5</sup> The key components at the federal level of this horizontal strategy “are coordination of the different departments and agencies that have mandates to serve and work with victims.”<sup>6</sup> The strategy is led by the Department of Justice and involves different federal entities: Public Safety Canada, Correctional Service Canada, the Parole Board of Canada (PBC) and the Public Prosecution Service of Canada.<sup>7</sup> In addition, working with provinces and territories is essential for the federal government to deliver the strategy:

Also, key partners in delivering on the strategy are the provinces and territories, with whom we work very closely to share information and best practices, and to identify whether there are gaps in services and maybe in law, or if there are maybe new or different trends developing that we can work together on to address and better support victims throughout the country and the criminal justice continuum.<sup>8</sup>

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5 JUST, *Evidence*, 3 June 2021 (Carole Morency, Director General and Senior General Counsel, Criminal Law Policy Section, Policy Sector, Department of Justice).

6 Ibid.

7 Ibid.

8 Ibid.

## 2.1 The Canadian Victims Bill of Rights

As mentioned by Carole Morency of the Department of Justice, the CVBR “is an important cornerstone for continuing federal efforts to support victims of crime.”<sup>9</sup>

On 3 April 2015, Bill C-32, An Act to enact the Canadian Victims Bill of Rights and to amend certain Acts, received royal assent.<sup>10</sup> Among other things, this bill created the CVBR, and amended the *Criminal Code*<sup>11</sup> and the *Corrections and Conditional Release Act*<sup>12</sup> (the CCRA) to enhance victims’ rights.<sup>13</sup>

The CVBR lays out its fundamental rights as follows:<sup>14</sup>

- The right to information (ss. 6 to 8) includes information regarding:
  - the criminal justice system and the role of victims in it;
  - the services and programs available to them as a victim, including restorative justice programs;
  - their right to file a complaint for an infringement or denial of any of their rights under this Act;
  - the status and outcome of the investigation into the offence;
  - the location of proceedings in relation to the offence, when they will take place, their progress and outcome;
  - reviews under the CCRA relating to the offender’s conditional release and the timing and conditions of that release; and

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9        *Ibid.*

10       [Bill C-32, An Act to enact the Canadian Victims Bill of Rights and to amend certain Acts](#), 41<sup>st</sup> Parliament, 2<sup>nd</sup> Session (S.C. 2015, c. 13).

11       [Criminal Code](#), R.S.C., 1985, c. C-46.

12       [Corrections and Conditional Release Act](#), S.C. 1992, c. 20.

13       “The 2015 amendments included related law reforms on testimonial aids, victim impact statements and restitution, and introduced a new community impact statement provision.” See JUST, [Evidence](#), 29 March 2022 (Stéphanie Bouchard, Senior Legal Counsel and Director, Policy Centre for Victim Issues, Criminal Law Policy Section, Department of Justice).

14       [Canadian Victims Bill of Rights](#), S.C. 2015, c. 13, s. 2.



- hearings held for the purpose of making dispositions, as defined in section 672.1(1) of the Criminal Code, in relation to the accused, if the accused is found not criminally responsible on account of mental disorder or unfit to stand trial, and the dispositions made at those hearings.
- The right to protection (ss. 9 to 13) includes the right for victims to have their security considered by the authorities, protection from intimidation and retaliation, and protection of privacy and identity.
- The right to participation (ss. 14 and 15) includes participation in the process, among other things, by way of a victim impact statement.
- The right to restitution (ss. 16 and 17) includes the right to demand the court consider a restitution order, and, if a restitution order is made, but not paid, the right to have the order entered as a civil court judgment that is enforceable against the offender.

The statutory rights to information, to protection, to participation, and to seek restitution apply throughout the criminal justice process.<sup>15</sup> “The CVBR also requires, to the extent possible, that all federal statutes be interpreted in a manner consistent with victims’ rights under the CVBR.”<sup>16</sup> Furthermore, the CVBR requires an official complaint process for victims to address instances of when their rights are infringed or denied,<sup>17</sup> both at the federal and provincial levels.<sup>18</sup> Therefore, “[f]ollowing enactment of the CVBR, federal departments and agencies whose mandates involve working with victims of crime have implemented formal complaints mechanisms for victims.”<sup>19</sup> Provinces and territories have their own complaint mechanisms. With respect to funding, “the federal government made available through the Victims Fund, for provinces and territories, approximately \$10.6 million over the years from 2016 to 2020 to help support the implementation of the CVBR in their jurisdictions.”<sup>20</sup> More generally,

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15 JUST, *Evidence*, 3 June 2021 (Carole Morency, Director General and Senior General Counsel, Criminal Law Policy Section, Policy Sector, Department of Justice).

16 Ibid.; *Canadian Victims Bill of Rights*, S.C. 2015 c. 13 s.2, s. 21.

17 *Canadian Victims Bill of Rights*, S.C. 2015 c. 13 s.2, s. 25.

18 JUST, *Evidence*, 3 June 2021 (Carole Morency, Director General and Senior General Counsel, Criminal Law Policy Section, Policy Sector, Department of Justice).

19 Ibid.

20 Ibid.

[t]he federal victims strategy includes the victims fund, which has provided \$125 million from 2015 to 2020 in support of support different projects and initiatives, to provide for victims and different issues to help support them in different aspects of it. It's a grants and contributions program that is made available to provinces and territories, and also to groups and organizations.<sup>21</sup>

As explained by Carole Morency, “[s]ince 2015, significant individual and collaborative measures have been taken by all governments to advance and strengthen implementation of victims’ rights.”<sup>22</sup> However, there exist several gaps in fully understanding the impacts of the CVBR, as described by Heidi Illingworth, Executive Director of the Ottawa Victim Services, also the former Federal Ombudsman for Victims of Crime:

There is a lack of data collected, reported and recorded at all levels in relation to the rights that are provided in the bill. There has been no effort made to measure the impact of the bill or outcomes for victims. Significant investments are needed to improve the recording of data by all criminal justice institutions.<sup>23</sup>

In that sense, Heidi Illingworth indicated that Parliament can do more “to require institutions to collect and report data to measure their compliance with the act.”<sup>24</sup> In her progress report on the CVBR, she made the following recommendation:

Collect nationally consistent data on the treatment of victims in the criminal justice system and report on it publicly. Data indicators should align with the rights enumerated in the Canadian Victims Bill of Rights so that this information can be tracked and measured to evaluate how rights are being upheld across all jurisdictions. The Department of Justice should consider the creation of a Task Force on Victims’ Data that would bring together representatives of the Department of Justice with provincial and territorial attorneys general, academics and Statistics Canada in a national collaborative effort to achieve this goal.<sup>25</sup>

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21 JUST, *Evidence*, 3 June 2021 (Stéphanie Bouchard, Senior Legal Counsel and Director, Policy Centre for Victim Issues, Criminal Law Policy Section, Department of Justice).

22 JUST, *Evidence*, 3 June 2021 (Carole Morency, Director General and Senior General Counsel, Criminal Law Policy Section, Policy Sector, Department of Justice).

23 JUST, *Evidence*, 17 June 2022 (Heidi Illingworth, Executive Director, Ottawa Victim Services). Please note that Heidi Illingworth appeared in 2021 before the JUST Committee as Federal Ombudsman for Victims of Crime.

24 JUST, *Evidence*, 3 June 2021 (Heidi Illingworth, Ombudsman, Office of the Federal Ombudsman for Victims of Crime).

25 Office of the Federal Ombudsman for Victims of Crime, *Progress Report: The Canadian Victims Bill of Rights*, November 2020.



Other witnesses also recognized the lack of data regarding the implementation of the CVBR, the need for more detailed data and collaboration and information sharing with the provinces and territories in this regard.<sup>26</sup>

Benjamin Roebuck, the current Federal Ombudsman for Victims of Crime, who appeared before the Committee in June 2022 as Research Chair and Professor of Victimology and Public Safety at the Victimology Research Centre of the Algonquin College, also underlined some data gaps with regards to victims' services, notably the need for more integral race-based data "because there are discrepancies as to which communities benefit more from victims' services."<sup>27</sup> In a brief submitted to the Committee, the Centre for Research & Innovation for Black Survivors of Homicide Victims also highlighted "the lack of systematic race-based data in Canada" and recommended to the government of Canada to "advocate for race-based data collection relevant to social determinants of homicide (e.g., employment, housing, income, education, etc.)."<sup>28</sup>

Finally, in its brief to the Committee, the London Abused Women's Centre recommends:

That a comprehensive evaluation tool for the Victims Bill of Rights be developed in collaboration with women who have been victimized by their partners, traffickers and/or sex purchasers, those with lived experience. The evaluation tool could be in the form of an online survey, in-agency round table, or other creative ideas proposed by women.<sup>29</sup>

## 2.2 Office of the Federal Ombudsman for Victims of Crime

The Office of the Federal Ombudsman for Victims of Crime (OFOVC) was created in 2007 as an independent resource for victims of crime in Canada. The mandate of the OFOVC relates exclusively to matters of federal responsibility and includes:

- promoting access to existing federal programs and services for victims;

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26 For example, see JUST, [Evidence](#), 3 October 2022 (Arlène Gaudreault, President, Association québécoise Plaidoyer-Victimes); JUST, [Evidence](#), 29 September 2022 (Irvin Waller, Emeritus Professor, University of Ottawa, As an Individual); JUST, [Evidence](#), 17 June 2022 (Aline Vlasceanu, Executive Director, Canadian Resource Centre for Victims of Crime); JUST, [Brief](#), Canadian Centre for Child Protection, 21 July 2022.

27 JUST, [Evidence](#), 17 June 2022 (Benjamin Roebuck, Research Chair and Professor of Victimology and Public Safety, Victimology Research Centre, Algonquin College, As an Individual).

28 JUST, [Brief](#), Centre for Research & Innovation for Black Survivors of Homicide Victims, 24 October 2022.

29 JUST, [Brief](#), London Abused Women's Centre, 15 June 2021.

- addressing victims' complaints about compliance with the provisions of the *Corrections and Conditional Release Act* that apply to victims of crimes committed by offenders under federal jurisdiction;
- promoting awareness of the needs and concerns of victims and the applicable laws that benefit victims of crime, including promoting the principles set out in the Canadian Statement of Basic Principles of Justice for Victims of Crime, 2003 with respect to matters of federal jurisdiction, among criminal justice personnel and policy makers;
- identifying and reviewing emerging and systemic issues, including those issues related to programs and services provided or administered by the Department of Justice or the Department of Public Safety and Emergency Preparedness, that impact negatively on victims of crime; and
- facilitating access to existing federal programs and services by providing victims with information and referrals.<sup>30</sup>

Through an order in council, the Ombudsman is appointed by the Governor in Council for a term of three years, which may be renewed. The Ombudsman reports directly to and is accountable to the Minister of Justice.<sup>31</sup> In addition, the Ombudsman shall “submit an annual report on the activities of the Office of the Ombudsman to the Minister of Justice, and the Minister of Justice shall table the annual report in Parliament.”<sup>32</sup>

Heidi Illingworth, the former Federal Ombudsman for Victims of Crime, left her position on 1 October 2021. On 27 September 2022, Benjamin Roebuck was appointed to the position of Federal Ombudsman for Victims of Crime, effective 24 October 2022.<sup>33</sup>

During the study, the Honourable Pierre-Hugues Boisvenu, Senator, noted that the Federal Ombudsman for Victims of Crime currently reports to the Minister of Justice and

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30 Office of the Federal Ombudsman for Victims of Crime, Order in Council, [P.C. 2007-0355](#), 15 March 2007.

31 Ibid.

32 Ibid.

33 Minister of Justice, [Minister of Justice Announces New Federal Ombudsperson for Victims of Crime](#), News release, 27 September 2022; Government of Canada, [Orders In Council 2022-0998](#), 22 September 2022.



expressed his view that the Ombudsman should report directly to Parliament in order to protect the independence of the office and the continuity of the position.<sup>34</sup>

On the subject of whether the Ombudsman should report to the Minister of Justice or to Parliament, Benjamin Roebuck gave the following response:

I think there are benefits to both approaches, but I think that reporting to Parliament provides a stronger mandate for the office.

The intent of an ombudsperson is that it's an independent authority that has the right to bring a challenge to the current approach. There's a power imbalance if that reporting can be stopped at the Minister of Justice, who's approaching issues in a particular way, rather than the wider body that represents the interest of Canadians.

When we look at something as significant as criminal justice, input of governance from a wider body is appropriate. As Heidi said, I think a move in that direction would also necessitate a stronger portfolio of funding. Even if it's not a substantial increase, some increase to bolster that capacity would be an added benefit that would significantly help victims of crime.<sup>35</sup>

During the study, the former Federal Ombudsman for Victims of Crime, Heidi Illingworth, pointed out that, due to the OFOVC's limited budget and small number of full-time employees, there is a limit to the amount of work that the OFOVC can accomplish, particularly with regard to the number of systemic reviews or emerging issues it can handle.<sup>36</sup> In addition, several witnesses highlighted the importance of ensuring that the OFOVC has adequate funding to fulfill its mandate.<sup>37</sup>

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34 JUST, [Evidence](#), 21 June 2022 (The Hon. Pierre-Hugues Boisvenu, Senator); JUST, [Evidence](#), 8 June 2021 (The Hon. Pierre-Hugues Boisvenu, Senator).

35 JUST, [Evidence](#), 17 June 2022 (Benjamin Roebuck, Research Chair and Professor of Victimology and Public Safety, Victimology Research Centre, Algonquin College, As an Individual).

36 JUST, [Evidence](#), 17 June 2022 (Heidi Illingworth, Executive Director, Ottawa Victim Services).

37 JUST, [Evidence](#), 21 June 2022 (Jennifer Gold, Lawyer and Director of the Board, Women's Law Association of Ontario); JUST, [Evidence](#), 3 October 2022 (Arlène Gaudreault, President, Association québécoise Plaidoyer-Victimes); JUST, [Evidence](#), 17 June 2022 (Benjamin Roebuck, Research Chair and Professor of Victimology and Public Safety, Victimology Research Centre, Algonquin College, As an Individual); JUST, [Evidence](#), 8 June 2021 (Jo-Anne Wemmers, Full Professor, School of Criminology, International Centre for Comparative Criminology, Université de Montréal, As an Individual).



## CHAPTER 3: RESPECTING VICTIMS' RIGHTS: PROVINCIAL AND FEDERAL COLLABORATION IN THE ELABORATION OF MINIMAL STANDARDS

The Canadian criminal justice system is a shared responsibility—the federal government develops criminal law and procedure, while provinces and territories administer justice by way of enforcing and prosecuting offences and offering services to victims. Stéphanie Bouchard of the Department of Justice emphasized the federal funding role, while “immediate victim services and the administration of justice are the responsibility of the provinces and territories.”<sup>38</sup>

Given that the federal and provincial governments share responsibility for victims of crime and in light of existing disparities in the provinces’ approaches, the level of support and the services provided to victims across the country, several witnesses emphasized the need to develop minimum standards for victim services, while acknowledging that it falls to the provinces to decide how they want to establish the real administration of justice.<sup>39</sup> Several witnesses also noted that there are models and best practices that could be used to develop such standards.<sup>40</sup>

In particular, some witnesses supported the creation of a national task force, composed of federal and provincial government and victims’ representatives, that would establish best practices and minimum standards across the country.<sup>41</sup>

Irvin Waller, Professor at the University of Ottawa, recommended

a crime prevention and victim justice act. It would establish an office for crime prevention and victim justice, headed by a deputy minister and reporting to the Minister of Justice and/or the Minister of Public Safety. [...] The office would develop national

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38 JUST, *Evidence*, 3 June 2021 (Stéphanie Bouchard, Senior Legal Counsel and Director, Policy Centre for Victim Issues, Criminal Law Policy Section, Department of Justice).

39 See for example JUST, *Evidence*, 3 October 2022 (Kat Owens, Project Director, Women’s Legal Education and Action Fund) (Arlène Gaudreault, President, Association québécoise Plaidoyer-Victimes); JUST, *Evidence*, 29 September 2022 (Irvin Waller, Emeritus Professor, University of Ottawa, As an Individual) (Jo-Anne Wemmers, Full Professor, School of Criminology, International Centre for Comparative Criminology, Université de Montréal, As an Individual); JUST, *Evidence*, 21 June 2022 (The Hon. Pierre-Hugues Boisvenu, Senator); JUST, *Brief*, Canadian Centre for Child Protection, 21 July 2022.

40 See for example JUST, *Evidence*, 29 September (Jo-Anne Wemmers, Full Professor, School of Criminology, International Centre for Comparative Criminology, Université de Montréal, As an Individual) (Irvin Waller, Emeritus Professor, University of Ottawa, As an Individual); JUST, *Evidence*, 3 October 2022 (Arlène Gaudreault, President, Association québécoise Plaidoyer-Victimes).

41 JUST, *Evidence*, 3 October 2022 (Arlène Gaudreault, President, Association québécoise Plaidoyer-Victimes) (Kat Owens, Project Director, Women’s Legal Education and Action Fund).



standards—which we need—train officials and others, fund research and development and ensure that data collection is focused on results.<sup>42</sup>

The Committee recognizes that it is important for all levels of government and community organizations that work with victims to collaborate in order to provide victims with proper support. In light of the testimony heard, the Committee recommends the following:

### **Recommendation 1**

**That the Department of Justice establish a national working group with federal and provincial government officials, representatives from community organizations that work with victims, and victims’ representatives to agree on national best practices and minimum standards for victims of crime, particularly as regards the level of support and the services available to victims.**

## **CHAPTER 4: SERVICES FOR VICTIMS OF CRIME**

Throughout the study, the Committee learned of the ways in which victims’ services could be improved across Canada. Three main themes emerged from the testimonies: sustainable core funding, accessible support services, tailored to diverse victims’ needs, such as therapy and counselling, and legal assistance.

Heidi Illingworth, then Federal Ombudsman for Victims of Crime, described the current issue with victims’ services:

Parliament should also amend the legislation to guarantee access to support services for victims with regard to their medical, psychological, legal and safety needs. That means we need to increase the capacity of victim-serving organizations and community-based restorative justice programs through sustainable core funding to ensure that victims can access services in every part of this country.<sup>43</sup>

In addition, as mentioned in Chapter 3, the Committee recognizes the importance of collaboration between different levels of governments, particularly when it comes to victims’ services.

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42 JUST, *Evidence*, 29 September 2022 (Irvin Waller, Emeritus Professor, University of Ottawa, As an Individual).

43 JUST, *Evidence*, 3 June 2021 (Heidi Illingworth, Ombudsman, Office of the Federal Ombudsman for Victims of Crime).

## 4.1 Sustainable Core Funding

During the study, some witnesses discussed the general need for more funding to improve victims' services in Canada.<sup>44</sup>

Particularly, Heidi Illingworth, in her 2020 Progress Report on the CVBR, outlined a recommendation directly related to core funding:

Strengthen and increase the capacity of victim support organizations by providing sustained, stable funding instead of time-limited project funds and grants, and evaluate the effectiveness of them. As well, provide sustainable core funding for community-based restorative justice programs.<sup>45</sup>

Steve Sullivan, Director of Victim Services at Mothers Against Drunk Driving, explained that in some provinces, most funding for victims' services comes from "victim surcharges through the *Criminal Code*, or through their own provincial surcharges."<sup>46</sup> He indicated that the federal government currently funds some programs, but that it is often short-term funding and tied to a project.<sup>47</sup>

Kat Owens, Project Director at the Women's Legal Education and Action Fund (LEAF), called for more "sustained core funding" for frontline service providers before the Committee, meaning funding that is not tied to individual projects.<sup>48</sup> She explained how

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44 For example, see JUST, [Evidence](#), 3 June 2021 (Heidi Illingworth, Ombudsman, Office of the Federal Ombudsman for Victims of Crime); JUST, [Evidence](#), 21 June 2022 (Jennifer Gold, Lawyer and Director of the Board, Women's Law Association of Ontario) (Jaymie-Lyne Hancock, National President, Mothers Against Drunk Driving) (Steve Sullivan, Director of Victim Services, Mothers Against Drunk Driving) (Emilie Coyle, Executive Director of the Canadian Association of Elizabeth Fry Societies); JUST, [Evidence](#), 29 September 2022 (Irvin Waller, Emeritus Professor, University of Ottawa, As an Individual); JUST, [Evidence](#), 3 October 2022 (Monique St. Germain, General Counsel, Canadian Centre for Child Protection Inc.) (Kat Owens, Project Director, Women's Legal Education and Action Fund).

45 Office of the Federal Ombudsman for Victims of Crime, [Progress Report: The Canadian Victims Bill of Rights](#), November 2020.

46 JUST, [Evidence](#), 21 June 2022 (Steve Sullivan, Director of Victim Services, Mothers Against Drunk Driving); When she appeared before the Committee in 2021, Carole Morency from the Department of Justice added the following : "The former Bill C-75 on criminal justice system delays enhanced victim safety, particularly for victims of intimate partner violence, including at bail and sentencing. It also re-enacted a new victim surcharge regime—an important source of revenue for provinces and territories—in response to the Supreme Court's decision in *R. v. Boudreault*." JUST, [Evidence](#), 3 June 2021 (Carole Morency, Director General and Senior General Counsel, Criminal Law Policy Section, Policy Sector, Department of Justice).

47 JUST, [Evidence](#), 21 June 2022 (Steve Sullivan, Director of Victim Services, Mothers Against Drunk Driving).

48 JUST, [Evidence](#), 3 October 2022 (Kat Owens, Project Director, Women's Legal Education and Action Fund).



this type of funding would “allow organizations to provide more effective and accessible services to survivors across the country.”<sup>49</sup>

## 4.2 The Need for Better Support Services

### 4.2.1 The Need for Therapy Services

During the study, several witnesses told the Committee about the lack of accessible mental health services and supports for victims across Canada, and stressed the need for improved supports.<sup>50</sup>

Heidi Illingworth indicated that it is important to examine the lack of access to victims’ services, including mental health supports.<sup>51</sup> Particularly, she included a recommendation in this regard in her 2020 Progress Report on the CVBR: “Amend the *Canadian Victims Bill of Rights* to guarantee access to victim assistance or support. Articles 14 to 17 of the UN Declaration address victims’ rights to medical, psychological, legal and social assistance.”<sup>52</sup>

Some witnesses indicated that victims of crime may not have the resources to pay for mental health services.<sup>53</sup> Morrell Andrews and Dianne Ilesic indicated that they had to pay therapy fees from their own pockets.<sup>54</sup> According to Aline Vlasceanu, Executive Director for the Canadian Resource Centre for Victims of Crime, adequate resources is the biggest hurdle to accessing mental health supports.<sup>55</sup> Long waitlists, minimal

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49 Ibid.

50 For example, see JUST, [Evidence](#), 3 October 2022 (Monique St. Germain, General Counsel, Canadian Centre for Child Protection Inc.); JUST, [Evidence](#), 21 June 2022 (Holly Lucier, Paralegal, Families For Justice); JUST, [Evidence](#), 21 June 2022 (Markita Kaulius, President, Families For Justice) (Jennifer Gold, Lawyer and Director of the Board, Women’s Law Association of Ontario); JUST, [Evidence](#), 17 October 2022 (Marie-Hélène Ouellette, Coordinator and Case Worker, L’Élan, Centre d’aide et de lutte contre les agressions à caractère sexuel); JUST, [Evidence](#), 6 October 2022 (Dianne Ilesic, As an Individual).

51 JUST, [Evidence](#), 3 June 2021 (Heidi Illingworth, Ombudsman, Office of the Federal Ombudsman for Victims of Crime).

52 Office of the Federal Ombudsman for Victims of Crime, [Progress Report: The Canadian Victims Bill of Rights](#), November 2020.

53 For example, see JUST, [Evidence](#), 21 June 2022 (Holly Lucier, Paralegal, Families For Justice); JUST, [Evidence](#), 6 October 2022 (Dianne Ilesic, As an Individual); JUST, [Evidence](#), 17 June 2022 (Aline Vlasceanu, Executive Director, Canadian Resource Centre for Victims of Crime).

54 JUST, [Evidence](#), 6 October 2022 (Dianne Ilesic, As an Individual) (Morrell Andrews, As an Individual).

55 JUST, [Evidence](#), 17 June 2022 (Aline Vlasceanu, Executive Director, Canadian Resource Centre for Victims of Crime).

compensation and the limited number of therapy sessions available to each victim are barriers for victims trying to access services.<sup>56</sup>

Jennifer Gold, Lawyer and Director of the Women’s Law Association of Ontario, suggested extending counselling funding for victims to their children and other survivors impacted by the crime.<sup>57</sup>

The Committee recognizes that support services, including mental health supports, are essential to victims of crime. The Committee agrees that the CVBR should recognize the need of victims to access assistance or support. The Committee also wishes to emphasize that, given that justice is an area of shared jurisdiction, the establishment of minimum standards for victim supports must involve provincial and territorial governments. In light of the evidence, the Committee recommends:

#### **Recommendation 2**

**That the *Canadian Victims Bill of Rights* be amended to establish a right to access victim assistance and support.**

#### **Recommendation 3**

**That the Minister of Justice work with their provincial and territorial counterparts as well as victims and community organizations to agree on minimum standards for supports to be provided to victims of crime across Canada, including mental health supports, and that increased funding be provided to the provinces and territories to support victims’ access to these supports.**

### **4.2.2 The Need for Services Tailored to Diverse Victims’ Needs**

The Committee heard from several witnesses who emphasized how the government must adopt a victim-centred or survivor-centred lens, to best protect them.<sup>58</sup> This means

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56 Ibid.

57 JUST, *Evidence*, 21 June 2022 (Jennifer Gold, Lawyer and Director of the Board, Women’s Law Association of Ontario).

58 For example JUST, *Evidence*, 3 October 2022 (Kat Owens, Project Director, Women’s Legal Education and Action Fund); JUST, *Evidence*, 17 June 2022 (Benjamin Roebuck, Research Chair and Professor of Victimology and Public Safety, Victimology Research Centre, Algonquin College, As an Individual); JUST, *Evidence*, 3 June 2021 (Carole Morency, Director General and Senior General Counsel, Criminal Law Policy Section, Policy Sector, Department of Justice); JUST, *Evidence*, 29 September 2022 (Jo-Anne Wemmers, Full Professor, School of Criminology, International Centre for Comparative Criminology, Université de Montréal, As an Individual).



giving the victim agency, choice and varied options throughout the process.<sup>59</sup> Survivors from marginalized groups, notably Black, Indigenous, trans or criminalized victims, may otherwise feel “unsafe to come forward and engage with formal legal systems.”<sup>60</sup>

During the study, the Committee came to understand how important services need to be adapted to diverse victims’ needs. Not only is there a lack of services accessible to victims from marginalized groups, but the few options which do exist are stretched thin; Heidi Illingworth remarked that the current funding allocated to victims’ funds over the last six years “is not nearly enough funding to do the work that needs to be done to support communities that are overrepresented as victims.”<sup>61</sup> More diverse hiring practices and increased funding are crucial to support more culturally competent and culturally humble services.<sup>62</sup>

As outlined below, the Committee heard from several witnesses about issues relating to specific groups.

Heidi Illingworth indicated that Indigenous victims of crime need to see more culturally competent services, specifically the hiring of Indigenous staff, so that members of the community will feel comfortable to come forward.<sup>63</sup> She emphasized the successful work of family information liaison units across Canada in 2016. She explained that these units are successful because of their cultural know-how; they’re able to work directly with families and support their healing.<sup>64</sup> The Truth and Reconciliation Commission of Canada has laid out several relevant calls to action regarding victims’ services for Indigenous victims of crime.<sup>65</sup>

In a brief submitted to the Committee, the Centre for Research & Innovation for Black Survivors of Homicide Victims highlighted that

[d]espite estimates, the lack of systematic race-based data in Canada significantly underestimates the extent of mental and or psychological harm facing Black people as a

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59 JUST, [Evidence](#), 3 October 2022 (Kat Owens, Project Director, Women’s Legal Education and Action Fund).

60 Ibid.

61 JUST, [Evidence](#), 3 June 2021 (Heidi Illingworth, Ombudsman, Office of the Federal Ombudsman for Victims of Crime).

62 Ibid.

63 Ibid.

64 Ibid.

65 JUST, [Evidence](#), 3 October 2022 (Kat Owens, Project Director, Women’s Legal Education and Action Fund); JUST, [Evidence](#), 6 October 2022 (Morrell Andrews, As an Individual); Truth and Reconciliation Commission of Canada, [Calls to Action](#), final report, 2015. For example, see Call to action 36, 41 and 57.

result of experiencing homicide. The overrepresentation of racialized survivors of homicide victims, especially those from Black communities, highlights the increasing need for victim services to be well versed in the provision of support services in a culturally responsive manner.<sup>66</sup>

Benjamin Roebuck told the Committee that “minoritized or racialized populations are served by more informal mechanisms of support than the traditional systems.”<sup>67</sup> He explained the following:

In the research we’ve done with victims of crime and with victims’ services providers, we have two very large surveys of folks across Canada who have either been affected by crime or involved in the victims’ services sector. Both have predominately white samples, even through outreach through formal organizations.

To reach other people, we need to get into some of those informal support mechanisms. In Ottawa, for example, there’s a pastor who has done seven funerals for Black homicide victims. Because the burden as a Black minister is so large, that community connects with him.

There are people who are working so hard who need support. We need to validate our data to be able to identify these gaps and say that there’s work to be done. We need to shift resources into outreach and into connecting with these groups.<sup>68</sup>

Heidi Illingworth concurred with Benjamin Roebuck and indicated that “we have to start looking at this race-based data about which victims are not accessing services and support.”<sup>69</sup> She added that “[a] lot of the data we have ... [is] really showing that we’re serving white settlers. We’re not serving, perhaps, many groups who are being really negatively impacted by violence.”<sup>70</sup> She further explained that since Black people, Indigenous people, and people of colour are “overpoliced and overrepresented in the criminal justice system,” it is clear that these groups are “under protected as victims.”<sup>71</sup>

Some witnesses also mentioned the specific supports needed for 2SLGBTQQIA+ victims. Marie-Hélène Ouellette, Coordinator and Case Worker, L’Élan, Centre d’aide et de lutte contre les agressions à caractère sexuel, explained how members of the 2SLGBTQQIA+

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66 JUST, [Brief](#), Centre for Research & Innovation for Black Survivors of Homicide Victims, 24 October 2022.

67 JUST, [Evidence](#), 17 June 2022 (Benjamin Roebuck, Research Chair and Professor of Victimology and Public Safety, Victimology Research Centre, Algonquin College, As an Individual).

68 Ibid.

69 JUST, [Evidence](#), 17 June 2022 (Heidi Illingworth, Executive Director, Ottawa Victim Services).

70 Ibid.

71 Ibid.



community “experience more sexual violence.”<sup>72</sup> Heidi Illingworth told the Committee how “the CVBR must be strengthened to better support all victims and survivors of crime, “as “fundamental gaps and challenges remain for victims, especially racialized and 2SLGBTQIA+ people.”<sup>73</sup>

Furthermore, Heidi Illingworth underlined the lack of services accessible to victims living in remote rural communities. She explained that mental health supports are needed in “remote rural areas where there just isn’t funding and capacity to deliver all those services at times,”<sup>74</sup> and that “the more rural and the further north you live, the fewer services and supports are available to access.”<sup>75</sup> Stéphanie Bouchard from the Department of Justice explained how the victims fund has supported a number of projects aimed at providing support, “such as ensuring that cellphones are being provided to more remote communities when there is need.”<sup>76</sup> Jennifer Gold of the Women’s Law Association of Ontario suggested that “[a]dditional support could include a 24-hour counselling or resource hotline for victims” in order to “address the limited services that are available in remote and rural communities.”<sup>77</sup>

Jo-Anne Wemmers, professor at the Université de Montréal, underlined that victims’ needs depend on the situation and gave the example of new migrants and refugees:

The impact of the crime is one thing, but their resources will determine, to some extent, the needs of the victim. For those who are new migrants, maybe even refugees, new to the country, their situation of vulnerability is often more precarious in terms of financial resources and not having the informal support network or family here in Canada to provide them with the psychosocial or emotional support that others may have.

There might be legal complications as well. There might be consequences for their status as a landed immigrant or as a refugee. In particular, I’m thinking of victims of domestic violence, for example, whose offender is a new immigrant, as they are, and not a Canadian citizen. This may have consequences for the status of the person and

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72 JUST, [Evidence](#), 17 October 2022 (Marie-Hélène Ouellette, Coordinator and Case Worker, L’Élan, Centre d’aide et de lutte contre les agressions à caractère sexuel).

73 JUST, [Evidence](#), 3 June 2021 (Heidi Illingworth, Ombudsman, Office of the Federal Ombudsman for Victims of Crime).

74 Ibid.

75 JUST, [Evidence](#), 17 June 2022 (Heidi Illingworth, Executive Director, Ottawa Victim Services).

76 JUST, [Evidence](#), 3 June 2021 (Stéphanie Bouchard, Senior Legal Counsel and Director, Policy Centre for Victim Issues, Criminal Law Policy Section, Department of Justice).

77 JUST, [Evidence](#), 21 June 2022 (Jennifer Gold, Lawyer and Director of the Board, Women’s Law Association of Ontario).



their ability to remain in Canada, and if it's a family, there will be consequences for all the family.<sup>78</sup>

Marie-Hélène Ouellete of the Centre d'aide et de lutte contre les agressions à caractère sexuel explained that victims living with disabilities require unique support; in particular, individuals living with developmental disabilities

are very likely to experience sexual violence because they are dependent on others, including caregivers. These are also people who receive little to no sexuality education, as if they couldn't possibly have a sex life. Silence around sexuality education leaves a lot of room for a potential abuser.<sup>79</sup>

Monique St. Germain, General Counsel at the Canadian Centre for Child Protection Inc., also stressed the needs of child victims of sexual abuse when it comes to support, notably when online material has been produced because of the safety concerns it creates and the long-term impact on their lives:

For example, when they go to counselling, the counsellor often doesn't know how to deal with the imagery piece of the victimization. Of course, the imagery victimization is ongoing. There's the initial abuse, where the child is abused and the abuse is recorded. Then that recording continues to circulate online and continues to instill fear in the victim. Their counselling needs are very different from counselling needs that may exist for other victims for whom the crime is, in fact, over. For these victims, their past is their present.<sup>80</sup>

Emily Coyle, Executive Director of the Canadian Association of Elizabeth Fry Societies, explained that, at times, there exists a "false" binary distinction between who is a victim and who is a perpetrator of crime:<sup>81</sup>

Most people in prison have experienced substantial adverse events in childhood and adulthood. For example, if you look to the Office of the Correctional Investigator's research, it has shown that at least half of the people in federal prisons have a history of childhood physical, sexual and/or emotional abuse, and those numbers are even higher in the prisons designated for women.

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78 JUST, [Evidence](#), 29 September 2022 (Jo-Anne Wemmers, Full Professor, School of Criminology, International Centre for Comparative Criminology, Université de Montréal, As an Individual).

79 JUST, [Evidence](#), 17 October 2022 (Marie-Hélène Ouellette, Coordinator and Case Worker, L'Élan, Centre d'aide et de lutte contre les agressions à caractère sexuel).

80 JUST, [Evidence](#), 3 October 2022 (Monique St. Germain, General Counsel, Canadian Centre for Child Protection Inc.). See also, JUST, [Brief](#), Canadian Centre for Child Protection, 21 July 2022.

81 JUST, [Evidence](#), 21 June 2022 (Emilie Coyle, Executive Director, Canadian Association of Elizabeth Fry Societies).



By creating a narrative that portrays a false binary between those who experience violence, we are encouraging a system and a culture that does not adopt an informed or responsible analysis of harm. For example—and this is a key one for us—the majority of street-level crime is inflicted by poor people on other poor people. A solution is not to incarcerate these people in a violent place like a prison. The solution is to ensure that there are no more poor people by eradicating poverty.<sup>82</sup>

Regarding criminalized victims, she explained that “[w]hether a prison sentence is five years or 10 years, if somebody is not able to heal because they don’t have the psychological or therapeutic supports, then the length of the sentence doesn’t matter.”<sup>83</sup>

Finally, Jessica Reid, the Executive Director of Programs and Research for Kids with Incarcerated Parents (KIP) Canada, explained that for children with parents in the justice system, support services are crucial in fostering academic success and employment.<sup>84</sup> Furthermore, the current barriers that bar incarcerated parents from having contact with their children jeopardize “rehabilitating the family unit.”<sup>85</sup> However, children of incarcerated parents are often not considered as victims under the CVBR, and KIP Canada recommends giving them that status under the law.<sup>86</sup>

### 4.3 Legal Aid and Demystifying the Legal Process

The Committee learned about how a confusing legal system only adds to victims’ challenges.<sup>87</sup> Without proper advocacy during the legal process, victims and their families are “blindsided.”<sup>88</sup> For instance, Jennifer Gold of the Women’s Law Association of Ontario explained that after attending court, families “don’t understand what just happened. They don’t understand the process. They don’t understand the decisions that were made and why. There isn’t anybody there to follow up with them.”<sup>89</sup>

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82 Ibid.

83 Ibid.

84 JUST, [Evidence](#), 8 June 2021 (Jessica Reid, Executive Director of Programs and Research, Kids with Incarcerated Parents (KIP) Canada).

85 Ibid.

86 JUST, [Brief](#), Kids with Incarcerated Parents (KIP) Canada, 7 June 2021.

87 For example, see JUST, [Evidence](#), 21 June 2022 (Jennifer Gold, Lawyer and Director of the Board, Women’s Law Association of Ontario) (Holly Lucier, Paralegal, Families For Justice); JUST, [Brief](#), Sheri Arseneault, 29 September 2022.

88 JUST, [Evidence](#), 21 June 2022 (Jennifer Gold, Lawyer and Director of the Board, Women’s Law Association of Ontario).

89 Ibid.

Heidi Illingworth noted the importance of informing victims of what their rights are and how to exercise them. As will be explained in Chapter 5, she pointed to the CVBR’s silence with regard to holding the officials of the criminal justice system accountable to inform victims.<sup>90</sup>

Jody Berkes of the Canadian Bar Association explained to the Committee that currently “any complainant in any criminal matter always has the right to retain counsel,”<sup>91</sup> but “[t]he question boils down to who is going to pay for that service.”<sup>92</sup> He added that the Criminal Justice Section of the Canadian Bar Association would welcome additional funding to help victims access legal counsel:

The section supports, as a general proposition, increasing resources to allow complainants to receive independent legal advice on the criminal justice process. Independent legal advice assists proper functioning of the criminal justice process by respecting the Crown’s role as an independent minister of justice and not as an advocate for the complainant, as well as the court’s role as an adjudicator rather than as a party that assists the participants in understanding and navigating the legal system.<sup>93</sup>

Similarly, Kat Owens, Project Director at LEAF, indicated that

we need to make changes to our existing legal responses to make them more accessible to those survivors who choose to engage with legal systems. Free and independent legal advice and representation must be made available to survivors of gender-based violence. This is crucial for them to understand their options and their legal rights and how to navigate the justice system.<sup>94</sup>

Regarding access to counsel, Jennifer Gold suggested utilizing and funding provincial legal aid so eligible victims may access representation:

As an alternative to full representation, four-hour certificates can be given to victims to obtain a lawyer and to learn about the court process and criminal law itself. Additional funding could be given to legal aid programs so that family lawyers could pursue the tort of family violence.<sup>95</sup>

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90 JUST, *Evidence*, 3 June 2021 (Heidi Illingworth, Ombudsman, Office of the Federal Ombudsman for Victims of Crime).

91 JUST, *Evidence*, 8 June 2021 (Jody Berkes, Chair, Criminal Justice Section, The Canadian Bar Association).

92 Ibid.

93 Ibid.

94 JUST, *Evidence*, 3 October 2022 (Kat Owens, Project Director, Women’s Legal Education and Action Fund).

95 JUST, *Evidence*, 21 June 2022 (Jennifer Gold, Lawyer and Director of the Board, Women’s Law Association of Ontario).



During the study, Arlène Gaudreault, President of the Association québécoise Plaidoyer-Victimes, noted that there was sometimes duplication of funding at the federal and provincial levels for some programs, and that there were “duplications in legal assistance services.”<sup>96</sup> In addition, she underlined that some improvements related to legal assistance services have been made:

There are more and more legal assistance services that offer legal information and advice, because there is a lack of representation in some cases. A lot of initiatives have been put in place, particularly when it comes to preparing witnesses. The system is much criticized, but we do not hear a lot about the advances and the measures that are made available to victims.<sup>97</sup>

Finally, regarding the rights of children and youth with incarcerated parents, Jessica Reid, the Executive Director of Programs and Research at KIP Canada, explained that the children her organization supports do not receive any “legal representation in any of their cases in terms of their rights.”<sup>98</sup>

#### 4.4 Compensation of Victims of Crime

During the study, some witnesses underlined that the federal government should ensure that victims across Canada have access to compensation programs.<sup>99</sup> In the past, the federal government provided funding to victim compensation programs across the country.<sup>100</sup> Some witnesses explained to the Committee that since these cost-sharing programs no longer exist, provinces and territories must currently shoulder the cost burden of compensation.<sup>101</sup>

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96 JUST, *Evidence*, 3 October 2022 (Arlène Gaudreault, President, Association québécoise Plaidoyer-Victimes).

97 Ibid.

98 JUST, *Evidence*, 8 June 2021 (Jessica Reid, Executive Director of Programs and Research, Kids with Incarcerated Parents (KIP) Canada).

99 For example, see JUST, *Evidence*, 8 June 2021 (Jo-Anne Wemmers, Full Professor, School of Criminology, International Centre for Comparative Criminology, Université de Montréal); JUST, *Evidence*, 8 June 2021 (The Hon. Pierre-Hugues Boisvenu, Senator); JUST, *Evidence*, 29 September 2022 (Irvin Waller, Emeritus Professor, University of Ottawa, As an Individual).

100 For more information on the funding cuts of 1992, as mentioned by Gaudreault and Sullivan in their respective testimonies, see the report submitted by Wemmers to the Office of the Federal Ombudsman for Victims of Crime: Dr. Jo-Anne Wemmers, *Compensating Crime Victims*, Report prepared for the Office of the Federal Ombudsman for Victims of Crime, March 2021.

101 For example, see JUST, *Evidence*, 3 October 2022 (Arlène Gaudreault, President, Association québécoise Plaidoyer-Victimes); JUST, *Evidence*, 21 June 2022 (Steve Sullivan, Director of Victim Services, Mothers Against Drunk Driving).

While some provinces already have compensation programs, some witnesses raised the issue of adequate funds and explained how these programs are not offered equally from province to province.<sup>102</sup>

Jo-Anne Wemmers, professor at Université de Montréal, explained that provincial compensation programs are often limited to specific crimes:

Even when they are available, they are often limited to victims of violent crime, ignoring the tremendous impact on victims of such non-violent crimes as cyber-victimization, fraud and identity theft. As well, victims of terrorism are not always included. I would include domestic and international terrorism in that.<sup>103</sup>

Furthermore, Steve Sullivan of Mothers Against Drunk Driving, explained how, in the context of victims of impaired driving, they “are not eligible for compensation programs” since they have access to insurance and settlements, but “obviously, like everybody else, they’re in long waiting lines to get access to professional help.”<sup>104</sup>

In this context, some witnesses underlined the need for minimal standards to guarantee basic services reliably across the country to victims of crime.<sup>105</sup>

## CHAPTER 5: RIGHT TO INFORMATION

### 5.1 The Right to Information as a Gateway Right

As mentioned in Chapter 2, sections 6 to 8 of the CVBR outline the right of victims to information. During the study, many witnesses emphasized to the Committee that it is a foundational right, because if victims do not receive the right information, they cannot exercise their other rights under the CVBR or under other Acts.<sup>106</sup> Some federal officials told the Committee about initiatives to support victims’ right to information and ensure

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102 For example, see JUST, *Evidence*, 8 June 2021 (Jo-Anne Wemmers, Full Professor, School of Criminology, International Centre for Comparative Criminology, Université de Montréal) (The Hon. Pierre-Hugues Boisvenu, Senator).

103 JUST, *Evidence*, 29 September 2022 (Jo-Anne Wemmers, Full Professor, School of Criminology, International Centre for Comparative Criminology, Université de Montréal, As an Individual).

104 JUST, *Evidence*, 21 June 2022 (Steve Sullivan, Director of Victim Services, Mothers Against Drunk Driving).

105 For example, see JUST, *Evidence*, 8 June 2021 (Jo-Anne Wemmers, Full Professor, School of Criminology, International Centre for Comparative Criminology, Université de Montréal) (The Hon. Pierre-Hugues Boisvenu, Senator).

106 See for example, JUST, *Evidence*, 3 June 2021 (Heidi Illingworth, Ombudsman, Office of the Federal Ombudsman for Victims of Crime); JUST, *Evidence*, 8 June 2021 (Jody Berkes, Chair, Criminal Justice Section, The Canadian Bar Association).



they are aware of their rights, including publishing information products in multiple languages and developing communication and outreach strategies.<sup>107</sup>

However, during the study, a number of witnesses emphasized that victims did not receive adequate information and had a limited understanding of their rights at every step in the judicial process.<sup>108</sup> Furthermore, then Federal Ombudsman for Victims of Crime, Heidi Illingworth, who has called information a “gateway right,” said that her office received similar complaints no matter which province or territory a victim was from: victims are “not necessarily being informed of their rights and when they report to the police, they’re not aware.”<sup>109</sup>

If victims are not informed at the outset, they cannot decide “whether proceeding through the criminal justice system is what they want to do.”<sup>110</sup> Some witnesses gave sobering examples of what could happen if victims do not get relevant information: they could miss the opportunity to participate in a hearing, to be consulted about a life-altering decision, to submit a victim impact statement or to share their concerns about their personal safety; they could also unknowingly come into contact with the offender after they are released back into the community.<sup>111</sup>

At this time, victims do not receive information unless they request it. Several witnesses said that this burden should not fall on the victims’ shoulders and that victims should

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107 See for example, JUST, [Evidence](#), 3 June 2021 (Carole Morency, Director General and Senior General Counsel, Criminal Law Policy Section, Policy Sector, Department of Justice); JUST, [Evidence](#), 29 March 2022 (Chad Westmacott, Director General, Community Safety, Corrections and Criminal Justice Directorate, Crime Prevention Branch, Department of Public Safety and Emergency Preparedness) (Kirstan Gagnon, Assistant Commissioner, Communications and Engagement Sector, Correctional Service of Canada) (Ian Broom, Director General, Policy and Operations, Parole Board of Canada).

108 For example, see JUST, [Evidence](#), 17 October 2022 (Marie-Hélène Ouellette, Coordinator and Case Worker, L’Élan, Centre d’aide et de lutte contre les agressions à caractère sexuel); JUST, [Evidence](#), 6 October 2022 (Morrell Andrews, As an Individual); JUST, [Evidence](#), 3 October 2022 (Brenda Davis, As an Individual); JUST, [Evidence](#), 17 June 2022 (Benjamin Roebuck, Research Chair and Professor of Victimology and Public Safety, Victimology Research Centre, Algonquin College, As an Individual) (Aline Vlasceanu, Executive Director, Canadian Resource Centre for Victims of Crime); JUST, [Brief](#), Sheri Arsenault, 29 September 2022; JUST, [Brief](#), Canadian Centre for Child Protection, 21 July 2022.

109 JUST, [Evidence](#), 3 June 2021 (Heidi Illingworth, Ombudsman, Office of the Federal Ombudsman for Victims of Crime). See also Office of the Federal Ombudsman for Victims of Crime, [Information as a gateway right: Examining complaints related to the Canadian Victims Bill of Rights](#), January 2021.

110 JUST, [Evidence](#), 3 June 2021 (Heidi Illingworth, Ombudsman, Office of the Federal Ombudsman for Victims of Crime).

111 JUST, [Evidence](#), 17 June 2022 (Benjamin Roebuck, Research Chair and Professor of Victimology and Public Safety, Victimology Research Centre, Algonquin College, As an Individual) (Aline Vlasceanu, Executive Director, Canadian Resource Centre for Victims of Crime).

receive this information automatically.<sup>112</sup> According to Jennifer Gold of the Women’s Law Association of Ontario, it would mean that victims could choose whether to engage with information, and making notifications mandatory could be beneficial, “especially [for] people from historically marginalized communities who may not feel comfortable approaching government or various agencies.”<sup>113</sup>

Some witnesses explained that victims’ need for information continues throughout the judicial process. Sheri Arsenault explained how difficult it is to obtain information:

Right off the bat, with regard to the justice system, there are resources out there, but nobody tells you about them. If you don't have someone among you who digs deep to find resources, you don't even know that you have to register for parole hearings. A lot of times, in fact, people don't even know when the next court date is coming up, because the prosecutors may not engage.<sup>114</sup>

Morrell Andrews described her experience in the judicial process as follows: “[r]egarding information, it was like pulling teeth to try to understand how to navigate the legal process.”<sup>115</sup>

Brenda Davis explained that, despite being accompanied during the trial, when the proceedings ended, no more information was provided to her and her family. They then tried their best “to find ways to get information on what was going to happen, what was coming next and how long until it was going to happen.”<sup>116</sup>

In addition, victims might be so devastated in the moment that they do not want to be involved in the judicial process or take advantage of resources, but with time things may change and they may want to take on a more active role and access certain services.<sup>117</sup>

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112 For example, see JUST, [Evidence](#), 3 June 2021 (Heidi Illingworth, Ombudsman, Office of the Federal Ombudsman for Victims of Crime); JUST, [Evidence](#), 17 June 2022 (Aline Vlasceanu, Executive Director, Canadian Resource Centre for Victims of Crime); JUST, [Evidence](#), 8 June 2021 (Jo-Anne Wemmers, Full Professor, School of Criminology, International Centre for Comparative Criminology, Université de Montréal, As an Individual); JUST, [Evidence](#), 21 June 2022 (Jennifer Gold, Lawyer and Director of the Board, Women’s Law Association of Ontario); JUST, [Evidence](#), 3 October 2022 (Brenda Davis, As an Individual).

113 JUST, [Evidence](#), 21 June 2022 (Jennifer Gold, Lawyer and Director of the Board, Women’s Law Association of Ontario).

114 JUST, [Evidence](#), 29 September 2022 (Sheri Arsenault, As an Individual).

115 JUST, [Evidence](#), 6 October 2022 (Morrell Andrews, As an Individual).

116 JUST, [Evidence](#), 3 October 2022 (Brenda Davis, As an Individual).

117 Ibid.; JUST, [Evidence](#), 21 June 2022 (Holly Lucier, Paralegal, Families For Justice); JUST, [Evidence](#), 29 September 2022 (Sheri Arsenault, As an Individual).



Holly Lucier, Paralegal at Families For Justice, used her own personal experience as an example:

I know that with victim services, sometimes they will call and ask you if you want the support. A lot of families say, no, but they actually don't recall having those conversations and so I think the mandatory provision of information would alleviate that burden. In my case, I actually told victim services that I didn't need any support and I have no recollection of ever having that conversation, because it was right at the beginning. Having it be mandatory and having things follow up, I think, would alleviate a lot of the later concerns that come.<sup>118</sup>

However, other witnesses were unsure whether providing information to victims automatically was the right way to proceed, pointing out that some of them do not want to follow the judicial proceedings and that victims' needs vary.<sup>119</sup> According to these witnesses, it is important to consult victims to learn what they need in this area.<sup>120</sup>

With regard to information about offenders in particular, Chad Westmacott of the Department of Public Safety and Emergency Preparedness explained that victims can register with Correctional Service Canada and the PBC to receive the information to which they are entitled under the CVBR.<sup>121</sup> He explained that

[m]oving to a system where the victims automatically receive our information does not respect that trauma-informed response or the choice of victims. It is very important that victims have that opportunity to decide if they want to receive that information, or have the ability to not receive that information if they do not want to receive it.<sup>122</sup>

However, Sheri Arsenault said that victims often do not realize that they have to register with these organizations.<sup>123</sup> Kirstan Gagnon of Correctional Service Canada (CSC) reported that, according to CSC data, the victims who are registered to obtain

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118 JUST, [Evidence](#), 21 June 2022 (Holly Lucier, Paralegal, Families For Justice).

119 JUST, [Evidence](#), 3 October 2022 (Kat Owens, Project Director, Women's Legal Education and Action Fund) (Arlène Gaudreault, President, Association québécoise Plaidoyer-Victimes).

120 Ibid.

121 JUST, [Evidence](#), 29 March 2022 (Chad Westmacott, Director General, Community Safety, Corrections and Criminal Justice Directorate, Crime Prevention Branch, Department of Public Safety and Emergency Preparedness).

122 Ibid.

123 JUST, [Evidence](#), 29 September 2022 (Sheri Arsenault, As an Individual).



information are “predominantly white,” although “there are some across other ethnocultural groups, as well.”<sup>124</sup>

A number of witnesses mentioned that criminal justice system officials should have a duty to inform victims and that the law should clearly set out their mandate, roles and responsibilities in this area. As Heidi Illingworth explained:

The act must set out which officials are meant to inform victims of their rights and when they must do so. It must also require them to document what information is shared, how protections are delivered, etc. Authorities such as the police, Crown prosecutors [sic] and corrections and parole officials must be accountable for providing the rights that are laid out in the act to information, protection and support, and they should also have to report publicly on how they do so.<sup>125</sup>

In particular, several witnesses mentioned that Crown prosecutors with heavy workloads sometimes do not provide the relevant information to victims on topics such as hearings, the way the system works or publication bans.<sup>126</sup> Witnesses also discussed the role of police as front-line workers, with some saying that police should be required to give victims a card with information about their rights.<sup>127</sup>

Several witnesses also said that criminal justice system officials, such as Crown prosecutors and police officers, should receive training so they can fulfill their mandate as regards victims’ right to information:

We need to ensure there’s proper training for officials as well, whether it’s on the front line at reporting, in the courts or at the end of the system of corrections and parole, so

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124 JUST, [Evidence](#), 29 March 2022 (Kirstan Gagnon, Assistant Commissioner, Communications and Engagement Sector, Correctional Service of Canada).

125 JUST, [Evidence](#), 17 June 2022 (Heidi Illingworth, Executive Director, Ottawa Victim Services). For example, see also JUST, [Evidence](#), 3 June 2021 (Heidi Illingworth, Ombudsman, Office of the Federal Ombudsman for Victims of Crime); JUST, [Evidence](#), 17 June 2022 (Aline Vlasceanu, Executive Director, Canadian Resource Centre for Victims of Crime); JUST, [Evidence](#), 8 June 2021 (Jo-Anne Wemmers, Full Professor, School of Criminology, International Centre for Comparative Criminology, Université de Montréal, As an Individual).

126 For example, see JUST, [Evidence](#), 29 September 2022 (Sheri Arsenault, As an Individual); JUST, [Evidence](#), 6 October 2022 (Morrell Andrews, As an Individual).

127 For example, see JUST, [Evidence](#), 17 June 2022 (Heidi Illingworth, Executive Director, Ottawa Victim Services); JUST, [Evidence](#), 17 June 2022 (Benjamin Roebuck, Research Chair and Professor of Victimology and Public Safety, Victimology Research Centre, Algonquin College, As an Individual); JUST, [Evidence](#), 29 September 2022 (Irvin Waller, Emeritus Professor, University of Ottawa, As an Individual).



that at every stage, people are given the proper information they need to exercise their rights and make choices that are best for them in their circumstances.<sup>128</sup>

Witnesses made a variety of suggestions on how to ensure that victims' right to information is better respected, such as launching a public awareness campaign on the rights of victims of crime<sup>129</sup> or ensuring that the information provided to witnesses is available in multiple languages.<sup>130</sup>

The Committee recognizes that the right to information is fundamental, since it gives victims the ability to exercise their other rights under the CVBR and other federal Acts. The Committee agrees that victims must be better informed of their rights throughout the judicial process. The Committee would like to recognize the work of community organizations that work with victims, informing them of their rights and guiding them through the criminal justice system.

The Committee is of the opinion that relevant information must be automatically communicated to victims and that the legislation must be amended to define the informational mandate of the various players in the criminal justice system. The Committee supports and reiterates the recommendations made by the former Federal Ombudsman for Victims of Crime in her report on the CVBR and the right to information by recommending as follows:

#### **Recommendation 4**

**That sections 6, 7 and 8 of the *Canadian Victims Bill of Rights* be amended to clarify that the information to which victims of crime are entitled should be provided automatically rather than on request, and that the government of Canada work alongside the provinces and territories, as well as with victims and community organizations, to determine the best ways to uphold the right to information outlined in the *Canadian Victims Bill of Rights*.**

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128 JUST, [Evidence](#), 3 June 2021 (Heidi Illingworth, Ombudsman, Office of the Federal Ombudsman for Victims of Crime). For example, see also JUST, [Evidence](#), 29 September 2022 (Irvin Waller, Emeritus Professor, University of Ottawa, As an Individual); JUST, [Evidence](#), 8 June 2021 (The Hon. Pierre-Hugues Boisvenu, Senator); JUST, [Evidence](#), 3 October 2022 (Arlène Gaudreault, President, Association québécoise Plaidoyer-Victimes); JUST, [Brief](#), London Abused Women's Centre, 15 June 2021.

129 JUST, [Evidence](#), 3 June 2021 (Heidi Illingworth, Ombudsman, Office of the Federal Ombudsman for Victims of Crime); JUST, [Evidence](#), 17 June 2022 (Heidi Illingworth, Executive Director, Ottawa Victim Services); JUST, [Evidence](#), 8 June 2021 (The Hon. Pierre-Hugues Boisvenu, Senator).

130 JUST, [Evidence](#), 8 June 2021 (Jody Berkes, Chair, Criminal Justice Section, The Canadian Bar Association); JUST, [Evidence](#), 6 October 2022 (Morrell Andrews, As an Individual).

### Recommendation 5

**That the Department of Justice lead a national effort to develop responsibility training on victims' rights for criminal justice personnel across Canada to ensure national standards for the treatment of victims, and so all personnel fully understand that they will be held accountable for ensuring that victims have access to the rights stated in the law. The training must be evaluated on an ongoing basis to determine its effectiveness.**

### Recommendation 6

**That the Department of Justice lead a national public education campaign including television and social media to inform Canadians of their rights as victims of crime. The campaign should target victims' right to information, as this right opens the gate to other rights. Such a campaign would empower victims and enhance their trust in the criminal justice system.**

## 5.2 Information about the Offender

Under section 8 of the CVBR, every victim has the right, on request, to information about “reviews under the *Corrections and Conditional Release Act* [CCRA] relating to the offender’s conditional release and the timing and conditions of that release.” Section 26 of the CCRA outlines the information that can be disclosed to the victim. On request, the following information is disclosed to the victim:

- the offender’s name,
- the offence of which the offender was convicted and the court that convicted the offender,
- the date of commencement and length of the sentence that the offender is serving, and
- eligibility dates and review dates applicable to the offender under this Act in respect of temporary absences or parole.<sup>131</sup>

Under sections 26(1)(b) and 26(1)(c) of the CCRA, other information may be disclosed to the victim if the Commissioner of Corrections is of the opinion that “the interest of the victim in such disclosure clearly outweighs any invasion of the offender’s privacy that

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131 [\*Corrections and Conditional Release Act\*](#), S.C. 1992, c. 20, s. 26(1)(a).



could result from the disclosure” or if “the disclosure would not have a negative impact on the safety of the public.”

During the study, Brenda Davis said she thought that the PBC was not transparent enough with victims and that more information about the offender should be disclosed to victims. It would give victims more of a basis for their statement at the hearing:

[I]t would be good for us as victims to know what’s gone on since the previous parole hearing. Has he made any changes? Has his behaviour gotten any better? Is he going to start to show remorse? Has he done anything to better himself? We don’t find out any of that until the parole hearing. That’s all kept away from us. All we get are updates on his day parole or if he has to go to a doctor’s appointment out of the area and stuff like that.<sup>132</sup>

She also emphasized that more information needs to be disclosed to victims, such as when the offender escapes:

On September 1, I was notified by the Montreal office of victim services for Corrections Canada that there was a Canada-wide warrant issued for Patrice Mailloux for breach of parole conditions. He had been unlawfully at large before they could execute the warrant. When we asked when his last known check-in was—as he was on day parole—we were told that they didn't have that information. We also asked what conditions were breached. We were again told that they did not have that information, and if they did then it was confidential. It was now a police matter, and victim services or the police would contact me if or when he was apprehended.<sup>133</sup>

Sheri Arsenault pointed out that she helped many victims who were not aware that their offender was on parole. She also highlighted the challenges of getting information from Correctional Service Canada:

In addition to the challenges of the parole hearing itself, it is extremely difficult to get information from the Correctional Service of Canada. Prosecutors appear far too busy to care, and parole board members seem like they've already made their decision.<sup>134</sup>

Emilie Coyle of the Canadian Association of Elizabeth Fry Societies expressed a number of concerns about how much information is provided to the victim in a rehabilitation context:

For people who are serving long or life sentences—a quarter of the people in our federal prisons are serving life sentences—they are going to be subject to parole conditions for

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132 JUST, [Evidence](#), 3 October 2022 (Brenda Davis, As an Individual).

133 Ibid.

134 JUST, [Evidence](#), 29 September 2022 (Sheri Arsenault, As an Individual).

the rest of their lives. That means that they will invariably have a relationship with the people who are registered as victims in their case. Those people get a lot of information about where they are and what they're doing. There aren't a great deal of checks and balances with what those people do with that information. It can be leaked to the media, for example, or they could be subject to a harassing letter from a person who is registered as their victim.

I think that in a system where we value rehabilitation and we are looking to heal, we have to be really careful about the interaction between people who are serving longer life sentences and the people who are registered as their victims, so that no further harm is caused.<sup>135</sup>

## CHAPTER 6: RIGHT TO PARTICIPATION

Under the CVBR, victims have certain rights to participate in the criminal justice system. In particular, they have the right to present a statement to the appropriate authorities and to convey their views about decisions to be made by appropriate authorities that affect their rights under the CVBR.<sup>136</sup> A number of witnesses made suggestions about ways to reinforce victims' right to participation.

### 6.1 Status of the Victim in the Criminal Justice System

During the study, several witnesses pointed out that victims are not a party to criminal proceedings: "The adversarial justice system relegates victims to roles of observers or witnesses in proceedings between the state and the accused."<sup>137</sup>

According to a number of witnesses, even though victims are the ones who are seriously and directly affected by crimes, the accused has more rights under the current system. As Benjamin Roebuck, the Federal Ombudsman for Victims of Crime, explained:

When somebody experiences trauma from violence, they're in one of the most vulnerable moments of their lives and forced to navigate the complexities of a system that can be quick to leave them behind. The crime is deemed to be against the state, rather than the person who was hurt, and most of the rights with legally binding power

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135 JUST, *Evidence*, 21 June 2022 (Emilie Coyle, Executive Director, Canadian Association of Elizabeth Fry Societies).

136 *Canadian Victims Bill of Rights*, S.C. 2015, c. 13, ss. 2, 14 and 15.

137 JUST, *Evidence*, 17 June 2022 (Aline Vlasceanu, Executive Director, Canadian Resource Centre for Victims of Crime). For example, see JUST, *Evidence*, 17 June 2022 (Benjamin Roebuck, Research Chair and Professor of Victimology and Public Safety, Victimology Research Centre, Algonquin College, As an Individual); JUST, *Evidence*, 3 October 2022 (Arlène Gaudreault, President, Association québécoise Plaidoyer-Victimes).



belong to the accused, who's guaranteed the right to a fair trial, to legal counsel and to be provided with information on the case against them.<sup>138</sup>

Several witnesses stated that it is important to give victims an opportunity to participate more actively in the criminal justice system.<sup>139</sup> As Marie-Hélène Ouellette of the Centre d'aide et de lutte contre les agressions à caractère sexuel explained:

In the justice system, the victim has the role of almost a witness-observer, so they continue to be deprived of their power. If they could be more involved in the process, it would help them feel that they were taking some power back, and that could contribute to the healing process.<sup>140</sup>

Jennifer Gold of the Women's Law Association of Ontario mentioned the option for victims becoming a third party in the judicial process:

I think victims need a greater voice and standing in the court process. I mentioned the option to become a third party. That way, they can have more involvement in the entire process from start to finish, and not just be submitting a statement at the end that gets vetted.<sup>141</sup>

Benjamin Roebuck made similar comments:

I think there are countries like Germany that have introduced the option for a victim to be a third party in the criminal justice system, and even to have their own legal representation or to act as a kind of affiliate prosecutor. I think there are evaluations that are coming out of some of those approaches. I think it always has to be voluntary. We recognize that some victims would want to participate in that role, and some would not want to. I think we need to have options and choices for how victims engage with the system.<sup>142</sup>

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138 JUST, [Evidence](#), 17 June 2022 (Benjamin Roebuck, Research Chair and Professor of Victimology and Public Safety, Victimology Research Centre, Algonquin College, As an Individual). For example, see JUST, [Evidence](#), 17 June 2022 (Aline Vlasceanu, Executive Director, Canadian Resource Centre for Victims of Crime).

139 For example, see JUST, [Evidence](#), 17 June 2022 (Benjamin Roebuck, Research Chair and Professor of Victimology and Public Safety, Victimology Research Centre, Algonquin College, As an Individual) (Aline Vlasceanu, Executive Director, Canadian Resource Centre for Victims of Crime); JUST, [Evidence](#), 3 October 2022 (Arlène Gaudreault, President, Association québécoise Plaidoyer-Victimes); JUST, [Evidence](#), 29 September 2022 (Irvin Waller, Emeritus Professor, University of Ottawa, As an Individual).

140 JUST, [Evidence](#), 17 October 2022 (Marie-Hélène Ouellette, Coordinator and Case Worker, L'Élan, Centre d'aide et de lutte contre les agressions à caractère sexuel).

141 JUST, [Evidence](#), 21 June 2022 (Jennifer Gold, Lawyer and Director of the Board, Women's Law Association of Ontario).

142 JUST, [Evidence](#), 17 June 2022 (Benjamin Roebuck, Research Chair and Professor of Victimology and Public Safety, Victimology Research Centre, Algonquin College, As an Individual).

Jo-Anne Wemmers, Professor at the Université de Montréal, suggested giving the victim a participatory role, which would come with certain rights, “such as the right to information, to legal representation, and even to redress, if their rights are denied,” and noted that this is already being done in the United States.<sup>143</sup>

However, Jody Berkes of the Canadian Bar Association expressed concerns about “expanding the role for complainants in criminal prosecutions, which can result in the creation of unreasonable expectations or conflicts between Crown prosecutors and complainants.” He explained his concerns as follows:

For example, section 14 of the CVBR states, “Every victim has the right to convey their views about decisions to be made by appropriate authorities in the criminal justice system that affect the victim’s rights under this Act and to have those views considered.”

The Crown’s legal and ethical obligation is not to secure a conviction but to ensure that all relevant facts are placed before judge and jury so that justice may be done. Therefore, the Crown must be allowed unfettered discretion in choosing how to prosecute offences. Similarly, decisions on whether to continue or to withdraw prosecutions must remain within the Crown’s discretion. While it is appropriate to solicit a complainant’s views on procedural issues and in determining whether to continue a prosecution, the Crown cannot be bound by those wishes. This operates the same way regardless of whether the complainant’s desire is to continue or to withdraw a prosecution.<sup>144</sup>

In light of the testimony heard, the Committee recommends:

### **Recommendation 7**

**That the Minister of Justice consult their provincial and territorial counterparts, the various criminal justice system stakeholders, community organizations that work with victims, and victims in order to determine the best way to support victims’ participation in the justice system.**

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143 JUST, *Evidence*, 29 September 2022 (Jo-Anne Wemmers, Full Professor, School of Criminology, International Centre for Comparative Criminology, Université de Montréal, As an Individual).

144 JUST, *Evidence*, 8 June 2021 (Jody Berkes, Chair, Criminal Justice Section, The Canadian Bar Association).



## 6.2 Restorative Justice

Currently, the *Criminal Code* and the *Youth Criminal Justice Act*<sup>145</sup> both include alternative and restorative justice measures.

During the study, several witnesses expressed support for the promotion and expansion of restorative justice opportunities.<sup>146</sup> According to these witnesses, restorative justice can be highly satisfying for victims, in that it can increase their participation in the court process, help them get “more from the process than just the traditional outcomes of the criminal justice system itself,”<sup>147</sup> give them an actual voice “in telling the offender, those other members of the community, how this has affected them, how they have been harmed,”<sup>148</sup> and help them heal and find closure.<sup>149</sup>

As Heidi Illingworth explained, although restorative justice options are generally approved in the provinces and territories, “we still don’t see it widely enough available.”<sup>150</sup> Benjamin Roebuck also noted the importance of providing adequate funding for restorative justice programs.<sup>151</sup>

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145 [Youth Criminal Justice Act](#), S.C. 2002, c. 1.

146 For example, see JUST, [Evidence](#), 8 June 2021 (Jody Berkes, Chair, Criminal Justice Section, The Canadian Bar Association) (Jo-Anne Wemmers, Full Professor, School of Criminology, International Centre for Comparative Criminology, Université de Montréal, As an Individual); JUST, [Evidence](#), 17 June 2022 (Benjamin Roebuck, Research Chair and Professor of Victimology and Public Safety, Victimology Research Centre, Algonquin College, As an Individual); JUST, [Evidence](#), 17 October 2022 (Marie-Hélène Ouellette, Coordinator and Case Worker, L’Élan, Centre d’aide et de lutte contre les agressions à caractère sexuel); JUST, [Evidence](#), 3 October 2022 (Kat Owens, Project Director, Women’s Legal Education and Action Fund); JUST, [Evidence](#), 29 September 2022 (Irvin Waller, Emeritus Professor, University of Ottawa, As an Individual).

147 JUST, [Evidence](#), 17 June 2022 (Benjamin Roebuck, Research Chair and Professor of Victimology and Public Safety, Victimology Research Centre, Algonquin College, As an Individual).

148 JUST, [Evidence](#), 3 June 2021 (Heidi Illingworth, Ombudsman, Office of the Federal Ombudsman for Victims of Crime).

149 For example, see JUST, [Evidence](#), 3 June 2021 (Heidi Illingworth, Ombudsman, Office of the Federal Ombudsman for Victims of Crime); JUST, [Evidence](#), 8 June 2021 (Jo-Anne Wemmers, Full Professor, School of Criminology, International Centre for Comparative Criminology, Université de Montréal, As an Individual); JUST, [Evidence](#), 17 June 2022 (Benjamin Roebuck, Research Chair and Professor of Victimology and Public Safety, Victimology Research Centre, Algonquin College, As an Individual); JUST, [Evidence](#), 21 June 2022 (Emilie Coyle, Executive Director of the Canadian Association of Elizabeth Fry Societies) (Jennifer Gold, Lawyer and Director of the Board, Women’s Law Association of Ontario).

150 JUST, [Evidence](#), 3 June 2021 (Heidi Illingworth, Ombudsman, Office of the Federal Ombudsman for Victims of Crime).

151 JUST, [Evidence](#), 17 June 2022 (Benjamin Roebuck, Research Chair and Professor of Victimology and Public Safety, Victimology Research Centre, Algonquin College, As an Individual).



The Committee believes that restorative justice can increase victims' participation in the judicial system and, therefore, recommends:

### **Recommendation 8**

**That the Department of Justice promote and expand restorative justice opportunities, and that adequate funding be provided to restorative justice programs.**

## **6.3 Participation in Parole Board of Canada Hearings**

### **6.3.1 Concerns about Current Arrangement**

Victims can usually attend PBC parole hearings as observers.<sup>152</sup> Some witnesses noted that the current rules create a power imbalance between the offender and the victim, which “reduces the status of the victims in comparison to that of the offender,”<sup>153</sup> as if victims do not have “a considerable stake in this.”<sup>154</sup> As Sheri Arsenault explained, at parole hearings, “they plunk the victims way in the back of the room, many rows from the parole board members and the offender and their people,”<sup>155</sup> and the offender can “fill the room with relatives, friends and neighbours and have dozens of statements in support,” which is “intimidating to the victims, and it gives a very false impression to the parole board.”<sup>156</sup>

### **6.3.2 Victims' Participation in Parole Board of Canada Hearings by Teleconference or Videoconference**

During the study, then Federal Ombudsman for Victims of Crime, Heidi Illingworth, revisited the issue of the problems that arose at the start of the COVID-19 pandemic with regard to victims' participation in parole hearings and noted that victims can participate by teleconference or videoconference going forward. In her view, this is a positive change that should remain as an option after the pandemic, because participating remotely can make some victims feel safer and eliminates the need for

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152 [Corrections and Conditional Release Act](#), S.C. 1992, c. 20, s. 140(1). Parole Board of Canada, [Victims—Observing a Parole Hearing](#).

153 JUST, [Evidence](#), 29 September 2022 (Sheri Arsenault, As an Individual).

154 Ibid.

155 Ibid.

156 Ibid.



them to travel or to apply for funds to travel.<sup>157</sup> However, according to Brenda Davis, PBC hearings should return to being in person so that victims can take part: “Being able to see the offender and the board as the hearing is conducted is a vital step in ensuring that justice is being done correctly.”<sup>158</sup>

### 6.3.3 Cancellation of Parole Board of Canada Hearings

Brenda Davis also recounted the time when she and her family travelled from New Brunswick to Montreal to attend a parole hearing, only to be notified, the day before, that it was cancelled. She emphasized that she was not informed of the reason for the cancellation.<sup>159</sup> In her opinion,

[i]f the offender chooses to withdraw their opportunity to a parole hearing within two weeks of the scheduled date, it should be required that the hearing go ahead as scheduled and victims be allowed to attend even if the offender chooses not to.<sup>160</sup>

### 6.3.4 Revictimization at Parole Board of Canada Hearings

Several witnesses told the Committee that every parole hearing revictimized them, forcing them to relive their trauma and sometimes delaying their mourning and healing process.<sup>161</sup>

In this context, some witnesses expressed their dismay at the Supreme Court of Canada decision in *R. v. Bissonnette*, delivered in May 2022. The court found that section 745.51 of the *Criminal Code*, which provides that an offender convicted of multiple first-degree murders can be sentenced to serve the 25-year parole ineligibility periods consecutively, was unconstitutional.<sup>162</sup> These witnesses highlighted how this decision affected victims and their families: for them, it means that the person who murdered their loved one could apply to the PBC for parole after the ineligibility period imposed by the court, and

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157 JUST, [Evidence](#), 3 June 2021 (Heidi Illingworth, Ombudsman, Office of the Federal Ombudsman for Victims of Crime).

158 JUST, [Evidence](#), 3 October 2022 (Brenda Davis, As an Individual).

159 Ibid.

160 Ibid.

161 JUST, [Brief](#), Sheri Arsenault, 29 September 2022; JUST, [Evidence](#), 6 October 2022 (Mike Ilesic, As an Individual) (Diane Ilesic, As an Individual) (Sharlene Bosma, As an Individual); JUST, [Evidence](#), 29 September 2022 (Sheri Arsenault, As an Individual); JUST, [Evidence](#), 3 October 2022 (Brenda Davis, As an Individual); JUST, [Evidence](#), 21 June 2022 (Jaymie-Lyne Hancock, National President, Mothers Against Drunk Driving).

162 [R. v. Bissonnette](#), 2022 SCC 23.

that, if applicable, they will have to participate in these hearings when they previously thought they would not have to do it at all, or at least not for a very long time.<sup>163</sup>

In response to a question suggesting that the CCRA could be amended to ensure that people convicted of first-degree or second-degree murder who apply for parole (for example, after 25 years in the case of first-degree murder) could not apply again a mere 18 or 24 months later, but would have to wait longer, Mike Ilesic said, “it’s at least a step in the direction to assist the families, basically.”<sup>164</sup> Sharlene Bosma did not feel that 18 to 24 months is enough.<sup>165</sup>

After considering the evidence regarding victims’ participation in parole board hearings, the Committee recognizes that more information should be given to victims about the process and that further steps should be taken to facilitate family members participation. In fact, the Committee believes that victims should be informed of all the potential inevitabilities or actions that may happen at a parole board hearing. In light of the evidence, the Committee recommends:

#### **Recommendation 9**

**That the government of Canada examine, through consultation with victims and community organizations, how to make the parole board process more conducive to victims’ and family participation.**

### **6.4 Victim Impact Statement**

Section 15 of the CVBR recognizes the right of victims to present a victim impact statement to the appropriate authorities in the criminal justice system and to have it considered.<sup>166</sup>

On the one hand, the *Criminal Code* provides for a victim’s right to make a statement when the court is determining the sentence to be imposed on an offender. The *Criminal Code* includes a form that describes what can be included in the statement.<sup>167</sup>

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163 JUST, *Evidence*, 6 October 2022 (Mike Ilesic, As an Individual) (Sharlene Bosma, As an Individual).

164 JUST, *Evidence*, 6 October 2022 (Mike Ilesic, As an Individual).

165 JUST, *Evidence*, 6 October 2022 (Sharlene Bosma, As an Individual).

166 *Canadian Victims Bill of Rights*, S.C. 2015, c. 13, s. 2.

167 *Criminal Code*, R.S.C. 1985, c. C-46, s. 722(4), [Form 34.2](#).



During the study, some witnesses expressed their concerns about the strict rules for making a victim impact statement and about the fact that they are vetted before they are presented in court.<sup>168</sup> Holly Lucier of Families For Justice explained as follows:

I think victim impact statements have to be one of the hardest statements to write. You're essentially given an essay assignment that outlines your restrictions, how you have to write it and the time frame that you have. You're trying to compress your life experience into a victim impact statement. There are so many rules around the writing of it that it becomes more and more impersonal as you go along. It has to be tailored to the courts, so you're not really hearing the true victim impact statement, because it's been vetted by the Crown. It's been edited so many times that it becomes such a cold and sterile experience.<sup>169</sup>

Markita Kaulius, President of Families For Justice, said that the rights of the accused outweigh the rights of the victim, given that the statement must be brief and must be submitted before the trial: "The accused and the defence lawyer get to read our victim impact statement before we're allowed to read it in court. If they don't like anything in there, they can ask that it be removed, as well."<sup>170</sup>

On the other hand, when a victim attends a parole hearing as an observer, they

may present a statement describing the harm, property damage or loss suffered by them as the result of the commission of the offence and its continuing impact on them—including any safety concerns—and commenting on the possible release of the offender.<sup>171</sup>

This statement also must be submitted to the PBC before the hearing.<sup>172</sup>

Some witnesses highlighted the imbalance between the rights of victims and the rights of offenders. In particular, Sheri Arsenault and Brenda Davis were opposed to the requirement to send victim impact statements to the offender beforehand, as it gives them the opportunity to study and analyze the statement and prepare their answers for the hearing.<sup>173</sup>

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168 JUST, [Evidence](#), 21 June 2022 (Holly Lucier, Paralegal, Families For Justice) (Jennifer Gold, Lawyer and Director of the Board, Women's Law Association of Ontario).

169 JUST, [Evidence](#), 21 June 2022 (Holly Lucier, Paralegal, Families For Justice).

170 JUST, [Evidence](#), 21 June 2022 (Markita Kaulius, President, Families For Justice).

171 [Corrections and Conditional Release Act](#), S.C. 1992, c. 20.

172 [Corrections and Conditional Release Act](#), S.C. 1992, c. 20, s. 140(12).

173 JUST, [Evidence](#), 29 September 2022 (Sheri Arsenault, As an Individual); JUST, [Evidence](#), 3 October 2022 (Brenda Davis, As an Individual); JUST, [Brief](#), Sheri Arsenault, 29 September 2022.

Furthermore, Sheri Arsenault spoke out against the strict criteria for the contents of the victim impact statement: victims are limited “to writing about emotional and financial pain and to keeping it short.”<sup>174</sup> She recommends that

the victims, in their impact statements, be allowed to say exactly what they want to say. It shouldn’t be scrutinized and looked over, hacked, whacked and redacted. You’re the victim. If you need to say something, you should be allowed to say it.<sup>175</sup>

Some witnesses also mentioned another rule in place at parole hearings: victims must sit at the back of the room and address only the parole board members when they read their statements, while the offender and their loved ones have their backs to the victim. These witnesses were opposed to this rule and recommended that it be changed to give victims the choice of whether they want to face the offender as part of their healing process:<sup>176</sup> “When a parole hearing is scheduled, I want to face the offender and not be subjected to looking at the back of his head. If the offender is not willing to co-operate, a hearing shouldn’t be allowed to take place.”<sup>177</sup>

The Committee recognizes that the current rules surrounding victim impact statements prevent victims from fully conveying the real impacts of a crime on their lives. In that sense, the Committee recommends:

### **Recommendation 10**

**That the Department of Justice work with the provinces and territories to agree on how victim impact statements could be delivered in a less prescriptive manner to allow victims to express their feelings, as well as the impact of the crime on their lives and their families, more flexibly.**

## **6.5 Language of Proceedings**

Currently, only the accused and offenders have language rights in the criminal justice system.

On the one hand, section 530 of the *Criminal Code* provides that an accused may apply to have their trial in the official language of their choice. If their first language is a

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174 JUST, [Evidence](#), 29 September 2022 (Sheri Arsenault, As an Individual).

175 Ibid.

176 Ibid.; JUST, [Evidence](#), 3 October 2022 (Brenda Davis, As an Individual); JUST, [Evidence](#), 6 October 2022 (Mike Ilesic, As an Individual); JUST, [Brief](#), Sheri Arsenault, 29 September 2022.

177 JUST, [Evidence](#), 6 October 2022 (Mike Ilesic, As an Individual).



language other than one of the official languages, the court may grant an order directing that the accused be tried before a judge or judge and jury who speak the official language in which the accused can best give testimony. In that case, “the court shall make interpreters available to assist the accused, his counsel or any witness during the preliminary inquiry or trial.”<sup>178</sup>

Jo-Anne Wemmers, Professor at the Université de Montréal, explained that since victims are considered witnesses in criminal proceedings, they do not have a status and therefore are not eligible for interpretation services if, for example, they do not speak the same language as the accused.<sup>179</sup>

As regards the parole system, while the CCRA protects the offender’s right to obtain a parole hearing in the official language of their choice or to obtain the assistance of an interpreter if they do not have an adequate understanding of either official language, the CCRA does not provide for an equivalent right for victims. Therefore, it falls to victims themselves to take steps to obtain interpretation services, as Brenda Davis explained:

In 2007 we had to fight to receive translation services as the offender chose to have his parole hearing in French. As English-speaking victims, we deserved to be treated fairly and with respect, as we fought to ensure justice was served.<sup>180</sup>

## 6.6 Plea Bargaining

Some witnesses pointed out that the right for victims to participate in plea bargaining should be revisited. Jaymie-Lyne Hancock, National President of Mothers Against Drunk Driving, said that “the *Criminal Code* should be amended to ensure that victims and survivors receive advance notice of a plea bargain.”<sup>181</sup> According to Marie-Hélène Ouellette of the Centre d’aide et de lutte contre les agressions à caractère sexuel, “[w]hen the victim is excluded from the plea bargain process, the outcome can come as a nasty surprise. Figuring out ways to involve victims more is a good idea and may help them take back their power.”<sup>182</sup>

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178 *Criminal Code*, R.S.C. 1985, c. C-46, ss. 530 and 530.1(f).

179 JUST, *Evidence*, 29 September 2022 (Jo-Anne Wemmers, Full Professor, School of Criminology, International Centre for Comparative Criminology, Université de Montréal, As an Individual).

180 JUST, *Evidence*, 3 October 2022 (Brenda Davis, As an Individual).

181 JUST, *Evidence*, 21 June 2022 (Jaymie-Lyne Hancock, National President, Mothers Against Drunk Driving).

182 JUST, *Evidence*, 17 October 2022 (Marie-Hélène Ouellette, Coordinator and Case Worker, L’Élan, Centre d’aide et de lutte contre les agressions à caractère sexuel).

## CHAPTER 7: RIGHT TO PROTECTION

### 7.1 Victim Identity and Privacy

Section 12 of the CVBR provides that “every victim has the right to request that their identity be protected if they are a complainant to the offence or a witness in proceedings relating to the offence.” This right is reflected, among others, in section 486.4 of the *Criminal Code*, which provides judges with the power to order a publication ban and gives victim complainants of sexual offences the right to request a publication ban, to enforce privacy, and to eliminate the negative consequences of being publicly identified:

486.4 (1) Subject to subsection (2), the presiding judge or justice may make an order directing that any information that could identify the victim or a witness shall not be published in any document or broadcast or transmitted in any way (...)

(2) In proceedings in respect of the offences referred to in paragraph (1)(a) or (b), the presiding judge or justice shall:

**(a)** at the first reasonable opportunity, inform any witness under the age of eighteen years and the victim of the right to make an application for the order; and

**(b)** on application made by the victim, the prosecutor or any such witness, make the order.<sup>183</sup>

During the study, Morrell Andrews indicated to the Committee that publication bans are an area of concern for victims of sexual offences across Canada. She explained that there is a disconnect between what the *Criminal Code* states and what happens in victims’ lived realities. For instance, despite section 486.4(2)a) of the *Criminal Code*,<sup>184</sup> she told the Committee that

[a] victim doesn’t see a judge until way down the line, and publication bans are normally put in place at the first appearance of the accused in court, so it needs to be either the Crown attorneys or the victim services workers who are doing it.<sup>185</sup>

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183 *Criminal Code*, R.S.C. 1985, c. C-46, ss. 486.4.

184 *Criminal Code*, R.S.C. 1985, c. C-46, ss. 486.4(2)a).

185 JUST, *Evidence*, 6 October 2022 (Morrell Andrews, As an Individual).



The complicated process of removing one’s own publication ban puts up hurdles for victims who wish, for example, to be free to speak, to “advocat[e] for others who have been in the same situation” or to “creat[e] art that they feel is important for their healing.”<sup>186</sup>

Morrell Andrews explained to the Committee that these publication bans are essential, “and they should remain available to anyone who wants them, but there are considerable issues with respect to how we are informed of our publication bans and how we are given information in order to comply with them and lift them, if we so desire.”<sup>187</sup> The Committee learned that a victim of sexual offences must often resort to significant self-advocacy in order to have the publication ban of their own name lifted.<sup>188</sup> Morrell Andrews described this process as humiliating, rampant with delays, and re-traumatizing.<sup>189</sup>

The Committee learned of the importance of a victim-centred approach when considering how best to tackle the issue of publication bans.<sup>190</sup> Kat Owens, Project Director at LEAF, explained that “the most important thing for moving forward is for survivors to be able to have meaningful choices in terms of whether a publication ban is implemented and when one is removed.”<sup>191</sup>

In addition, Morrell Andrews presented several recommendations to the Committee on how best to make significant changes to publication bans in Canada, in a way that best respects and upholds victims’ rights. These include:

“Amend section 486.4 of the Criminal Code so that it is no longer an offence for a victim to attribute their own experience;

Educate prosecutors and judges on publication bans and our right to choose if we want one;

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186     ibid.

187     ibid.

188     In her testimony, Morrell Andrews listed seven victims who each fought to have control over using their own name due to a publication ban. Each of the seven victims did not consent to having a publication ban. See JUST, [Evidence](#), 6 October 2022 (Morrell Andrews, As an Individual).

189     JUST, [Evidence](#), 6 October 2022 (Morrell Andrews, As an Individual).

190     JUST, [Evidence](#), 3 October 2022 (Kat Owens, Project Director, Women’s Legal Education and Action Fund); JUST, [Evidence](#), 17 October 2022 (Marie-Hélène Ouellette, Coordinator and Case Worker, L’Élan, Centre d’aide et de lutte contre les agressions à caractère sexuel).

191     JUST, [Evidence](#), 3 October 2022 (Kat Owens, Project Director, Women’s Legal Education and Action Fund).



Ensure that prosecutors explain the purpose and scope of a publication ban, and seek our consent before asking for one;

Simplify the removal process, making it clear that the offender or accused is not a factor;

Provide accessible and multilingual information about publication bans, how to comply with them and how to lift them if we want;

Finally, edit the victim impact statement form under subsection 722(4) of the *Criminal Code* to allow us to opt out of a publication ban at the conclusion of a case without having to justify this decision to the court or the offender.”<sup>192</sup>

Furthermore, there is no information provided to victims of sexual offences regarding the publication ban placed on their own names.<sup>193</sup> Morrell Andrews recommended to the Committee that the Department of Justice’s website lay out the implications of a publication ban, including “what it cover[s], how to comply with it and how to have it lifted.”<sup>194</sup>

The Committee recognizes that publication bans made under section 486.4 of the *Criminal Code* are essential to many victims. However, the Committee understands that some victims may not want such a ban to be able to express themselves freely. The Committee believes that victims should be consulted by the Crown prosecutor before a publication ban is sought in their name, and that the onus should not be on the victim to lift a publication ban so that victims should have the freedom to speak about their experience. In addition, the Committee believes a briefing should be given to victims about the effect of a publication ban prior to court hearings.

In light of the evidence, the Committee recommends:

### **Recommendation 11**

**That section 486.4 of the *Criminal Code* be amended so that victims must be informed before a publication ban is imposed and given the opportunity to opt out at any time in the process.**

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192 JUST, [Evidence](#), 6 October 2022 (Morrell Andrews, As an Individual); See also JUST, [Brief](#), Morrell Andrews, 6 October 2022.

193 JUST, [Evidence](#), 6 October 2022 (Morrell Andrews, As an Individual).

194 Ibid.



## Recommendation 12

**That, recognizing the importance of the principle of prosecutorial independence, training be given to Crown prosecutors across the country with regard to the needs of victims concerning publication bans.**

## 7.2 Testimonial Aids

Testimonial aids and support, notably regarding the rights of children who are victims of crime, may improve their experiences and protect the rights of complainants throughout the legal process.<sup>195</sup>

The Committee heard from victims of crime who described ways in which their interactions with the legal system could have been improved. As mentioned in Chapter 6, Sheri Arsenault recommended victims be given the choice of whether they physically face the offender or not during parole hearings.<sup>196</sup> Marie-Hélène Ouellette of the Centre d'aide et de lutte contre les agressions à caractère sexuel explained to the Committee how the option for a witness to testify via video recording can alleviate some of the pressure and stress felt during the process.<sup>197</sup> She emphasized how the victim should have the choice to testify in person or via video, since “some women want to be there to face their attacker, but others find it too difficult.”<sup>198</sup>

## CHAPTER 8: RIGHT TO RESTITUTION

Section 16 of the CVBR and section 737.1(1) of the *Criminal Code* give victims the right to have a court consider making a restitution order—meaning a monetary penalty—against the offender if the offender is convicted or receives an absolute or conditional discharge. The court may order restitution for:

- Damaged or lost property due to the crime;
- Physical injury or psychological harm due to the crime;

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195 JUST, *Evidence*, 8 June 2021 (Jessica Reid, Executive Director of Programs and Research, Kids with Incarcerated Parents (KIP) Canada).

196 JUST, *Evidence*, 29 September 2022 (Sheri Arsenault, As an Individual).

197 JUST, *Evidence*, 17 October 2022 (Marie-Hélène Ouellette, Coordinator and Case Worker, L'Élan, Centre d'aide et de lutte contre les agressions à caractère sexuel).

198 Ibid.

- Physical injury due to the arrest or attempted arrest of the offender;
- Costs for temporary housing, food, childcare and transportation due to moving out of the offender’s household (this only applies if a victim has moved because they had been physically harmed or threatened with physical harm due to the offence, arrest, or attempted arrest of the offender); and
- Costs that victims of identity theft had to pay to re-establish their identity, and to correct their credit history and their credit rating.<sup>199</sup>

According to a 2022 document published by the Department of Justice,

[w]hile there are some limitations to the ICCS [Integrated Criminal Court Survey] data, the total numbers of orders made decreased in all but two jurisdictions pre- to post-CVBR, while the percentages of cases with or without orders remained stable. The article also outlined current restitution programs in Saskatchewan, Alberta, Nova Scotia and British Columbia.<sup>200</sup>

Monique St. Germain of the Canadian Centre for Child Protection Inc. stated that her organization, which closely monitors case law on all online child sexual exploitation offences, has noticed that “restitution is not being ordered or even considered in most cases.”<sup>201</sup>

Furthermore, under section 739.2 of the *Criminal Code*, the court can require the offender to pay the full amount by a day specified by the court or to pay it in instalments, in which case the court will set out a periodic payment scheme. Under section 17 of the CVBR, every victim in whose favour a restitution order is made has the right, if they are not paid, to have the order entered as a civil court judgment that is enforceable against the offender.<sup>202</sup>

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199 Office of the Federal Ombudsman for Victims of Crime, [The Canadian Victims Bill of Rights](#).

200 Susan McDonald and Naythan Poulin, Department of Justice, “[Restitution: An Update on the Numbers](#),” Victims of Crime Research Digest No. 15, consulted on 28 October 2022. See also JUST, [Evidence](#), 29 March 2022 (Susan McDonald, Principal Researcher, Research and Statistics Division, Policy Integration and Coordination Section, Department of Justice).

201 JUST, [Evidence](#), 3 October 2022 (Monique St. Germain, General Counsel, Canadian Centre for Child Protection Inc.).

202 This right is also provided for in section 741 of the *Criminal Code*.



During the study, Susan McDonald of the Department of Justice explained that victims trying to enforce a restitution order do not always receive assistance:

When enforcement is still in the criminal justice system, so when there are restitution orders, a condition of a conditional sentence or probation, community corrections works very closely with the offender to develop a payment regime. For example, a schedule or payment is made at the outset, paid to the court, and then transferred to the victim. In stand-alone orders, there is no such supervision. If the order expires, this then results in the onus being on the victim to file that order in civil court and use civil measures for enforcement, which can be very difficult.<sup>203</sup>

Then Federal Ombudsman for Victims of Crime, Heidi Illingworth, explained that it currently falls to victims to enforce restitution orders, requiring victims to invest significant resources, including sometimes hiring a lawyer.<sup>204</sup> In her progress report on the CVBR, she recommended amending section 17 of the CVBR to enable “[e]very victim in whose favour a restitution order is made has the right, if they are not paid, to have assistance with collection of the judgment that is enforceable against the offender.”<sup>205</sup> According to the Honourable Pierre-Hugues Boisvenu, Senator, this recommendation should be addressed urgently.<sup>206</sup> Arlène Gaudreault of the Association québécoise Plaidoyer-Victimes also said that victims would benefit from services that would assist them with restitution.<sup>207</sup>

Similarly, Jo-Anne Wemmers, professor, suggested shifting the burden of enforcing restitution orders to the state, which is already “responsible for gathering fines.”<sup>208</sup>

Arlène Gaudreault suggested looking at “what is being done well in the other provinces [to support victims seeking restitution], in order to transpose good practices elsewhere.”<sup>209</sup> Heidi Illingworth noted that certain provinces, like Saskatchewan, Nova Scotia and British Columbia, do have successful programs that assist victims with enforcement and collection of restitution and recommended that similar programs be

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203 JUST, [Evidence](#), 29 March 2022 (Susan McDonald, Principal Researcher, Research and Statistics Division, Policy Integration and Coordination Section, Department of Justice).

204 JUST, [Evidence](#), 3 June 2021 (Heidi Illingworth, Ombudsman, Office of the Federal Ombudsman for Victims of Crime).

205 Office of the Federal Ombudsman for Victims of Crime, [Progress Report: The Canadian Victims Bill of Rights](#), November 2020.

206 JUST, [Evidence](#), 21 June 2022 (The Hon. Pierre-Hugues Boisvenu, Senator).

207 JUST, [Evidence](#), 3 October 2022 (Arlène Gaudreault, President, Association québécoise Plaidoyer-Victimes).

208 JUST, [Evidence](#), 29 September 2022 (Jo-Anne Wemmers, Full Professor, School of Criminology, International Centre for Comparative Criminology, Université de Montréal, As an Individual).

209 JUST, [Evidence](#), 3 October 2022 (Arlène Gaudreault, President, Association québécoise Plaidoyer-Victimes).

implemented “in all the provinces and territories to help victims collect what the court has ordered.”<sup>210</sup>

Lastly, in her progress report on the CVBR, Heidi Illingworth recommended “replac[ing] restitution with the broader notion of reparation.”<sup>211</sup> This right to reparation would include restorative justice, symbolic reparations and financial compensation for victims.<sup>212</sup> As noted above, during the study, several witnesses expressed support for promoting and expanding restorative justice opportunities and highlighted the various advantages for victims.<sup>213</sup> Furthermore, as noted in Chapter 4, some witnesses stated that the federal government should ensure that victims across Canada should have access to compensation programs.<sup>214</sup>

The Committee agrees with the witnesses that the onus of enforcing a restitution order should not be solely the victims’ burden, and that victims should be provided with assistance to enforce court-ordered restitution. In light of the evidence, the Committee recommends:

### **Recommendation 13**

**That the Department of Justice work with the provinces and territories to agree on effective means to assist victims in the enforcement of restitution orders.**

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210 JUST, *Evidence*, 3 June 2021 (Heidi Illingworth, Ombudsman, Office of the Federal Ombudsman for Victims of Crime).

211 Office of the Federal Ombudsman for Victims of Crime, *Progress Report: The Canadian Victims Bill of Rights*, November 2020.

212 Ibid.

213 For example, see JUST, *Evidence*, 8 June 2021 (Jody Berkes, Chair, Criminal Justice Section, The Canadian Bar Association) (Jo-Anne Wemmers, Full Professor, School of Criminology, International Centre for Comparative Criminology, Université de Montréal, As an Individual); JUST, *Evidence*, 17 June 2022 (Benjamin Roebuck, Research Chair and Professor of Victimology and Public Safety, Victimology Research Centre, Algonquin College, As an Individual); JUST, *Evidence*, 17 October 2022 (Marie-Hélène Ouellette, Coordinator and Case Worker, L’Élan, Centre d’aide et de lutte contre les agressions à caractère sexuel); JUST, *Evidence*, 3 October 2022 (Kat Owens, Project Director, Women’s Legal Education and Action Fund).

214 JUST, *Evidence*, 29 September 2022 (Jo-Anne Wemmers, Full Professor, School of Criminology, International Centre for Comparative Criminology, Université de Montréal, As an Individual) (Irvin Waller, Emeritus Professor, University of Ottawa, As an Individual); JUST, *Evidence*, 3 June 2021 (The Hon. Pierre-Hugues Boisvenu, Senator); JUST, *Evidence*, 21 June 2022 (Steve Sullivan, Director of Victim Services, Mothers Against Drunk Driving).



## CHAPTER 9: COMPLAINT MECHANISMS AND REMEDIES

### 9.1 Complaint Mechanisms

Section 25 of the CVBR gives victims the right to file a complaint in accordance with its complaints mechanism if they are of the opinion that any of their rights under the CVBR have been infringed or denied by a federal department, agency or body.<sup>215</sup> Following the passage of the CVBR, federal departments and agencies involved in the criminal justice system instituted official complaints mechanisms for victims. Victims who complain directly to federal departments and agencies but are not satisfied with the outcome can contact the OFOVC.<sup>216</sup>

According to Arlène Gaudreault of the Association québécoise Plaidoyer-Victimes, the complaints mechanisms instituted by these federal entities have yielded disappointing results: they report receiving very few complaints, and “[i]t suggests that victims are not aware of the existence of those mechanisms.”<sup>217</sup>

According to Heidi Illingworth, these complaints mechanisms are complex and overwhelming for victims, who “are discouraged from making complaints in the first place.”<sup>218</sup> That is why she made the following recommendation in her progress report on the CVBR:

Amend section 25 (2) of the *Canadian Victims Bill of Rights* to name the Office of the Federal Ombudsman for Victims of Crime as the single authority with jurisdiction to review complaints by victims of crime in relation to how they were treated by a federal department, agency or body.<sup>219</sup>

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215 [Canadian Victims Bill of Rights](#), S.C. 2015, c. 13, s. 2, s. 25.

216 JUST, [Evidence](#), 29 March 2022 (Chad Westmacott, Director General, Community Safety, Corrections and Criminal Justice Directorate, Crime Prevention Branch, Department of Public Safety and Emergency Preparedness).

217 JUST, [Evidence](#), 3 October 2022 (Arlène Gaudreault, President, Association québécoise Plaidoyer-Victimes). When they appeared before the Committee, representatives of Correctional Service Canada reported that few complaints had come in through the complaints mechanism that had been put in place. JUST, [Evidence](#), 29 March 2022 (Stéphanie Bouchard, Senior Legal Counsel and Director, Policy Centre for Victim Issues, Criminal Law Policy Section, Department of Justice) (Kirstan Gagnon, Assistant Commissioner, Communications and Engagement Sector, Correctional Service of Canada).

218 JUST, [Evidence](#), 3 June 2021 (Heidi Illingworth, Ombudsman, Office of the Federal Ombudsman for Victims of Crime).

219 Office of the Federal Ombudsman for Victims of Crime, [Progress Report: The Canadian Victims Bill of Rights](#), November 2020.

During the study, the Honourable Pierre-Hugues Boisvenu, Senator, and Jo-Anne Wemmers, professor, endorsed that recommendation, noting that centralizing complaints would provide an overview of the weaknesses and shortcomings of the CVBR and help “identify the problems, priorities and areas to work on.”<sup>220</sup>

Similarly, the CVBR gives victims the right to file a complaint in accordance with the laws of the relevant province or territory if they are of the opinion that a provincial or territorial department, agency or body has infringed or denied their rights under the CVBR. For this reason, after the CVBR was enacted, the provinces and territories had to institute complaint mechanisms and therefore have their own mechanisms.<sup>221</sup>

According to Arlène Gaudreault,

With respect to the provinces and territories, there is no picture at present that would enable us to evaluate how they have responded to the CVBR’s requirements, nor have there been any analyses. That is an important question. A critical assessment is needed, to examine what has been put in place in all organizations in Canada. We need to determine the nature of the problems and apply corrective measures. The collaboration of the provinces and territories is essential for doing that assessment.<sup>222</sup>

## 9.2 Enforcement Remedies

At this time, sections 27 to 29 of the CVBR limit the remedies available to victims seeking to enforce their rights:

- section 27 provides that the CVBR cannot “be construed as granting to, or removing from, any victim or any individual acting on behalf of a victim the status of party, intervenor or observer in any proceedings;”
- section 28 of the CVBR provides that “[n]o cause of action or right to damages arises from an infringement or denial of a right under [the CVBR];” and

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220 JUST, [Evidence](#), 8 June 2021 (Jo-Anne Wemmers, Full Professor, School of Criminology, International Centre for Comparative Criminology, Université de Montréal, As an Individual); JUST, [Evidence](#), 3 June 2021 (The Hon. Pierre-Hugues Boisvenu, Senator).

221 JUST, [Evidence](#), 29 March 2022 (Kirstan Gagnon, Assistant Commissioner, Communications and Engagement Sector, Correctional Service of Canada) (Stéphanie Bouchard, Senior Legal Counsel and Director, Policy Centre for Victim Issues, Criminal Law Policy Section, Department of Justice).

222 JUST, [Evidence](#), 3 October 2022 (Arlène Gaudreault, President, Association québécoise Plaidoyer-Victimes).



- section 29 of the CVBR provides that “[n]o appeal lies from any decision or order solely on the grounds that a right under this Act has been infringed or denied.”<sup>223</sup>

Consequently, at present, victims have no other remedy if their rights under the CVBR are infringed. All they can do is file a complaint:

This means that victims have to rely on the goodwill of criminal justice officials and corrections officials to give effect to or implement their statutory rights under the bill. This means victims count on police, Crown prosecutors, courts, review boards, corrections officials and parole boards to deliver, uphold and respect their rights.<sup>224</sup>

During the study, several witnesses pointed out that victims’ inability to ensure their rights are respected, since these rights are not enforceable, is a major shortcoming of the CVBR that ought to be fixed by amending the law.<sup>225</sup> Furthermore, as noted by several witnesses, in her progress report on the CVBR, the former Federal Ombudsman for Victims of Crime made the following recommendations:

Delete sections 27, 28 and 29 of the *Canadian Victims Bill of Rights*, which deny victims any standing to appeal to courts for review when their rights are not upheld. Amend the Act to provide victims of crime with two mechanisms of accountability: first, the mechanism of judicial review; and second, the administrative right to review decisions not to prosecute.

Consult with provincial, territorial and local governments and other stakeholders on the most effective language to use in the Act to ensure that victims can seek adequate legal and administrative remedies if they believe their rights have been overlooked.<sup>226</sup>

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223 [Canadian Victims Bill of Rights](#), S.C. 2015, c. 13, s. 2.

224 JUST, [Evidence](#), 3 June 2021 (Heidi Illingworth, Ombudsman, Office of the Federal Ombudsman for Victims of Crime).

225 For example, see JUST, [Evidence](#), 8 June 2021 (Jo-Anne Wemmers, Full Professor, School of Criminology, International Centre for Comparative Criminology, Université de Montréal, As an Individual) (Aline Vlasceanu, Executive Director, Canadian Resource Centre for Victims of Crime); JUST, [Evidence](#), 3 June 2021 (Heidi Illingworth, Ombudsman, Office of the Federal Ombudsman for Victims of Crime) (The Hon. Pierre-Hugues Boisvenu, Senator); JUST, [Evidence](#), 17 June 2022 (Heidi Illingworth, Executive Director, Ottawa Victim Services) (Benjamin Roebuck, Research Chair and Professor of Victimology and Public Safety, Victimology Research Centre, Algonquin College, As an Individual); JUST, [Evidence](#), 21 June 2022 (The Hon. Pierre-Hugues Boisvenu, Senator); JUST, [Evidence](#), 29 September 2022 (Irvin Waller, Emeritus Professor, University of Ottawa, As an Individual).

226 Office of the Federal Ombudsman for Victims of Crime, [Progress Report: The Canadian Victims Bill of Rights](#), November 2020.



In the opinion of the Association québécoise Plaidoyer-Victimes, “a working group should study the feasibility of introducing this type of remedy and make recommendations to inform our thinking.”<sup>227</sup>

## CONCLUSION

The Committee conducted hearings on the status of victim rights in Canada, to assess the shortcomings of current legislative and policy measures available to victims of crime. Collaboration between all levels of government and community organizations is key in addressing the gaps identified during the study.

The Committee acknowledges the work that has been done by individuals, organizations, and legislators so far to advance and uphold victims’ rights in Canada. However, it firmly believes swift action is necessary to address the shortcomings outlined in this report.

With this report, the Committee hopes to have addressed the poignant inquiry of Heidi Illingworth: “[h]ow do we actually hold the officials and the system accountable for ensuring that victims’ rights are delivered to them in a practical way?”<sup>228</sup>

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227 JUST, [Brief](#), Association québécoise Plaidoyer-Victimes, 11 October 2022.

228 JUST, [Evidence](#), 3 June 2021 (Heidi Illingworth, Ombudsman, Office of the Federal Ombudsman for Victims of Crime).



## APPENDIX A LIST OF WITNESSES

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The following table lists the witnesses who appeared before the committee at its meetings related to this report. Transcripts of all public meetings related to this report are available on the committee's [webpage for this study](#).

Organizations and Individuals	Date	Meeting
<p><b>Correctional Service of Canada</b></p> <p>Katherine Cole, Director, Citizen Engagement</p> <p>Kirstan Gagnon, Assistant Commissioner, Communications and Engagement Sector</p>	2022/03/29	8
<p><b>Department of Justice</b></p> <p>Stéphanie Bouchard, Senior Legal Counsel and Director, Policy Centre for Victim Issues, Criminal Law Policy Section</p> <p>Cyndi Fuss, Manager, Programs Policy</p> <p>Susan McDonald, Principal Researcher, Research and Statistics Division, Policy Integration and Coordination Section</p> <p>Matthew Taylor, General Counsel and Director, Criminal Law Policy Section</p>	2022/03/29	8
<p><b>Department of Public Safety and Emergency Preparedness</b></p> <p>Suzanne Wallace-Capretta, Manager, National Office for Victims, Crime Prevention Branch</p> <p>Chad Westmacott, Director General, Community Safety, Corrections and Criminal Justice Directorate, Crime Prevention Branch</p>	2022/03/29	8
<p><b>Parole Board of Canada</b></p> <p>Ian Broom, Director General, Policy and Operations</p>	2022/03/29	8

<b>Organizations and Individuals</b>	<b>Date</b>	<b>Meeting</b>
<b>As an individual</b> Dr. Benjamin Roebuck, Research Chair and Professor of Victimology and Public Safety, Victimology Research Centre, Algonquin College	2022/06/17	24
<b>Canadian Resource Centre for Victims of Crime</b> Aline Vlasceanu, Executive Director	2022/06/17	24
<b>Ottawa Victim Services</b> Heidi Illingworth, Executive Director Hon. Pierre-Hugues Boisvenu, Senator	2022/06/17	24
<b>Canadian Association of Elizabeth Fry Societies</b> Emilie Coyle, Executive Director	2022/06/21	25
<b>Families For Justice</b> Markita Kaulius, President Holly Lucier, Paralegal	2022/06/21	25
<b>Mothers Against Drunk Driving (MADD Canada)</b> Jaymie-Lyne Hancock, National President Steve Sullivan, Director of Victim Services	2022/06/21	25
<b>Women's Law Association of Ontario</b> Jennifer Gold, Lawyer and Director of the Board	2022/06/21	25
<b>As an individual</b> Sheri Arsenault Irvin Waller, Emeritus Professor, University of Ottawa Jo-Anne Wemmers, Full Professor, School of Criminology, International Centre for Comparative Criminology, Université de Montréal	2022/09/29	28
<b>As an individual</b> Brenda Davis	2022/10/03	29
<b>Association québécoise Plaidoyer-Victimes</b> Arlène Gaudreault, President	2022/10/03	29
<b>Canadian Centre for Child Protection Inc.</b> Monique St. Germain, General Counsel	2022/10/03	29

<b>Organizations and Individuals</b>	<b>Date</b>	<b>Meeting</b>
<b>Women's Legal Education and Action Fund</b> Kat Owens, Project Director	2022/10/03	29
<b>As an individual</b> Morrell Andrews Sharlene Bosma Dianne Ilesic Mike Ilesic	2022/10/06	30
<b>Association of Families of Flight PS752 Victims</b> Dr. Hamed Esmailion, President and Spokesperson	2022/10/06	30
<b>L'Élan, Centre d'aide et de lutte contre les agressions à caractère sexuel</b> Marie-Hélène Ouellette, Coordinator and Case Worker	2022/10/17	31



## APPENDIX B LIST OF WITNESSES

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The following table lists the witnesses who appeared before the committee at its meetings related to this report. Transcripts of all public meetings related to this report are available on the committee’s [webpage for this study](#).

### 43rd Parliament – 2nd Session

Organizations and Individuals	Date	Meeting
<p><b>Correctional Service of Canada</b></p> <p>Kirstan Gagnon, Assistant Commissioner, Communications and Engagement Sector</p>	2021/06/03	37
<p><b>Department of Justice</b></p> <p>Stéphanie Bouchard, Senior Legal Counsel and Director, Policy Centre for Victim Issues, Criminal Law Policy Section</p> <p>Carole Morency, Director General and Senior General Counsel, Criminal Law Policy Section, Policy Sector</p>	2021/06/03	37
<p><b>Department of Public Safety and Emergency Preparedness</b></p> <p>Julie Thompson, Director General, Crime Prevention, Corrections, Criminal Justice and Aboriginal Policing Policy Directorate</p> <p>Suzanne Wallace-Capretta, Manager, Crime Prevention, Corrections, Criminal Justice and Aboriginal Policing Policy Directorate</p>	2021/06/03	37
<p><b>Office of the Federal Ombudsman for Victims of Crime</b></p> <p>Heidi Illingworth, Ombudsman</p>	2021/06/03	37
<p><b>Parole Board of Canada</b></p> <p>Ian Broom, Director General, Policy and Operations</p> <p>Hon. Pierre-Hugues Boisvenu, Senator</p>	2021/06/03	37

<b>Organizations and Individuals</b>	<b>Date</b>	<b>Meeting</b>
<b>As an individual</b> Jo-Anne Wemmers, Full Professor, School of Criminology, International Centre for Comparative Criminology, Université de Montréal	2021/06/08	38
<b>Criminal Lawyers' Association</b> Leo Russomanno, Lawyer	2021/06/08	38
<b>Kids with Incarcerated Parents (KIP) Canada</b> Jessica Reid, Executive Director of Programs and Research	2021/06/08	38
<b>The Canadian Bar Association</b> Jody Berkes, Chair, Criminal Justice Section	2021/06/08	38



## APPENDIX C LIST OF BRIEFS

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The following is an alphabetical list of organizations and individuals who submitted briefs to the committee related to this report. For more information, please consult the committee's [webpage for this study](#).

**Andrews, Morrell**

**Arsenault, Sheri**

**Association québécoise Plaidoyer-Victimes**

**Canadian Centre for Child Protection Inc.**

**Lucier, Holly**

**The Centre for Research & Innovation for Black Survivors of Homicide Victims**



## **APPENDIX D LIST OF BRIEFS**

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The following is an alphabetical list of organizations and individuals who submitted briefs to the committee related to this report. For more information, please consult the committee's [webpage for this study](#).

### **43rd Parliament – 2nd Session**

**Arsenault, Sheri**

**Association québécoise Plaidoyer-Victimes**

**Kids with Incarcerated Parents (KIP) Canada**

**London Abused Women's Centre**



## REQUEST FOR GOVERNMENT RESPONSE

Pursuant to Standing Order 109, the committee requests that the government table a comprehensive response to this Report.

A copy of the relevant *Minutes of Proceedings* ([Meetings Nos. 8, 24, 25, 28, 29, 30, 31, 32, 40 and 41](#)) from the 44th Parliament, 1st Session and ([Meetings Nos. 37 and 38](#)) from the 43rd Parliament, 2nd Session is tabled.

Respectfully submitted,

Randeep Sarai  
Chair

