

Have You Been a Victim of Crime? What's Next...

**Information and Resources
For Victims of Crime in Ontario**

**Office for Victims of Crime
Ministry of the Attorney General**

Have You Been a Victim of Crime? What's Next...

**Information and Resources
For Victims of Crime in Ontario**

Office for Victims of Crime
Ministry of the Attorney General



DISCLAIMER:

The OVC is independent of the Ministry of the Attorney General and the views and opinions expressed in this handbook do not necessarily state or reflect those of the Ministry.

All efforts have been made to ensure that the information in this handbook is accurate and complete. This handbook is provided for general education and informational purposes. It is not intended as legal advice.

Ce guide est également disponible en Français.

ISBN 978-1-4435-1576-4

ISBN 978-1-4435-1578-8

© Queen's Printer for Ontario, 2009

FOREWORD

Message from the Attorney General

This handbook provides an important starting place for victims of crime in Ontario who need our support as they forge a better future for themselves, their families and their communities.

The handbook contains information that will help victims of crime better understand and access the services they need quickly. It will also serve as a resource for victim services providers so that they are able to find the right contacts anywhere in the province.

I would like to extend my sincere thanks to the Office for Victims of Crime (OVC) for producing this handbook. The OVC provides key advice to the government on ways to better ensure that victim services in Ontario meet the needs of our diverse population.

I appreciate the work of the Office for Victims of Crime and the thousands of victim services professionals and volunteers across our province. They work tirelessly, together with our justice partners, including the Ontario Victim Services Secretariat, Crown prosecutors, police and many other Ontario organizations. They demonstrate an enduring commitment to help victims of crime receive supports and services promptly, effectively and with compassion.

This is a commitment shared by the McGuinty government and one that is demonstrated through our work and sustained investment in a number of programs that continuously strive to improve the services and assistance offered to victims in Ontario.

The Honourable Chris Bentley
Attorney General of Ontario

Message from the OVC Chair

Victims of violent crime face complex challenges that are unique to their experience. Whether their needs are physical, emotional or financial, there is no doubt that victims require assistance during all stages on their road to recovery. The many questions and concerns that naturally follow can be overwhelming. Ensuring that victims are aware of the services available to them is an important first step in helping to rebuild their lives.

As Chair of the Office for Victims of Crime (OVC), I am proud to introduce our handbook *“Have You Been a Victim of Crime? What’s Next...Information and Resources for Victims of Crime in Ontario”*.

Through this handbook, we seek to assist victims by giving them the tools and resources necessary to carry them forward following such a difficult experience. I am confident that it will provide meaningful information to victims in a format that is easy to access and understand. To that end, it is specifically written from the perspective of what a victim may encounter when dealing with police, service providers, and the criminal justice system.

Your comments and suggestions are important to us, as we work towards making this a useful tool for victims of crime. To assist us, we ask that you take a few minutes to complete and return our feedback form located at the end of the handbook.

On behalf of the OVC, I close by assuring you that we will remain focused on the needs and expectations of victims of crime in Ontario, and to ensuring that victims’ rights are maintained and respected. Please help us in our task by forwarding the handbook to anyone you feel may benefit from its contents.

Sincerely,

Ruth Campbell

Chair

Office for Victims of Crime

NOTE OF THANKS

This project was made possible through the combined efforts of the staff and Board Members at the Office for Victims of Crime (OVC).

In particular, I would like to acknowledge the OVC's Vice-Chair, Gayle Nathanson and my Special Advisor, Deana Kingsada, who nurtured this process from beginning to end. I would also like to thank Elizabeth Forestell and Patti Sanders for their early work on the handbook.

The reviewers, listed below, kindly provided their valuable time to ensure that the handbook is accurate, current and meaningful to victims. I sincerely appreciate their efforts in this regard.

Mary Lou Fassel

Director of Legal Services
Barbra Schlifer Commemorative Clinic

Simonne Ferguson

Vice Chair
National Parole Board (NPB),
Ontario/Nunavut Region

Arnold Galet

Chair
Ontario Parole and Earned Release Board

Irwin Glasberg and Staff of OVSS

Assistant Deputy Attorney General
Ontario Victim Services Secretariat (OVSS)

Lisa Heslop

Supervisor, Family Consultant/Victim
Services Unit
London Police Service

Paula Klein

Vice Chair
Criminal Injuries Compensation Board (CICB)

Ken Leendertse

Deputy Chief
Hamilton Police Service & Hamilton Police Service
Victim Services Branch

Laurence Lustman

Crown Counsel, Criminal Law Division
Ministry of the Attorney General

Bonnie Levine

Executive Director
Victim Services Program of Toronto

Hilary McCormack

Crown Attorney, East Region
Ministry of the Attorney General

Kathleen Murphy

Senior Policy Advisor
Ministry of the Attorney General

Kim O'Connell

Special Advisor to the Chair
Ontario Parole and Earned Release Board

Al Spadaccini

Retired Staff Sergeant
(Ottawa Police Service)

Lisa Warriner

Chair, Ontario Network of Victim Service Providers
(ONVSP) & Executive Director,
Victim Services, Hastings, Prince Edward, Hastings
and Addington City

Donna Watson-Elliott

Manager, Victim Crisis Unit
Ottawa Police Service

TABLE OF CONTENTS

FOREWORD	i
NOTE OF THANKS	iii
ABOUT THIS BOOKLET	1
VICTIMS OF CRIME IN ONTARIO	2
<i>Who is a victim of crime?</i>	2
<i>Do victims of crime have rights?</i>	2
GETTING HELP QUICKLY	4
<i>I am a victim of crime. Where can I get help?</i>	4
<i>What do you mean by “victim services”?</i>	4
<i>How do I contact victim services?</i>	5
<i>Are there special services for the kind of crime I have experienced?</i>	5
<i>What if the victim is a child?</i>	6
<i>What if a close family member has been murdered – are there services for me?</i>	6
<i>Do I have to pay for these services?</i>	6
<i>What if I need emergency funds?</i>	6
FINANCIAL COMPENSATION FOR VICTIMS OF CRIME	8
<i>Can I get compensation for my injuries?</i>	8
<i>How do I apply for compensation?</i>	8
<i>Is there a deadline to apply?</i>	8
<i>What kinds of things can I get compensation for?</i>	8
<i>Do I need a lawyer?</i>	9
<i>Can I apply for compensation even if I didn’t report the crime to the police?</i>	9
<i>Does the CICB compensate everyone who files an application?</i>	9
<i>Who decides if I get compensation?</i>	9
<i>How is the decision made?</i>	9
<i>Will the offender be at the hearing?</i>	10

TABLE OF CONTENTS *(continued)*

<i>How long will it take to process my application?.....</i>	10
<i>What if my application is denied?.....</i>	10
<i>Can the money I receive be seized by people I owe money to?.....</i>	11
<i>What if I am receiving social assistance?.....</i>	11
<i>What if I receive compensation from somewhere else, like my employer, insurance or a lawsuit?.....</i>	11
<i>I need help now; do I have to wait for my application to be settled?.....</i>	11
<i>Are there other ways to get compensated for my losses?.....</i>	11
THE CRIMINAL JUSTICE PROCESS.....	13
<i>Entering the Criminal Justice Process – The Police Investigation.....</i>	13
<i>Arrest.....</i>	14
<i>What Happens after the Arrest – Custody and Bail.....</i>	16
<i>After Custody and Bail – Going to Court.....</i>	19
<i>What Happens at the Trial.....</i>	22
<i>If You Are a Witness in Court.....</i>	25
<i>Sentencing Process.....</i>	30
<i>Different Types of Sentences.....</i>	32
<i>Appeals.....</i>	36
<i>Release from Prison.....</i>	36
<i>Parole Hearings.....</i>	39
<i>If the Offender is a Youth.....</i>	42
GLOSSARY OF TERMS.....	44
VICTIMS’ BILL OF RIGHTS.....	53
CANADIAN STATEMENT OF BASIC PRINCIPLES OF JUSTICE FOR VICTIMS OF CRIME.....	61
WHO TO CONTACT.....	63
USER FEEDBACK FORM.....	75

ABOUT THIS BOOKLET

Who is this handbook for?

This handbook is for victims of violent crime and the people who support them. It includes information about victims' rights, places to go for help, and the criminal justice system. This information will help victims to understand what to expect and how to make sure their rights are respected.

At the end of the handbook, there is a Glossary of Terms and a summary of resources (Directory) that will help guide victims to the supports and services available in their communities.

VICTIMS OF CRIME IN ONTARIO

Who is a victim of crime?

A victim of crime is someone who has suffered emotional and/or physical injury as a direct result of crime. This includes a person who has been directly hurt, as well as the child, parent, dependant or spouse of someone who has been killed.

Someone who has suffered a loss of or damage to property as a direct result of crime is also a victim.

Do victims of crime have rights?

Yes. Among other things, victims have a right to protection under the law, a right to be safe and a right to be heard in court. Many of these rights are contained in the *Criminal Code of Canada*. In addition, the *Canadian Statement of Basic Principles of Justice for Victims of Crime, 2003*, states that certain principles are intended to protect victims of crime, and should be reflected in the laws of all of Canada's provinces and territories. In Ontario, these principles are set out in the *Act Respecting Victims of Crime – Victims' Bill of Rights, 1995*.

The *Victims' Bill of Rights, 1995* (VBR) establishes a set of principles to support victims of crime throughout the criminal justice process. The VBR states that victims of crime should be treated with courtesy, compassion and respect for their personal dignity and privacy. The VBR also specifies that victims of crime should have access to certain important information, including:

- Services and remedies available to victims of crime, including financial compensation;
- Protection available to victims to prevent intimidation;
- The progress of investigations that relate to the crime against the victim;
- The charges laid with respect to the crime, and if no charges are laid, the reasons why;
- Court procedures that relate to the prosecution of the accused, and the victim's role in the prosecution;

- The dates and places of all significant court proceedings relating to the prosecution, and the outcome of all significant proceedings, including appeals;
- Any pre-trial arrangements relating to a plea that may be entered by the accused at trial;
- The interim release of the accused;
- The sentence given to the accused, if convicted;
- A decision that the accused is unfit to stand trial, and, if requested by the victim, notice of any subsequent hearings on this issue; and
- The right of the victim to submit a victim impact statement.

The VBR also states that:

- A victim of crime should, if s/he so requests, be notified of any application for release or any upcoming release of the offender, including parole and temporary absence, and any escape from prison;
- A victim of sexual assault should, if s/he so requests, be interviewed during the investigation of the crime only by police officers who are of the same gender as the victim; and
- A victim's property that is in the custody of justice officials should be returned promptly to the victim, once the property is no longer needed for the purposes of the justice system.

A full copy of the *Victims' Bill of Rights, 1995* and the *Canadian Statement of Basic Principles of Justice for Victims of Crime, 2003* can be found at the end of this handbook.

GETTING HELP QUICKLY

I am a victim of crime. Where can I get help?

In Ontario, there are a number of services to help victims of crime.

If you have been the direct victim of a crime you should report it immediately to the police in your area. They will take a statement from you, make sure you are safe, and charge the accused if they find there is enough evidence. When you see the police, you can ask them to put you in touch with a victims' services organization in your community.

If for some reason you are not ready or able to go to the police, you can still contact a help line, women's shelter, rape crisis centre or Children's Aid Society for help. For more information on how to find these services, see the question below, "*How do I contact victim services?*"

What do you mean by "victim services"?

In Ontario, the police are required to provide assistance to victims of crime. Police across the province may provide this assistance either directly through their police service or by connecting victims of crime with a community organization. In some communities this service is called VCARS (which stands for Victim Crisis Assistance and Referral Services); in others it may be called "Victim Services".

All victim services programs, whether provided through the police or community organizations, offer a broad range of services, including: immediate crisis intervention support 24 hours a day, 7 days a week (on-site or by telephone); practical assistance (for example, transportation, telephone calls, etc); and information and referrals to other community services for longer term support.

How do I contact victim services?

If you are not referred to victim services by the police, you can also find support programs and services in your community. To find these services, call the Victim Support Line, a province-wide, bilingual, toll-free information line that provides:

- Referrals to victim support services in your community;
 - A notification system regarding the release of offenders in provincial prison and information about these offenders;
 - Pre-recorded information about the criminal justice system; and
 - A process/mechanism to discuss concerns about the type or quality of the service you are receiving.

You can call the Victim Support Line toll-free at 1-888-579-2888, or in the Greater Toronto Area at 416-314-2447.

Are there special services for the kind of crime I have experienced?

In some cases you may need specialized support, for example, if you are a woman who has been assaulted by your partner or ex-partner, if you have been sexually assaulted, or if you are the victim of a hate crime. There is a wide array of services throughout Ontario that will assist you from the time of the crime and as you work toward a return to normal life. These programs specialize in violence against women, safety for women and their children, services to male survivors of sexual assault, needs of elderly or disabled victims and other particularly vulnerable groups. To find these services, call the Victim Support Line toll-free at 1-888-579-2888, or in the Greater Toronto Area at 416-314-2447.

The website of the Ontario Victim Services Secretariat (OVSS), of the Ministry of the Attorney General, also provides a Victim Services Directory, which allows you to search for programs and services by location and type of crime. To use the on-line directory, go to the Ministry of the Attorney General website at www.ontario.ca/attorneygeneral and select “*Victims of Crime*” on the right navigation bar. This will bring you to the OVSS page. Then, select “*Victim Services Directory*” from the right navigation bar and follow the instructions.

What if the victim is a child?

If you are concerned about a child victim, assistance is available by contacting your local Children's Aid Society. There may also be other services and programs available in your community that can help. To find these services, call the Victim Support Line toll-free at 1-888-579-2888, or in the Greater Toronto Area at 416-314-2447.

You may also find programs and services on-line using the Victim Services Directory (see previous question).

What if a close family member has been murdered – are there services for me?

If you have lost a loved one to homicide, there are a number of support networks available to help you. Your victim service worker should be able to let you know what is available in your community, or you can call the Victim Support Line toll-free at 1-888-579-2888, or in the Greater Toronto Area at 416-314-2447.

You may also find programs and services on-line using the Victim Services Directory (see the question, "*Are there special services for the kind of crime I have experienced?*").

Do I have to pay for these services?

Most of the services mentioned in this handbook are free. But there may be other services available in your community that charge a fee. You may be eligible for reimbursement of some of these costs through the Criminal Injuries Compensation Board (CICB), but be sure to check with CICB about their procedures ahead of time. More information on CICB can be found on page 8.

What if I need emergency funds?

In Ontario, there is a program called the Victim Quick Response Program (VQRP) that provides emergency funds in the immediate aftermath of a violent crime, for victims who have no other financial means or resources available to meet these needs. The VQRP is offered through local victim services organization.

Only certain expenses are covered by the VQRP, including: emergency home repairs to ensure your safety; help with funeral expenses; short-term counselling; and crime scene clean-up. If you have other expenses, talk to your victim services worker to find out if they will be covered.

Applications to the VQRP must be made within 14 days after the crime was reported, but if for some reason you are unable to apply in that time frame (for example, if you are unconscious for a period of time), you should ask your victim services worker about a special exception.

The VQRP is offered through local victim services organizations. If you are not referred to victim services by the police, call the Victim Support Line toll-free at 1-888-579-2888, or in the Greater Toronto Area at 416-314-2447. Choose the option for the Findhelp information and referral service. Once connected, tell the person you want information about the VQRP. You will then be referred to a victim services organization in your area.

FINANCIAL COMPENSATION FOR VICTIMS OF CRIME

Can I get compensation for my injuries?

The Criminal Injuries Compensation Board (CICB) provides compensation for victims of crime. You may be eligible for compensation related to a violent crime committed in Ontario if:

- You have been injured as a result of the crime;
- You are caring for a victim of crime and have lost money or had to pay expenses because of the crime;
- You are the dependant of someone who was murdered; or
- You were injured while trying to prevent a crime or assisting a police officer in making an arrest.

To be considered for financial compensation, you will need to submit an application to the CICB.

For more detailed information about the CICB, visit their website at www.cicb.gov.on.ca.

How do I apply for compensation?

For information on how to apply for compensation, contact the CICB at:

Toll-Free: 1-800-372-7463

Greater Toronto Area: 416-326-2900

Is there a deadline to apply?

Yes. You must apply within two years of the crime taking place. Extensions may be granted in special cases.

What kinds of things can I get compensation for?

If your application is approved, you may be compensated for pain and suffering, loss of income, medical or dental services, counselling, travel for treatment, and funeral and burial expenses. If you have other expenses, check with the CICB on whether these expenses may be covered.

Do I need a lawyer?

You do not need to be represented by a lawyer to apply for compensation, but depending on how complicated your case is, you may wish to have legal advice. See the Directory of Resources at the end of this handbook for information about community legal clinics and the number for a lawyer referral service.

Can I apply for compensation even if I didn't report the crime to the police?

Victims of crime are always encouraged to report to police. Sometimes a police report is the only way to prove a crime has taken place. In some cases your application may be considered where reporting to police has not been possible for some reason. Check with the CICB for more information.

Does the CICB compensate everyone who files an application?

No. Some individuals may not be eligible for compensation, or there may not be enough evidence to support some or all aspects of the application, including that a crime of violence and injury have occurred.

Who decides if I get compensation?

CICB is made up of appointed Board Members who decide the outcome of your application. These Members come from all over the province and from every walk of life. They are appointed for their knowledge of victims' concerns and their ability to make fair and reasonable decisions. They are supported by staff who compile information related to applications and prepare the files for a hearing.

How is the decision made?

Once your application is complete and information has been verified, your matter will be scheduled for a hearing. There are two types of hearings: written and oral.

If your hearing is written, you will not need to appear in person. A Board Member will make a decision after reviewing all the supporting information in your file and you will be informed in writing of that decision.

If your hearing is oral, you must be present. Victims under the age of 18 do not have to attend the hearing (but can if they want to). Two Board Members will make a decision on your application. They will have reviewed all of the information in your file and may ask you questions about the incident and your injuries. Oral hearings are usually open to the public. Witnesses, including police officers, may also appear at an oral hearing.

Generally, when the application involves a sexual offence, domestic violence, or child abuse, or where there is a criminal trial or criminal investigation ongoing, Board Members may close the hearing to the public.

Will the offender be at the hearing?

The offender (who may be referred to as the “alleged offender” if s/he has not been convicted of the crime) is entitled by law to be told about the hearing and can attend if s/he chooses. However, when the application involves a sexual offence, domestic violence or child abuse, the Board may hold an electronic hearing, and the offender will participate by conference call.

How long will it take to process my application?

The time it takes to process an application depends on a number of things, for example, if the case is still before the courts, or if information about your case is difficult to obtain, the process may be slowed down. It is important to provide all information that is requested, keep your contact information up to date and respond to any questions promptly, so that your application can be addressed as quickly as possible.

What if my application is denied?

If a single Board Member made a decision about your application, and you disagree with it, you can make a written request for a new hearing with two new Board Members. The new Board Members may confirm the original decision, increase or decrease the award, and in some cases may deny the application. Before the case is reviewed, you will have to return any money you were awarded and received under the original decision.

If a Panel of two Board Members made a decision about your application, you can appeal **only on a point of law** to the Superior Court of Justice, Divisional Court, within 30 days of receiving the written decision. This type of decision cannot be appealed based on the amount of the award. The location for an appeal will depend on where the hearing took place. You should have legal advice if you want to make this type of an appeal.

Can the money I receive be seized by people I owe money to?

No. Nobody is entitled to seize money paid out in compensation to victims of crime.

What if I am receiving social assistance?

The CICB does not take into account any money you may be receiving from social assistance (Ontario Works or Ontario Disability Support Program (ODSP)) in deciding the amount of your award. However, Ontario Works and ODSP may take into account any award you receive from the CICB, and may adjust your benefits accordingly. You should check with Ontario Works or ODSP for more information.

What if I receive compensation from somewhere else, like my employer, insurance or a lawsuit?

The CICB will take into consideration any financial compensation or benefits that you have already received as a result of the incident. You are required to inform the CICB if you are eligible for and receive compensation from any other source, other than social assistance, and the CICB may require you to repay money if the CICB compensated you already.

I need help now; do I have to wait for my application to be settled?

The CICB may award short-term assistance while your application is in process, but you must get approval first. It is very important that you speak to someone at the CICB before you pay for services for which you hope to be reimbursed. In addition, you may be eligible for some emergency financial assistance through the Victim Quick Response Program (VQRP). For more information on the VQRP, see page 6.

Are there other ways to get compensated for my losses?

It is possible to sue the offender in civil court for financial losses related to the crime, as well as for pain and suffering. Pursuing a civil lawsuit can be both stressful and expensive. You may need to hire a lawyer to represent and advise you, and even if you win, the offender may not have the money to pay you. Talk to a lawyer before you decide whether or not to proceed with a lawsuit.

You can obtain 30 minutes of advice from a lawyer, as well as help finding the right lawyer for your case, by calling the Law Society's Lawyer Referral Service at 1-900-565-4577 (for Bell Canada customers in Ontario). There is a \$6 fee for the call, which will appear on your next phone bill. If you are unable to get through on the 1-900 line, call the numbers noted below.

The \$6 fee does not apply in certain circumstances. If you are in a crisis (domestic abuse) situation or if you are under the age of 18 or are calling about a Child Protection issue, you can contact the Lawyer Referral Service at (416) 947-3330 in the Greater Toronto Area or toll-free in Ontario at 1-800-268-8326.

THE CRIMINAL JUSTICE PROCESS

Once a crime has been reported to the police, certain legal processes are set in motion. This is called the criminal justice process. The information on the following pages will give you an idea of what usually happens in that process.

Remember that every case is different, and things may not happen exactly as is described here. If you have any questions about the criminal justice process, you can speak to the police officer or Crown Attorney working on your case.

Entering the Criminal Justice Process – The Police Investigation

What happens when I call the police?

Police respond to calls and investigate crimes against people and property. They are also trained to provide assistance to victims of crime. A victim services staff person or volunteer may be called to the crime scene or another safe location, to provide you with support and help answer any questions you may have.

What is involved in a police investigation?

As part of their investigation, the police will ask you questions about what happened – try to answer the questions as best as you can. In some cases, the police may ask you to prepare a written statement, or have you attend at the police station to have your statement videotaped.

The police may also talk to anybody else who may have seen the crime take place, or may know something about what happened (witnesses). Police will also collect evidence, including taking photographs.

The police may close off the crime scene, and keep people from entering the area, even if it is your home. This is so that the crime scene and any evidence that may be there is protected and can be properly investigated.

What if I can't remember everything that happened when the police ask me?

Don't worry. It is very common to not be able to answer all of the police officer's questions. You can ask for a card with the investigating officer's name and telephone number. That way you can contact the officer later if you remember other details. Sometimes the police officer will contact you later to ask you some more questions.

Arrest

Will the police arrest the accused?

If, after their investigation, the police decide there are reasonable grounds to believe a crime has been committed, they can arrest the accused. This means that they will remove the accused from where s/he is, and place him or her in police custody. Usually the accused is then taken to the police station.

The police do not have to wait until a crime has been committed to make an arrest. If you believe that you or anyone else is in immediate danger, call the police.

What happens after the accused has been arrested?

Once the accused has been arrested, police will decide whether there are reasonable grounds to lay charges against the accused. Charging a person means that the police have enough evidence to believe that the person committed a crime. If charges are laid, they will be written in a document called an "information", which is sworn to by a police officer and filed with the court.

It is important to remember that even though the police are initially responsible for laying charges against the accused, the Crown Attorney (the lawyer who represents the government in criminal proceedings) will review all of the charges before deciding whether or not to proceed to trial against the accused. The Crown Attorney will proceed with the case only if there is a reasonable chance of convicting the accused **and** prosecuting the accused is in the public interest.

Can the police charge someone, but not arrest them?

Yes, but usually only for less serious offences. When that happens, the accused is released on an appearance notice. This means that the accused has to appear in court at a later date to face the charge. Failure to appear in court at the set time can result in further charges, in addition to the original charge.

Do the police always lay charges?

Sometimes the police will decide not to lay a charge. This does not necessarily mean that the police do not believe you, or that a crime did not take place. It may mean that there is not enough evidence to prove a criminal charge in court.

What if the accused is not arrested but I am afraid of him/her?

If the police do not arrest the accused and you are afraid that s/he will harm you or your family, there are certain legal steps you can take. In some cases, you can request a peace bond or a restraining order requiring the accused to stay away from you or your family. If the accused does not comply with these conditions, you can call the police and they can arrest the accused.

What is a peace bond?

A peace bond is a court order that requires a person to keep the peace for a specified period of time, and can include conditions to protect you and your family. For example, the peace bond may direct the person not to contact or communicate with you or your family, or to not come within a specified distance of your home, place of employment or school.

You do not need a lawyer to get a peace bond – you can present your case to the Justice of the Peace by yourself. In order to get a peace bond, you will have to demonstrate to the Justice of the Peace that you have “reasonable grounds” to fear that the person may harm you or your family or will damage your property.

The accused can challenge the peace bond. If that happens, there may be a hearing where you will likely have to testify. A peace bond lasts for up to twelve months. Breaching a condition of a peace bond is a criminal offence.

Peace bonds are issued by a Justice of the Peace at the local courthouse. To find your local courthouse, look in the Blue Pages of the phone book under “Courts”, or go to the website www.ontario.ca/attorneygeneral and click on “*Court Addresses*” under the heading “*Court Services*”.

What is a restraining order?

A restraining order is a civil (non-criminal) court order that has certain conditions such as prohibiting a person from contacting you or your family. Restraining orders are usually made in connection with a custody or separation action.

What Happens after the Arrest – Custody and Bail

Will the accused stay in jail after he or she is arrested and charged?

Maybe – it depends on a number of circumstances, including the seriousness of the crime. Once the accused is arrested, the police can either hold him/her in custody for a bail hearing, or release him/her with or without conditions, such as staying away from you.

What is a bail hearing?

If the police have not released the accused, s/he must be brought before a Justice of the Peace or judge within 24 hours of his/her arrest. The Justice of the Peace or judge will decide whether the accused will be kept in custody until trial or released on bail. This is called a bail hearing, and may be held right away or put off (adjourn) to a later date.

I’m confused – I thought “bail” was money?

The term bail is often used to refer to the money promised as security for the accused to show up the next time s/he is required to appear in court. In most cases bail money is not actually paid, but is promised to be paid in the event the accused fails to appear in court as required or breaches a condition of his/her release. The person who promises the money is called a surety.

This person agrees to supervise the accused while s/he is out of custody awaiting trial. If the accused fails to appear or breaches a condition of his/her release, the law says the surety may have to pay the promised money to the court. Sometimes an accused is released from custody without a surety, on his/her own signature, with or without conditions.

What if I have concerns about the accused being released on bail?

If you have any concerns about the accused being released on bail, be sure to tell the police and arrange to speak to the Crown Attorney **before** the bail hearing if possible. Your concerns, and any information that supports them, will be passed on to the judge, to be taken into account at the bail hearing.

You can also speak to a Victim/Witness Assistance Program (V/WAP) worker about your concerns, which will be relayed to the Crown Attorney.

What is the Victim/Witness Assistance Program (V/WAP)?

V/WAP is a government-funded service that provides information, assistance and support for certain victims and witnesses of crime. These services begin as early as the laying of charges and continue as late as the conclusion of the court case. V/WAP services are primarily geared towards victims of domestic violence, sexual assault, and families of homicide victims.

V/WAP staff can answer your questions about the criminal justice process, provide you with a courtroom orientation, and can act as a support for you in court. A V/WAP worker can also provide you with information about your case, such as court dates, hearing outcomes and copies of bail and/or probation orders. V/WAP staff do not provide counselling services.

V/WAP staff cannot discuss your testimony or other evidence or the crime that was committed against you. If you have questions about these things, you should contact the Crown Attorney or police officer in charge of your case.

Most V/WAP offices are located in courthouses. To find the V/WAP office nearest you, contact your local courthouse. You can find that number by looking in the Blue Pages of the phone book under “Courts”; or go to the website www.ontario.ca/attorneygeneral and select “Court Addresses” under the heading “Court Services”. If there is no V/WAP program in your area, you can call the Crown Attorney’s office and make an appointment to speak to someone there about your case.

Do I testify at the bail hearing?

Not usually. But if you have any concerns about the accused being released on bail, be sure to tell the police, Crown Attorney or V/WAP worker before the bail hearing. Your concerns, and any information that supports them, will be passed on to the judge, to be taken into account at the bail hearing.

How does the judge decide whether or not to grant bail to the accused?

Judges consider many factors when deciding whether or not to grant bail. If there is reason to believe that the accused will not appear for trial, or that s/he might commit another crime if released, the accused will likely be denied bail and will be held in jail until his/her trial. If the judge believes that the accused may hurt the victim, or his/her family, bail will probably be denied.

What happens if the accused is denied bail?

If the accused is denied bail, s/he will be held in custody, usually until the trial.

What happens if the accused is granted bail?

If the accused is granted bail, s/he will be released from custody until the trial. The judge can place certain conditions on the accused as a term of his/her release. These can include a number of things, such as staying away from you or members of your family, or from your home or workplace; reporting regularly to the police; having a curfew; not drinking alcohol; or not having guns or other weapons.

Can the decision on bail be appealed?

Either the accused or the Crown Attorney can apply to a higher court to review the bail decision made by the judge or Justice of the Peace.

In addition, if the accused is denied bail, the head of the institution where the accused is being held must apply for a bail review hearing in 30 days for less serious crimes, and in 90 days for more serious offences. This is to ensure that an accused person – who has not yet been found guilty of a crime – is not held in custody for long periods of time without a trial if there is no reason that s/he should not be released.

Will I know if the accused is granted bail?

Yes, if you request it. Be sure to let the Crown Attorney or V/WAP worker know that you want to be told about the outcome of the bail hearing, and where you can be contacted.

What happens if the accused violates the conditions of his or her bail?

If the breach of conditions is reported to the police, bail can be revoked and the accused put in jail until trial. An additional charge for breaching the bail conditions can also be laid against the accused.

After Custody and Bail – Going to Court

What happens after the accused is released or detained?

There will be an arraignment for the accused. This means that the charges against the accused will be read out in court. The accused will plead “guilty” or “not guilty” to the charges against him/her.

Do I have to be in court for the arraignment?

It’s up to you. If you want to attend you must let the Crown Attorney or V/WAP worker know so they can tell you when the proceeding will be. But sometimes the arraignment takes place on the same day as the preliminary hearing (see next question) or the trial, and in this case you may be required to be there.

Whenever you are required to be in court you will receive a notice in writing, called a subpoena, which is a document that tells you when and where to go to court. Failing to appear in court once you have been subpoenaed is a criminal offence, and the judge can issue a warrant for your arrest. If there is a good reason why you cannot attend court on the specified day, you should contact the Crown Attorney or police officer in charge of your case right away to explain your reasons.

What happens if the accused pleads “guilty”?

If the accused pleads guilty, s/he will be found guilty, and the judge will direct that a sentencing hearing be held, either immediately or at a later time. For more information on the sentencing process, see page 30.

What happens if the accused pleads “not guilty”?

If the accused pleads “not guilty”, a court date will be set for either a preliminary hearing (sometimes called a preliminary inquiry) or a trial, depending on the nature and seriousness of the offence.

What is a preliminary hearing?

A preliminary hearing is conducted by a judge to determine whether the Crown Attorney has enough evidence to proceed to trial. The preliminary hearing does not establish whether the accused is innocent or guilty. At the end of the preliminary hearing, if the judge decides there is not enough evidence for trial, the accused is discharged – which means the charges are dropped and the accused is free to go. If the judge decides there is enough evidence, the accused will be ordered to stand trial at a later date.

Preliminary hearings are not held in all cases. They are usually held for serious offences like robberies, sexual assaults, aggravated assaults, or murder. In less serious cases, no preliminary hearing is held and the case proceeds directly to trial.

Will I have to testify at the preliminary hearing?

Yes, if the Crown Attorney believes you have evidence that will help the case. If you are called as a witness, you will receive a subpoena. This is a document that tells you when and where to go to court. Once you have been served with a subpoena, you cannot refuse to go to court. Failing to appear in court once you have been subpoenaed is a criminal offence, and the judge can issue a warrant for your arrest. If there is a good reason why you cannot attend court on the specified day, you should contact the Crown Attorney or police officer in charge of your case right away to explain your reasons.

If you are called as a witness in a preliminary hearing, your role will be much the same as at trial. For more information on what to expect as a witness, see page 25, “*If You Are a Witness in Court*”.

What is a “plea bargain”?

A “plea bargain” – technically referred to as a plea resolution – is an agreement reached between the Crown Attorney and the defence lawyer for the accused to plead guilty. The guilty plea may be in exchange for a reduced number of charges, a reduced charge, or a lesser sentence. A plea bargain can be made at any time up to, and during, the trial. However, the judge does not have to accept the terms of a plea bargain.

What if I don’t agree with the plea bargain?

The plea bargain is negotiated between the Crown Attorney and the defence lawyer. As the victim, you are not a party to those negotiations, and the Crown Attorney does not need your permission to reach a plea bargain with the defence lawyer. But the Crown Attorney should let you know of any plea bargain, and may talk to you about the sentence s/he is recommending. If you have concerns about your safety, speak to the police officer in charge of your case, the Crown Attorney, or V/WAP worker to make them aware of your concerns. This will allow the Crown Attorney to address your safety concerns in his/her submissions to the judge on sentencing.

What Happens at the Trial

When will the case go to trial?

There are many legal procedures that may happen before the case goes to trial. These procedures will affect the date on which the trial is held. Be sure to keep in touch with the Crown Attorney or V/WAP worker assigned to the case so that you are kept up-to-date.

What is the role of the judge at trial?

The judge is in charge of the trial (this is called “presiding over the trial”).

Does the judge decide whether the accused is guilty or innocent?

That depends. For more serious offences, the accused gets to choose whether to be tried by a judge and jury, or by a judge alone. Where there is a judge and a jury, it is the jury’s job to decide whether the accused is guilty or not guilty. If there is no jury, the judge decides whether the accused is guilty or not guilty.

What is the role of the Crown Attorney?

The Crown Attorney’s job is to present the case against the accused. **The Crown Attorney is not your lawyer.** In Canadian law, crimes are dealt with as wrongs against society as a whole, not just as private matters between two people (the victim and the accused). Therefore, the Crown Attorney is acting on behalf of all members of the public. Although the Crown Attorney does have a responsibility to keep you informed about the case and to treat you with respect and sensitivity, the Crown Attorney’s primary duty is to ensure that every prosecution is carried out in a way that is consistent with the public interest.

What is the role of the defence lawyer?

The defence lawyer’s job is to represent the accused, to see that s/he gets a fair trial. Sometimes an accused will choose not to have a lawyer and will represent him/herself at trial.

Will I need my own lawyer at the trial?

No. Remember, the crime is seen to be an offence against the public/society, and the proceedings are between the government and the accused. It is not your responsibility to prove the case. That is up to the Crown Attorney. But if you believe you need legal advice about anything that is going on in the process, you can hire your own lawyer.

What happens at the trial?

Crown Attorney presents evidence

The Crown Attorney presents his or her case first. S/he will present evidence against the accused by calling witnesses and introducing other types of evidence, such as documents, clothing, weapons or other items.

As the victim, you may be called as a witness by the Crown Attorney. S/he will ask you questions about what happened. For more information on what to expect if you are a witness, see page 25.

The Crown Attorney will call other witnesses as well, such as people who saw the crime being committed, the investigating police officer, or medical personnel (if you needed medical attention after the crime).

Each witness called by the Crown Attorney may be asked questions by the defence lawyer. This is called cross-examination.

Defence lawyer may present evidence

In the Canadian legal system, an accused is presumed innocent until the Crown Attorney proves that s/he is guilty. This means that it is up to the Crown Attorney to prove that the accused committed the crime; it is not up to the defence to prove that the accused did not commit the crime. The defence does not have to present evidence, but often will, to help put the Crown Attorney's evidence in doubt.

The accused does not have to testify at his or her trial, or call any other witnesses. However, if the accused does choose to testify or call witnesses, the Crown Attorney can cross-examine the accused and any other defence witnesses.

Closing arguments

When all the evidence has been presented, the Crown Attorney and defence lawyer will make closing arguments. The Crown Attorney will argue that the accused is guilty, based on the evidence presented. The defence lawyer will argue that the Crown Attorney has not proven the accused is guilty “beyond a reasonable doubt” (see below).

Deciding if the accused is guilty or not guilty

If the accused has chosen to be tried by a judge alone (no jury), after the closing arguments, the judge may take a break (a “recess”) to decide if the accused is guilty or not. The recess may be short, where the judge goes to his/her chambers (office) for a few minutes, or the recess may be for several weeks while the judge makes his/her decision.

If there is a jury, the judge will charge the jury. This means the judge gives the jury members instructions about what laws apply and how to weigh the evidence they have heard. After the jury charge, the jurors leave the courtroom and meet together in another room to discuss the case. They consider all the evidence, the lawyers’ closing statements, and the judge’s instructions, and then decide whether the accused is guilty or not guilty. The decision they reach is called a verdict.

Beyond a reasonable doubt

In order to find the accused guilty, the judge or jury must be convinced “beyond a reasonable doubt” that the accused committed the crime. This means that to convict, the judge or jury must, based on the evidence presented to them, be sure that the accused committed the offence. If they have reasonable doubt, they have to find the accused not guilty. It is not enough to believe the accused is probably guilty.

What happens if the accused is found “not guilty”?

The accused will be free to go.

It is important to remember that under Canadian criminal law, a person is considered innocent until **proven** guilty. You may be convinced that the accused is guilty, but the court presumes the accused is innocent until the Crown Attorney proves its case. When there is not enough evidence to prove the guilt of the accused beyond a reasonable doubt, s/he will be found not guilty, the charge will be dismissed and the accused will be free to go. This is called an acquittal.

The fact that the accused is found not guilty does not necessarily mean that the judge or jury did not believe your evidence. It simply means that, looking at all the evidence that was presented, the judge or jury had a reasonable doubt about whether the accused was guilty.

What happens if the accused is found “guilty”?

If the accused is found guilty, the judge will direct that a sentencing hearing be held, either immediately or at a later time. For more information on the sentencing process, see page 30.

If You Are a Witness in Court

You may be called as a witness to testify at the preliminary hearing and/or at the trial. Speak to the Crown Attorney and s/he will explain the process to you.

Do I have to testify?

Yes. If you are called as a witness, you will receive a subpoena. This is a document that tells you when and where to go to court. Once you have been served with a subpoena, you cannot refuse to go to court. Failing to appear in court once you have been subpoenaed is a criminal offence, and the judge can issue a warrant for your arrest. If there is a good reason why you cannot attend court on the specified day, you should contact the Crown Attorney, V/WAP worker or police officer in charge of your case right away to explain your reasons.

Can I have my own lawyer if I am a witness?

No. Victims cannot have a lawyer to assist them at the trial. But you may get support and assistance from a V/WAP worker.

Do I get paid to be a witness?

No fee is paid to you for being a witness. But your employer may be willing to give you paid time off to attend court.

What if my employer will not give me time off to attend court?

An employer cannot deny someone unpaid time off to attend court. If your employer will not give you the time off, tell the Crown Attorney or V/WAP worker assigned to your case.

What about childcare?

You will be responsible for your own childcare costs. Ask your victim services worker or V/WAP worker if there are services available in your area.

What if I do not live in the city where the trial or pre-trial hearing is taking place?

If you have to travel out of your area to be a witness, you are entitled to travel and accommodation expenses. Contact the Crown Attorney's office or V/WAP office to make these arrangements.

What if I have moved since the crime took place?

If you move or change your phone number, be sure to tell the Crown Attorney, V/WAP worker or police officer in charge of your case so they know how to contact you.

Can a family member or friend come to court with me?

Yes. You can bring someone to court with you for support. But if your support person is also a witness, check with the Crown Attorney or V/WAP worker to find out if s/he can be in the courtroom when you testify.

What if English is not my first language?

As a witness, you are entitled to testify in the language most comfortable for you. Tell the police officer, V/WAP worker or Crown Attorney in advance if you need an interpreter in court.

What if I have a disability?

If you have a disability that will make it difficult for you to give your testimony, speak to the Crown Attorney. S/he will try to ensure that your needs are accommodated.

How do I get ready to testify?

Before going to court, refresh your memory by asking to review the statement you gave to the police at the time of the crime. Ask the Crown Attorney for a copy of this statement at least a few days before the trial.

Can I talk to anyone about my testimony?

Do not discuss the case or your testimony with any other victims or potential witnesses, either before or after you take the witness stand. This is very important. If the judge finds out you have been talking about your testimony with other witnesses, what you or they have said may be called into question.

How should I dress for court?

Dress neatly, as if you were going to an important business appointment. Do not chew gum – it is not permitted in the courtroom.

How do I address the judge and the lawyers?

When you are testifying, be polite, out of respect to the court. Address the Crown Attorney and defence lawyer as “Sir” or “Madam”. The proper way to address the judge is “Your Honour”, whether the judge is a man or a woman.

How do I know when it is my turn to testify?

When it is your turn to testify, the court clerk will call your name and you will be asked to come forward to the witness stand. Here you must either swear on a Bible or solemnly affirm that you will tell the truth. This is called being “sworn in”. Once you have done this, you are considered to be “under oath” until you finish testifying. While under oath you must tell the truth at all times. Failure to do so is a criminal offence called perjury.

What should I do on the witness stand?

After you have been sworn in, the Crown Attorney or defence lawyer, or both, will ask you a number of questions about what happened. Here are some things to remember while you are on the witness stand:

- Listen carefully to the questions. Take your time and answer the best way you can, without guessing.

- Be yourself, and just say what happened. Do not try to memorize what you are going to say.
- Only answer the question the lawyer asks you. If the lawyer wants more information, s/he will ask you more questions.
- Wait until the lawyer finishes his/her question before you start to answer. That way you will have time to collect your thoughts and you will be sure to answer the right question.
- Speak clearly and loudly. Always look at the lawyer asking you the questions, and speak clearly enough so that the judge and jury (if there is one) can hear you.
- Say “yes” or “no” out loud. A court reporter will write down everything you say, so it’s not enough to shake or nod your head.
- If one of the lawyers objects to a question, do not answer it until the judge tells you that you can.

Will the defence lawyer ask me questions?

Probably. After the Crown Attorney is finished asking his/her questions, the defence lawyer may ask you some questions. This is called cross-examination. Again, listen carefully to the questions. Take your time and answer the questions the best way you can, without guessing.

Remember, the defence lawyer’s job is to point out every possible reason why the judge or jury should find the accused not guilty. Don’t be surprised if s/he challenges your answers, or suggests that you are mistaken, or that you are not telling the truth. If you disagree with a suggestion put to you by the defence lawyer, say that you disagree. After the defence lawyer has finished cross-examining you, the Crown Attorney may ask you a few more questions to clear up certain points.

What if the accused is representing him/herself? Will s/he cross-examine me?

In certain circumstances you can tell the judge that you do not want to be cross-examined by the accused directly. The judge in this instance may appoint a lawyer to carry out the cross-examination. If you have concerns, be sure to let the Crown Attorney know before you testify.

Can the judge ask me questions?

Yes. The judge may ask you questions at any time while you are on the witness stand

What if I don't understand a question?

If you don't understand a question, say "I don't understand", and ask for it to be repeated or reworded. Don't guess.

What if I don't know the answer to a question?

If you don't know the answer to a question, say "I don't know".

What if I don't remember the answer?

If you don't remember the answer to a question, say "I don't remember". You can also ask to see the statement you gave to the police to refresh your memory. If you remember the answer later, tell the Crown Attorney.

Will the accused be in the courtroom when I testify?

Yes. The accused will be in the courtroom, and it might be upsetting for you to see him/her. So when you are on the witness stand, try to look at the lawyer asking the questions, or at the judge, and concentrate on answering the questions being asked.

In some circumstances, a witness may be allowed to testify behind a screen or by closed circuit television (CCTV). Speak to the Crown Attorney to see if this applies to you.

Who else will be in the courtroom?

There will be a court clerk in the courtroom. The court clerk files various documents related to the court proceedings, keeps a record of trial evidence, administers oaths, and announces the beginning and end of court sessions.

There will also be a court reporter in the courtroom. The court reporter makes a record of everything that is said in court. At the end of the trial, the court reporter's notes will form the official record of the trial. This is called the transcript.

There may also be members of the general public at the trial. Generally, trials are public proceedings and anyone can attend. However, the judge may exclude the general public from the trial if s/he thinks it is absolutely necessary.

Will there be reporters in the courtroom?

Newspaper, radio and television reporters are usually allowed in the courtroom, but there may be limitations on what they can report – this is called a publication ban. For example, in certain sexual assault cases, the media may not be allowed to report information that would identify victims or particular witnesses. The judge may also order a publication ban on certain evidence. If you are worried about being identified by the media, speak to the Crown Attorney in charge of your case.

Sentencing Process

Who decides what sentence the offender is given?

After an accused has been found guilty at trial, or pleaded guilty, there will be a sentencing hearing. At the sentencing hearing, the Crown Attorney and the defence lawyer make recommendations to the judge about what sentence they think is appropriate. But the final decision on sentencing is always up to the judge.

In determining the appropriate sentence for the offender, the judge will consider a number of things, including the circumstances surrounding the crime, the offender's criminal record (if any) and personal history, any pre-sentence reports and the Victim Impact Statement.

Do I get a say in sentencing?

Although it is the judge who has the final say on sentencing, you can provide important input by submitting a Victim Impact Statement. The judge will take your statement into consideration when s/he is deciding on the offender's sentence. For more information on Victim Impact Statements, see page 31.

What is a pre-sentence report?

In some cases, and often for more serious crimes, the judge may ask for a pre-sentence report. This document can include psychological or intellectual assessments of the offender, the risk s/he may pose to the community, special needs to be considered and any other information that may assist in determining an appropriate sentence.

What is a Victim Impact Statement?

A Victim Impact Statement is a written statement to the court that is prepared by the victim for consideration by the judge in sentencing. The Victim Impact Statement is submitted to the court after conviction but before sentencing. It does not discuss the actual crime, but describes how it has affected the victim and, in some cases, the victim's family.

Your Victim Impact Statement should be in your own words, and should describe to the court how the crime has affected your life, including a description of the physical, emotional and financial effects of the crime. This may be the only opportunity you will have to tell the court – and the offender – how you have been harmed by the crime. You can request the opportunity to read your statement out in court.

To get a Victim Impact Statement form, speak to the Crown Attorney or V/WAP worker.

Is the offender allowed to see my Victim Impact Statement?

Yes. The offender has the right to see your Victim Impact Statement.

Do I have to submit a Victim Impact Statement?

No. The decision to prepare and submit a Victim Impact Statement is entirely up to you. But doing so will give you the opportunity to explain to the judge, and the offender, how the crime has affected you.

Can someone help me prepare my Victim Impact Statement?

Yes. A police officer involved in your case, a victim services worker or a V/WAP worker can help you prepare your Victim Impact Statement.

In my Victim Impact Statement, can I tell the judge how long the offender should go to jail?

No. The Victim Impact Statement should only talk about your own experience, and should not make suggestions about sentencing.

Does the judge have to consider my Victim Impact Statement?

Yes. Although it is up to you whether or not to prepare a Victim Impact Statement, if you choose to do so, the judge must take it into consideration when deciding on the offender's sentence.

How do I submit my Victim Impact Statement to the court?

You must submit your Victim Impact Statement to the court after the offender is convicted but before s/he is sentenced. You can do this by giving your Victim Impact Statement to the Crown Attorney before the sentencing hearing or at the hearing. You can also read the statement in court, but you don't have to if you don't want to.

Different Types of Sentences

What kinds of sentences can the judge order?

There are many different types of sentences that can be ordered, as described below:

Probation

Some sentences include time spent in the community under the supervision of a probation officer, usually with certain conditions. These conditions are usually laid out in a legal document called a probation order, and may include such things as no alcohol, staying away from certain areas or people, counselling, keeping a job or keeping a curfew, among others. A probation order may be imposed in addition to another form of sentence such as a fine, conditional discharge or prison time. A probation order cannot last more than three years.

If the offender violates any of the conditions of probation, s/he can be charged with a new offence of breach of probation. If you have any concerns about the offender violating the conditions of the probation order that might affect your safety – such as contacting you when this is prohibited – contact the police immediately.

In some cases, victims of certain crimes (such as sexual assault or woman abuse) may be contacted by a probation officer. This is to make sure your safety is considered in managing the offender. If you do not want to be contacted further, simply tell the probation officer and your wish will be respected.

Imprisonment

A judge may sentence an offender to serve time in prison. A judge can also order a “no contact order” as part of a prison sentence. This means that the offender is not allowed to call you while s/he is in prison.

If the prison sentence is less than two years, the offender will be sent to a provincial prison; this may be combined with probation.

If the sentence is two years or more, the offender will be sent to a federal prison. There are minimum, medium and maximum federal security prisons. The security level a prisoner is held under is determined by the risk s/he poses within the prison, and not the seriousness of the crime.

Intermittent sentence

Where a judge orders a sentence of 90 days or less, s/he may order that the sentence be served intermittently (in blocks of time), such as on weekends. This allows the offender to be released into the community for a specific purpose, such as going to work or school, caring for children, or for health reasons.

An intermittent sentence is always accompanied by a probation order, which governs the offender’s conduct while s/he is out of jail. If the offender breaches the conditions of the probation order, s/he can be charged with a new offence of breach of probation and may have to serve the rest of the sentence in prison.

Conditional sentence

A conditional sentence is a sentence that is served in the community rather than in prison. It can be ordered only for periods of less than two years. A judge will not order a conditional sentence unless s/he is satisfied that serving the sentence in the community will not endanger public safety. One type of conditional sentence is house arrest, where the offender is confined to his/her home except for special permission to attend such things as medical appointments or legal proceedings.

An offender who is serving a conditional sentence will be subject to certain conditions contained in a conditional sentence order. If the offender fails to comply with the conditions, s/he may have to return to court, and may then be ordered to serve the rest of the sentence in prison.

Suspended sentence with probation

The judge may choose to put off (“suspend”) passing a sentence and release the offender on probation for a specified period of time (maximum three years). An offender on probation with a suspended sentence remains out of prison, but is under the supervision of a probation officer and must follow all of the conditions in the probation order. Although the offender may not spend any time in prison, a suspended sentence does result in a conviction against the offender.

If the offender violates any of the conditions of probation, s/he can be charged with a new offence of breach of probation, and can be sentenced to prison time for the original offence as well.

Fine

A fine is a set amount of money that the offender is ordered to pay to the court as a penalty for committing a crime. A fine may be combined with another penalty, such as prison time or probation. The judge cannot order a fine unless s/he is satisfied that the accused will be able to pay it. If the offender does not pay the fine, s/he may have to serve time in prison, or there may be a civil judgment registered against him/her for the amount owing.

Restitution order

A restitution order requires the offender to pay money to the victim to help cover some or all of the losses or damages caused by the crime. This is called restitution. Only costs that can be easily proven, like repairs to property damaged by the offender, treatment for injuries, loss of income or moving expenses may be ordered to be paid. If awarded, this money is paid to the court and then given to the victim.

Offenders who are ordered to pay restitution must do so even if they are sent to prison. Offenders are required to work while in prison, and are paid a small sum for this work. If the offender is in prison, arrangements can be made for the restitution payments to come out of his/her pay and sent to you in installments. The offender is obligated to pay you the full amount of the restitution regardless of how much s/he earns in prison.

If the offender does not pay, you can file the restitution order with a civil court. Once filed with the civil court, the restitution order will be enforceable against the offender in the same way as if it was a judgement made in civil court. For more information on this process, speak to the Crown Attorney.

Absolute or conditional discharge

In less serious offences, or those not involving violence, where the accused has been found guilty the judge can “discharge” the accused. Where the judge grants a discharge, no conviction is registered against the accused.

A discharge can be absolute or conditional. If the offender receives an absolute discharge, s/he will have been found guilty but will be free to go. Where an offender receives a conditional discharge, s/he will have been found guilty but will be released subject to certain conditions contained in a probation order. If the offender violates any of the conditions of probation, s/he can be charged with a new offence of breach of probation, and can be sentenced to prison time for the original offence as well.

Indeterminate sentence for dangerous offenders

In some cases, where the offender has committed a very serious violent crime, a special hearing may be held to determine whether the offender ought to be declared a “dangerous offender”. If the offender is found to be a dangerous offender, s/he may be sentenced to an unspecified period of time in prison. This is called an “indeterminate sentence” and means that the judge does not specify when the sentence will end; the offender is kept in prison with no fixed date for release although the case is reviewed periodically by the National Parole Board. For more information on “Release from Prison”, see page 36.

Sentencing for more than one offence

There are many types of sentences or combinations of penalties that a judge can choose from. In some cases, where the accused is convicted of more than one offence, the judge may impose more than one sentence. These can be either concurrent or consecutive. When the sentences are concurrent, they are served at the same time, for example, two sentences of one year each would result in only one year served. Where the sentences are consecutive, they would be served one after the other, for example, two sentences of one year each would result in two years served.

Appeals

In certain circumstances, either the defence lawyer or the Crown Attorney can ask a higher court to review the trial court's decision on the conviction or acquittal and/or sentence. This is called an appeal.

The higher court may not agree to hear the appeal. But if it does, it can agree with the original court's decision, change the decision or sentence, or order a new trial. A victim does not have to testify at the appeal court. The victim will be called to testify again only if a new trial is ordered.

The victim has no right of appeal.

Release from Prison

When will the offender be released from prison?

Most offenders will not serve their full sentences in prison. In most cases, an offender will be released from prison on parole (after serving one-third of his/her sentence) or on statutory release (after serving two-thirds of his/her sentence). These types of releases are described in the questions, "*What is parole?*" and "*What is statutory release?*".

In addition, an offender may be allowed to leave the prison for short periods of time *in certain circumstances*. For more information on short-term releases, see the question, "*Will the offender be allowed to leave the prison at any other time?*"

What is parole?

Most offenders can apply for early release from prison, based on their behaviour and on completion of recommended programs or treatments, **after serving one-third of their sentence, or seven years, whichever comes earlier**. This is called parole. Offenders who are initially denied parole can reapply for parole every two years.

Some offenders in the federal prison system who are serving time for more serious offences are not eligible for parole after serving one-third of their sentence; in these cases, the date the offender will be eligible for parole will be determined by the judge as part of the sentencing.

To obtain parole, an offender must apply to the Ontario Parole and Earned Release Board (if s/he is serving time in a provincial prison) or the National Parole Board (if s/he is serving time in a federal prison). Parole will be granted or denied to an offender during a “parole hearing”. To learn more about parole hearings, see page 39.

Being on parole does not mean that an offender is completely free without supervision. If granted parole, the offender will be released from prison and will serve the remainder of his/her sentence in the community under specified conditions and under supervision of a parole officer.

What is statutory release?

An offender who has not been released on parole after serving one-third of his/her sentence will be released **after serving two-thirds of his/her sentence**. This is called statutory release.

In the case of some extremely violent offenders in the federal prison system, the National Parole Board can refuse to release the offender until s/he has served the entire length of his or her sentence. In addition, offenders serving life sentences or those determined to be “dangerous offenders” (see page 35) are not eligible for statutory release.

In the provincial system, the offender will not be supervised upon statutory release, and his/her sentence will be deemed to be complete. In the federal system, the offender will be supervised upon release by a Parole Officer until the rest of his/her sentence has been completed. There may also be conditions attached to the offender’s release.

Will the offender be allowed to leave the prison at any other time?

In some circumstances, an offender may be given permission to leave the prison for short periods of time. Some of these short-term releases are described below.

Temporary Absence

In both the federal and provincial prison systems, an offender may be temporarily released from prison under special circumstances. For example, s/he may be given a temporary absence release to attend a family funeral, work, or receive specialized medical treatment not available in the prison. These temporary releases may be “escorted” or “unescorted”, depending on the offender’s risk to the community.

Work Release

In the federal prison system, an offender may be released from prison for the day to attend programs or classes considered beneficial, or to work. Offenders are supervised by an employee of the prison or another authorized organization. Offenders out on work release must return to the prison each night.

Offenders in maximum security prisons are not eligible for work release.

Day Parole

In the case of non-violent crimes, some first time offenders in federal prisons may be eligible to apply for day parole six months before their parole eligibility date. Upon release on day parole, the offender will be supervised by a Parole Officer, must comply with certain conditions (e.g. obey the law; keep the peace; notify the Parole Officer of any change of address), and must return nightly to a halfway house or the prison.

There is no day parole in the provincial prison system.

Is an offender serving a life sentence eligible for parole?

Yes. An offender who is given a “life sentence” may not spend his/her entire life in prison. An offender serving a life sentence may be eligible to apply for parole at certain points in his/her sentence. For more information, you should contact the National Parole Board at 1-800-518-8817 (if calling within Canada) or 1-866-789-4636 (if calling from outside Canada).

How do I find out if an offender is being released or has escaped from prison?

There is a system in place to notify victims when an offender is being released or has escaped from prison, but to receive notification **you MUST register with either the federal or provincial victim notification system.**

If the offender is serving a sentence in a provincial prison, you must register with the Victim Notification System (VNS). To register with the VNS, call the Victim Support Line at 1-888-579-2888, or in the Greater Toronto Area at 416-314-2447, and choose the option for the Victim Notification service.

If the offender is serving a sentence in a federal prison, you must register with the National Parole Board at 1-800-518-8817 (to be notified of parole hearings) **AND** the Victim Services Unit of Correctional Service of Canada at 1-866-875-2225 (to be notified of transfers, releases, and escapes).

What if I have concerns about an offender's release?

If you have concerns about the upcoming release of an offender, it is very important to share that information with the appropriate parole board.

If the offender is in a provincial prison, call the Victim Support Line toll-free at 1-888-579-2888, or in the Greater Toronto Area at 416-314-2447. Choose the option for the Victim Notification service.

If the offender is serving a sentence in a federal prison, you should contact the National Parole Board at 1-800-518-8817 (if calling within Canada) or 1-866-789-4636 (if calling from outside Canada).

Parole Hearings

What is a parole hearing?

A parole hearing is a hearing held by the Ontario Parole and Earned Release Board or the National Parole Board to determine if an offender should be released on parole. A parole hearing is not a trial. Its purpose is to help Board Members assess the risk that the offender may present to the community if s/he is granted parole.

The decision to grant or deny parole is made by parole Board Members, who carefully review all of the information in the offender's file and conduct an in-person interview with the offender at the parole hearing.

Where is a parole hearing held?

A parole hearing usually takes place in the prison where the offender is serving his or her sentence.

Who will be at the parole hearing?

In the provincial prison system, there will be two members of the Ontario Parole and Earned Release Board at the parole hearing. Other Parole Board staff may also be present. The offender may have a family member, friend or someone else to assist him/her at the hearing.

In the federal prison system, there will be two or three members of the National Parole Board at the parole hearing. There will also be a Hearing Officer who will tape the hearing and assist Board members. The offender may have a lawyer, family member or a friend to assist him/her. The offender's Parole Officer will be there to present the case. There may also be other observers at the hearing, including the media.

Can I attend a parole hearing?

Yes. If you are 18 years old or older, you have the right to attend a parole hearing of the offender that is serving a sentence for a crime committed against you.

You can apply to attend a parole hearing as an observer **OR** to present a statement. If you apply to attend as an observer, you will not be given the opportunity to speak. For more information on what you need to do to present an oral or written statement at a parole hearing, see the next question, "*Can I speak at a parole hearing?*".

If you want to attend a parole hearing as an observer and **the offender is serving time in a provincial prison**, you must send a "Victim Application to Attend a Parole Hearing" form to the Ontario Parole and Earned Release Board. You can get the form at www.operb.gov.on.ca or you can call the Ontario Parole and Earned Release Board at (416) 325-4480 to have one sent to you.

If you want to attend a parole hearing as an observer and **the offender is in a federal prison**, you must submit a "Request to Observe a Hearing" form to the National Parole Board. You can find the form at www.npb-cnbc.gc.ca, or you can call the National Parole Board at 1-800-518-8817 (if calling within Canada) or 1-866-789-4636 (if calling from outside Canada).

Can I make a statement to the parole board?

Yes. You can submit a written statement to the parole board to be considered at the parole hearing. If you choose to, you can read the statement at the hearing, but you cannot ask the Board Members questions or speak directly to the offender during the hearing.

If you want to make a statement to the parole board, you must submit your written statement to the parole board before the hearing. You can choose to read your statement to the parole Board Members so they can hear from you in person; or, you can simply submit your statement before the hearing and the Board Members will read it on their own. You can still attend the hearing even if you are not planning to read your statement.

You should be aware that, by law, your written statement will be shared with the offender before the parole hearing.

If the offender is in a provincial prison, contact the Ontario Parole and Earned Release Board at 416-325-4480 for information about presenting a statement at the parole hearing.

If the offender is in a federal prison, you will need to send a “Request to Present a Victim Statement” form to the National Parole Board. If you cannot or do not want to attend the parole hearing, you can also present your statement by video or audio tape. Contact the National Parole Board at 1-800-518-8817 (if calling within Canada) or 1-866-789-4636 (if calling from outside Canada), or visit their website at www.npb-cnrc.gc.ca, for information about this process.

Will I see the offender at the parole hearing?

Probably. Hearings usually occur in small meeting rooms, so you will most likely be able to see the offender.

Can I take someone to the parole hearing with me?

Yes. For both provincial and federal parole hearings, you can take a support person with you, but s/he is not permitted to speak during the hearing.

Can someone else go to the parole hearing on my behalf?

Yes. If you would like to be represented at the hearing, but cannot go, or do not want to go, you can choose someone to represent you. In order to attend the hearing, your representative must apply to the appropriate parole board. To learn more about this process, contact the Ontario Parole and Earned Release Board (if the offender is in a provincial prison) at (416) 325-4480, or the National Parole Board (if the offender is in a federal prison) 1-800-518-8817 (if calling within Canada) or 1-866-789-4636 (if calling from outside Canada).

Is there any financial assistance available to attend a parole hearing?

Some costs are covered. To find out what costs are covered and whether you are eligible, contact the Ontario Parole and Earned Release Board at (416) 325-4480 or the National Parole Board at 1-800-518-8817 (if calling within Canada) or 1-866-789-4636 (if calling from outside Canada).

If the Offender is a Youth

Does the same criminal justice process apply if the offender is a youth?

No. In Canada, an offender between the ages of 12 and 17 at the time the crime was committed is considered a “young person” under criminal law, and falls under the *Youth Criminal Justice Act* (YCJA). Although the same laws apply to a young offender as to an adult offender, the procedures, courts and sentences are different.

How is the criminal justice process different for young persons?

There are three main areas where the criminal justice process is different for young persons than for adults.

First, not all young persons who commit a crime will go through the traditional criminal justice process. Under certain circumstances – usually in the case of non-violent, first time offenders – the Crown Attorney may decide that criminal proceedings are not in the best interest of the young person or the general public.

In those cases, if the young person agrees, s/he can be referred to an extrajudicial sanctions program, which may include such things as: attending substance abuse or aggression programs; volunteering for a non-profit organization; community service orders; attending a wilderness camp where the youth has access to counselling and learns life skills; or reconciliation programs where the victim and the offender talk about what happened.

Second, young persons who commit crimes are not dealt with in the same courts as adults. Young persons who are not referred to an extrajudicial sanctions program, or who do not comply with the terms of an extrajudicial sanctions program, will have their trial in youth court. Youth courts are subject to the procedures and principles set out in the *YCJA*.

Third, there are a wider range of sentencing options available for young persons than for adults. Under the *YCJA*, sentences for young persons range from a “judicial reprimand”, which is a stern warning/lecture from the judge, to prison time. Further, a prison sentence for young persons will always be composed of prison time and time spent in the community under supervision.

Can a young person be tried in adult court where the offence was very serious?

No. Under the old laws, certain young persons could be transferred to adult court for trial, but that does not happen anymore. Under the *YCJA*, a young person must be tried in youth court. The judge can, however, impose an adult sentence if the young person is found guilty of certain very serious offences.

What if the young person is less than 12 years old?

Children under the age of 12 are not held criminally responsible for their actions, and therefore are not dealt with in the criminal justice system. Instead, they are usually dealt with under the child welfare system or mental health system.

GLOSSARY OF TERMS

A

absolute discharge	An accused is found guilty but not convicted; there is no sentence and the accused is free to go.
accused	A person who is charged with committing a crime.
acquittal	An accused is found not guilty and is free to go.
adjournment	The postponement of a court hearing to another date.
Appeal	A request by a Crown Attorney or defence lawyer for a higher court to review the trial court's decision on the conviction or acquittal and/or sentence.
appearance notice	A legal document requiring an accused to appear in court to answer charges against him/her in a criminal case.
arraignment	The formal process where charges against an accused are read out in the courtroom and s/he is asked how s/he pleads (guilty or not guilty).
arrest	The accused is placed in the custody of the police.
arrest warrant	A document authorizing the police to arrest an individual where a court orders it.

B

bail	An accused is released from custody by a judge or Justice of the Peace, until it is time to go to trial.
bail hearing	A hearing where a Justice of the Peace or judge decides whether the accused will be kept in custody until trial or released.

beyond a reasonable doubt The standard that must be applied in finding an accused guilty. To convict, a judge or jury must believe that, considering all of the evidence presented, there is no reasonable doubt that the accused committed the crime.

C

chambers	A judge's office.
charges	The offences a person is accused of having committed. Charges are set out in a legal document called an information.
charging the jury	When the judge instructs the jury at the end of the trial, before the jury members meet together to decide whether an accused is guilty or not guilty.
CICB	Criminal Injuries Compensation Board – an Ontario government agency that provides financial compensation for victims of violent crime where the crime was committed in Ontario.
closing arguments	Speeches made by the Crown Attorney and the defence lawyer at the end of the trial.
concurrent sentences	Multiple sentences that are served at the same time by an accused. For example, two sentences of one year each result in only one year served.
consecutive sentences	Multiple sentences that are served one after the other by the accused. For example, two sentences of one year each would result in two years served).
conditional discharge	An accused is found guilty, but not convicted; the accused is free to go, but is placed on a probation order with conditions.
conditional sentence	A sentence that is served in the community rather than prison.

conviction	When an accused is found guilty (after entering a guilty plea or at trial) and does not receive an absolute or conditional discharge as a sentence.
court clerk	The person responsible for various court processes, such as filing of documents relating to court proceedings, keeping a record of trial evidence, and administering oaths.
court reporter	The person who sits in on all court proceedings and makes a record of everything that is said in court (the transcript).
criminal justice process	The legal processes that take place after a crime has been committed and police have become involved (includes arrest, court appearances, sentencing).
cross-examination	A witness in court is asked questions by the lawyer from the other side (e.g. accused is asked questions by the Crown Attorney, or victim is asked questions by the defence lawyer).
Crown Attorney	A lawyer who represents the Crown (government) and acts as a prosecutor in criminal proceedings.

D

day parole	A type of release from prison that is available to some first time offenders in federal prisons six months before their parole eligibility date. Upon release on day parole, the offender is supervised by a parole officer, is subject to conditions, and must return nightly to a halfway house or the prison.
defence lawyer	A lawyer who represents an accused in criminal proceedings.
discharge	See “absolute discharge” and “conditional discharge”.

E

extrajudicial sanctions program

A program that permits young persons charged with certain crimes to take responsibility for their behaviour outside of the traditional criminal justice system. Examples include such things as attending substance abuse or aggression programs, community service orders, and reconciliation programs where the victim and the offender talk about what happened.

F

fine

A set amount of money that an offender is ordered to pay the court as a penalty for committing a crime.

H

house arrest

A type of conditional sentence where the offender is confined to his/her home for the period of the sentence.

I

information

A legal document that describes the charges against an accused; the information is sworn to by a police officer and filed with the court.

intermittent sentence

A sentence served in blocks or time (e.g. on weekends); only used for sentences of 90 days or less.

J

judicial reprimand

One type of sentence available for young persons under the *Youth Criminal Justice Act (YCJA)*; a stern warning or lecture from the judge.

Justice of the Peace

An officer of the criminal justice system who has authority to do a variety of things in criminal matters, including: issuing warrants; hearing bail applications; and presiding over certain provincial offence trials.

N

National Parole Board

The Board that is responsible for conducting parole hearings and making decisions on parole for offenders in the federal prison system.

no contact order

An order that can be made by a judge as part of a prison sentence that prohibits the offender from contacting the victim.

O

offender

A person found guilty of committing a crime.

Ontario Parole and Earned Release Board

The Board that is responsible for conducting parole hearings and making decisions on parole for offenders in the provincial prison system.

P

parole	The release of an offender from prison after s/he has served one-third of his/her sentence.
peace bond	A court order requiring a person to keep the peace for a specified period of time; often includes specific conditions such as staying a certain distance from someone, or not communicating with someone.
perjury	Lying while under oath; this is a criminal offence.
plea bargain	An agreement reached between the Crown Attorney and defence lawyer where the accused pleads guilty, often in exchange for a reduced number of charges, a reduced charge, or a lesser sentence.
preliminary hearing	A hearing where a judge listens to the evidence presented by the Crown Attorney, and decides whether there is enough evidence to proceed to trial against an accused; sometimes called a preliminary inquiry.
probation	A type of sentence served in the community under the supervision of a probation officer and usually with conditions.
probation order	A legal document that describes the term of probation and the conditions.
publication ban	A judge's order setting out limitations on what information in court proceedings can be reported by the media.

R

restitution order	An order made by a judge requiring an offender to pay money to a victim to help cover losses or damages caused by the crime.
recess	A break taken during a trial.
restraining order	A civil court order containing certain conditions such as prohibiting contact with another person; usually made in Family Court in connection with a custody or separation action.

S

sentencing hearing	A hearing held after an accused has pleaded guilty or has been found guilty, where the Crown Attorney and defence lawyer make recommendations about what sentence they think is appropriate.
statutory release	The release of an offender from prison after serving two-thirds of his/her sentence.
subpoena	A legal document requiring a witness to appear in court.
surety	A person who agrees to supervise the accused while s/he is out of custody awaiting trial. The surety promises to pay a sum of money to the court in the event the accused fails to appear in court as required or breaches a condition of his or her release.
suspended sentence	A sentence where an offender who has been convicted of an offence remains out of jail, but is on probation for a specified period of time.

T

temporary absence release	A type of release from prison that allows an offender to leave prison temporarily under special circumstances; for example, to attend a family funeral or to receive specialized medical treatment not available in the prison.
transcript	The official record of a trial; prepared from the court reporter's notes.

V

VCARS	Victim Crisis Assistance and Referral Services – a community based victim services program that provides assistance to victims of crime.
verdict	A decision reached by a judge or jury (guilty or not guilty).
VBR	Victims' Bill of Rights, 1995 – legislation that establishes a set of principles to support victims of crime throughout the criminal justice process.
Victim Impact Statement	A written statement by a victim that describes how the crime has affected his/her life; the statement is submitted to the court after conviction but before sentencing, and is considered by the judge when s/he decides the sentence.
VQRP	Victim Quick Response Program – a government-funded program that provides emergency funds in the immediate aftermath of a violent crime, for victims who have no other financial means or resources available to meet these needs. The VQRP is offered through local victim services organizations.

VSL

Victim Support Line – a province-wide, bilingual, toll-free information line that provides:

- Referrals to victim support services in your community;
- A notification system regarding the release of offenders in provincial prison and information about these offenders;
- Pre-recorded information about the criminal justice system; and
- A process/mechanism to discuss concerns about the type or quality of victim services.

V/WAP

Victim Witness Assistance Program – a government-funded service that provides information, assistance and support for certain victims and witnesses of crime.

W**warrant**

See “arrest warrant”.

VICTIMS' BILL OF RIGHTS

Victims' Bill of Rights, 1995

S.O. 1995, CHAPTER 6

Amended by: 1999, c. 6, s. 65; 2000, c. 32; 2005, c. 5, s. 72.

Preamble

The people of Ontario believe that victims of crime, who have suffered harm and whose rights and security have been violated by crime, should be treated with compassion and fairness. The people of Ontario further believe that the justice system should operate in a manner that does not increase the suffering of victims of crime and that does not discourage victims of crime from participating in the justice process.

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

DEFINITIONS

Definitions

1. In this Act,

“crime” means an offence under the *Criminal Code* (Canada); (“acte criminel”)

“victim” means a person who, as a result of the commission of a crime by another, suffers emotional or physical harm, loss of or damage to property or economic harm and, if the commission of the crime results in the death of the person, includes,

- (a) a child or parent of the person, within the meaning of section 1 of the *Family Law Act*, and
- (b) a dependant or spouse of the person, both within the meaning of section 29 of the *Family Law Act*;

but does not include a child, parent, dependant or spouse who is charged with or has been convicted of committing the crime. (“victime”) 1995, c. 6, s. 1; 1999, c. 6, s. 65 (1, 2); 2005, c. 5, s. 72 (1, 2).

PRINCIPLES

Principles

2. (1) The following principles apply to the treatment of victims of crime:
1. Victims should be treated with courtesy, compassion and respect for their personal dignity and privacy by justice system officials.
 2. Victims should have access to information about,
 - i. the services and remedies available to victims of crime,
 - ii. the provisions of this Act and of the *Compensation for Victims of Crime Act* that might assist them,
 - iii. the protection available to victims to prevent unlawful intimidation,
 - iv. the progress of investigations that relate to the crime,
 - v. the charges laid with respect to the crime and, if no charges are laid, the reasons why no charges are laid,
 - vi. the victim's role in the prosecution,
 - vii. court procedures that relate to the prosecution,
 - viii. the dates and places of all significant proceedings that relate to the prosecution,
 - ix. the outcome of all significant proceedings, including any proceedings on appeal,
 - x. any pretrial arrangements that are made that relate to a plea that may be entered by the accused at trial,
 - xi. the interim release and, in the event of conviction, the sentencing of an accused,
 - xii. any disposition made under section 672.54 or 672.58 of the *Criminal Code* (Canada) in respect of an accused who is found unfit to stand trial or who is found not criminally responsible on account of mental disorder, and
 - xiii. their right under the *Criminal Code* (Canada) to make representations to the court by way of a victim impact statement.

3. A victim of a prescribed crime should, if he or she so requests, be notified of,
 - i. any application for release or any impending release of the convicted person, including release in accordance with a program of temporary absence, on parole or on an unescorted temporary absence pass, and
 - ii. any escape of the convicted person from custody.
4. If the person accused of a prescribed crime is found unfit to stand trial or is found not criminally responsible on account of mental disorder, the victim should, if he or she so requests, be notified of,
 - i. any hearing held with respect to the accused by the Review Board established or designated for Ontario pursuant to subsection 672.38 (1) of the *Criminal Code* (Canada),
 - ii. any order of the Review Board directing the absolute or conditional discharge of the accused, and
 - iii. any escape of the accused from custody.
5. Victims of sexual assault should, if the victim so requests, be interviewed during the investigation of the crime only by police officers and officials of the same gender as the victim.
6. A victim's property that is in the custody of justice system officials should be returned promptly to the victim, where the property is no longer needed for the purposes of the justice system. 1995, c. 6, s. 2 (1).

Limitations

(2) The principles set out in subsection (1) are subject to the availability of resources and information, what is reasonable in the circumstances of the case, what is consistent with the law and the public interest and what is necessary to ensure that the resolution of criminal proceedings is not delayed. 1995, c. 6, s. 2 (2).

Regulations

- (3) The Lieutenant Governor in Council may make regulations,
 - (a) Prescribing standards, other than for police services, to be followed in giving effect to the principles set out in subsection (1);
 - (b) prescribing crimes for the purposes of paragraphs 3 and 4 of subsection (1). 1995, c. 6, s. 2 (3).

Same

(4) Standards for police services may be prescribed under paragraph 1 of subsection 135 (1) of the *Police Services Act*. 1995, c. 6, s. 2 (4).

No new cause of action

(5) No new cause of action, right of appeal, claim or other remedy exists in law because of this section or anything done or omitted to be done under this section. 1995, c. 6, s. 2 (5).

CIVIL PROCEEDINGS

Damages

3. (1) A person convicted of a prescribed crime is liable in damages to every victim of the crime for emotional distress, and bodily harm resulting from the distress, arising from the commission of the crime. 1995, c. 6, s. 3 (1).

Presumption

(2) The following victims shall be presumed to have suffered emotional distress:

1. A victim of an assault if the victim is or was a spouse, within the meaning of section 29 of the *Family Law Act*, of the assailant.
2. A victim of a sexual assault.
3. A victim of an attempted sexual assault. 1995, c. 6, s. 3 (2); 1999, c. 6, s. 65 (3); 2005, c. 5, s. 72 (3).

Regulations

(3) The Lieutenant Governor in Council may make regulations prescribing crimes for the purposes of subsection (1). 1995, c. 6, s. 3 (3).

Interpretation

(4) Nothing in this section shall be interpreted to limit remedies otherwise available under existing law or to preclude the development of remedies under the law. 1995, c. 6, s. 3 (4).

Application of section

4. (1) This section applies to a civil proceeding in which the victim of a crime seeks redress from a person convicted of the crime for harm suffered as a result of the commission of the crime. 1995, c. 6, s. 4 (1).

Security for costs

(2) A judge shall not make an order under the rules of court requiring a victim to provide security for costs unless the judge, having considered the spirit and purpose of this Act, considers that it is necessary to do so in the interests of justice. 1995, c. 6, s. 4 (2).

Damages

(3) Subject to subsection (4), a judge shall not consider the sentence, if any, imposed on a convicted person when ordering that person to pay damages in respect of harm suffered by a victim of the crime. 1995, c. 6, s. 4 (3).

Exception: punitive damages

(4) A judge shall take the sentence, if any, imposed on a convicted person into consideration before ordering that person to pay punitive damages to a victim. 1995, c. 6, s. 4 (4).

Interest awards

(5) A judge shall not exercise his or her discretion under clause 130 (1) (a) of the *Courts of Justice Act* to disallow an award of interest to a victim unless the judge, having considered the spirit and purpose of this Act, considers that it is necessary to do so in the interests of justice. 1995, c. 6, s. 4 (5).

Solicitor and client costs

(6) A judge who makes an order for costs in favour of a victim shall make the order on a solicitor and client basis, unless the judge considers that to do so would not be in the interests of justice. 1995, c. 6, s. 4 (6).

VICTIMS' JUSTICE FUND ACCOUNT**Victims' justice fund account to be maintained**

5. (1) The victim assistance fund account referred to in subsection 60.1 (4) of the *Provincial Offences Act*, as it read immediately before subsection 7 (1) of this Act comes into force, is continued as the victims' justice fund account and shall be maintained as a special account in the Consolidated Revenue Fund. 1995, c. 6, s. 5 (1).

Amounts to be credited to account

- (2) The victims' justice fund account shall consist of,
- (a) fine surcharge amounts credited to the account under subsection 60.1 (4) of the *Provincial Offences Act*;
 - (b) fine surcharge amounts that under section 727.9 of the *Criminal Code* (Canada) the Lieutenant Governor in Council directs be credited to the account;
 - (c) Amounts credited to the account in accordance with an appropriation by the Legislative Assembly of Ontario;
 - (d) donations made by persons to the Crown to be credited to the account.
- 1995, c. 6, s. 5 (2).

Special purpose account

(3) The money paid into the victims' justice fund account is money paid to Ontario for a special purpose within the meaning of the *Financial Administration Act*. 1995, c. 6, s. 5 (3).

Use of victims' justice fund account

(4) The money paid into the victims' justice fund account shall be used to assist victims, whether by supporting programs that provide assistance to victims, by making grants to community agencies assisting victims or otherwise. 1995, c. 6, s. 5 (4).

Payments out of account

(5) Subject to the approval of Management Board of Cabinet, payments may be made out of the victims' justice fund account for the purpose described in subsection (4). 1995, c. 6, s. 5 (5).

Expenses

(6) The Lieutenant Governor in Council in each year may authorize the payment out of the victims' justice fund account to the Consolidated Revenue Fund generally of an amount for the payment of expenses in connection with the administration of the account. 1995, c. 6, s. 5 (6).

Regulations

- (7) The Lieutenant Governor in Council may make regulations,
- (a) establishing criteria that must be met by a program or agency before a payment is made out of the victims' justice fund account to support the program or agency;

- (b) establishing a formula or other basis according to which money in the victims' justice fund account is to be paid out. 1995, c. 6, s. 5 (7).

OFFICE FOR VICTIMS OF CRIME

Office for Victims of Crime

5.1 (1) There shall be an office to be known in English as the Office for Victims of Crime and in French as Office des affaires des victimes d'actes criminels. 2000, c. 32, s. 1.

Composition

(2) The Office shall be composed of such number of members as the Lieutenant Governor in Council considers appropriate, each of whom shall be appointed by the Lieutenant Governor in Council. 2000, c. 32, s. 1.

Chair and vice-chair

(3) The Lieutenant Governor in Council shall designate a chair and vice-chair of the Office from among the members of the Office. 2000, c. 32, s. 1.

Advisory functions

- (4) The Office shall advise the Attorney General on,
- (a) ways to ensure that the principles set out in subsection 2 (1) are respected;
 - (b) the development, implementation and maintenance of provincial standards for services for victims of crime;
 - (c) the use of the Victims' Justice Fund to provide and improve services for victims of crime;
 - (d) research and education on the treatment of victims of crime and ways to prevent further victimization; and
 - (e) matters of legislation and policy on the treatment of victims of crime and on the prevention of further victimization. 2000, c. 32, s. 1.

Assigned duties

(5) The Attorney General may from time to time assign such duties to the Office as he or she considers appropriate and the Office shall carry out those duties. 2000, c. 32, s. 1.

Employees

(6) Employees of the Office may be appointed under the *Public Service Act*, 2000, c. 32, s. 1.

Transitional

(7) On the day this section comes into force,

- (a) the books and records of the office formerly known in English as the Office for Victims of Crime and in French as the Bureau consultatif pour les services aux victimes d'actes criminels become the books and records of the Office referred to in subsection (1); and
- (b) the employees of the office formerly known in English as the Office for Victims of Crime and in French as the Bureau consultatif pour les services aux victimes d'actes criminels become the employees of the Office referred to in subsection (1). 2000, c. 32, s. 1.

6.,7. OMITTED (AMENDS OR REPEALS OTHER ACTS). 1995, c. 6, ss. 6, 7.

8. OMITTED (PROVIDES FOR COMING INTO FORCE OF PROVISIONS OF THIS ACT). 1995, c. 6, s. 8.

9. OMITTED (ENACTS SHORT TITLE OF THIS ACT). 1995, c. 6, s. 9.

CANADIAN STATEMENT OF BASIC PRINCIPLES OF JUSTICE FOR VICTIMS OF CRIME

Canadian Statement of Basic Principles of Justice for Victims of Crime, 2003

In honour of the United Nations' Declaration of Basic Principles of Justice for Victims of Crime, and with concern for the harmful impact of criminal victimization on individuals and on society, and in recognition that all persons have the full protection of rights guaranteed by the Canadian Charter of Rights and Freedoms and other provincial Charters governing rights and freedoms; that the rights of victims and offenders need to be balanced; and of the shared jurisdiction of federal, provincial, and territorial governments, the federal, provincial, and territorial Ministers Responsible for Criminal Justice agree that the following principles should guide the treatment of victims, particularly during the criminal justice process.

The following principles are intended to promote fair treatment of victims and should be reflected in federal/provincial/territorial laws, policies and procedures:

- Victims of crime should be treated with courtesy, compassion, and respect.
- The privacy of victims should be considered and respected to the greatest extent possible.
- All reasonable measures should be taken to minimize inconvenience to victims.
- The safety and security of victims should be considered at all stages of the criminal justice process and appropriate measures should be taken when necessary to protect victims from intimidation and retaliation.
- Information should be provided to victims about the criminal justice system and the victim's role and opportunities to participate in criminal justice processes.
- Victims should be given information, in accordance with prevailing law, policies, and procedures, about the status of the investigation; the scheduling, progress and final outcome of the proceedings; and the status of the offender in the correctional system.
- Information should be provided to victims about available victim assistance services, other programs and assistance available to them, and means of obtaining financial reparation.

- The views, concerns and representations of victims are an important consideration in criminal justice processes and should be considered in accordance with prevailing law, policies and procedures.
- The needs, concerns and diversity of victims should be considered in the development and delivery of programs and services, and in related education and training.
- Information should be provided to victims about available options to raise their concerns when they believe that these principles have not been followed.

Who to Contact...



**For Supports and Services
for Victims of Crime in Ontario**

General Services

VICTIM SUPPORT LINE

The Victims Support Line (VSL) is a province-wide, bilingual, toll-free information line that provides information about a range of services for victims of crime.

The VSL offers:

- Referrals to victim support services in local communities;
- A notification system regarding the release of offenders in provincial prison and information about these offenders;
- Pre-recorded information about the criminal justice system; and
- A link to the Victim Liaison Unit of the Ontario Victim Services Secretariat, where a victim can discuss concerns about the type or quality of a service s/he is receiving.

Telephone Greater Toronto Area: 416-314-2447

Toll-free: 1-888-579-2888

ACTION ONTARIENNE CONTRE LA VIOLENCE FAITE AUX FEMMES (AOcVF)

A list of French-language and bilingual services for women throughout Ontario is listed on the AOcVF website.

Website: www.francofemmes.org.aocvf

ASSAULTED WOMEN'S HELPLINE

The Assaulted Women's Helpline provides crisis counselling, safety planning, and referrals to appropriate services in local communities. This is a telephone service only. The service is free, anonymous and confidential and is available 24 hours a day, 7 days a week.

Greater Toronto Area: 416-863-0511

Toll-free: 1-866-863-0511

Website: www.awhl.org

DOMESTIC VIOLENCE/SEXUAL ASSAULT CARE CENTRES

These treatment centres operate out of hospitals throughout Ontario and provide emergency care to victims of domestic violence or sexual assault who **come to a hospital emergency department within 72 hours of the incident**. These Centres are accessible 24 hours, 7 days a week. They are staffed by an on-call team of nurses and/or physicians, who provide specialized care through the emergency department. These Centres also provide follow-up medical care and counselling. There are 35 Centres located in hospitals across the province.

To find the centre in your area:

Call the Victim Support Line at:

Greater Toronto Area: 416-314-2447

Toll-free: 1-888-579-2888

OR

Check the Ontario Network of Sexual Assault/Domestic Violence Treatment Centres website:

Website: www.satcontario.com

SEXUAL ASSAULT/RAPE CRISIS CENTRES (SAC)

These Centres provide support to victims of sexual assault who **do not require immediate medical attention**. SACs provide female victims and survivors of sexual assault who are 16 years of age or older with a variety of free services, including:

- 24 hour, 7 days a week telephone crisis line support;
- Accompaniment to hospital, police station or court;
- Supportive peer counselling services (both one-to-one and group);
- Sexual violence education and training for professionals and members of the public; and
- Information and referral services.

There are a number of SACs across the province. To find the closest centre in your area:

Call the Victim Support Line at:

Greater Toronto Area: 416-314-2447

Toll-free: 1-888-579-2888

OR

Check the Ontario Coalition of Rape Crisis Centres website:

Website: www.ocrcc.ca

SHELTERNET

Shelternet is a website that provides up-to-date information and resources for abused women, including a map of shelters (with their phone numbers) for each province.

Website: www.shelternet.ca

Financial Assistance/Compensation

VICTIM QUICK RESPONSE PROGRAM (VQRP)

The VQRP provides emergency funds for certain expenses incurred by a victim immediately following a crime. VQRP is delivered through victim services organizations in communities across the province. Applications for financial assistance under VQRP must be made within 14 days of the crime but an extension of time may be granted in certain special circumstances.

To find the victim services organization in your area:

Call the Victim Support Line at:

Greater Toronto Area: 416-314-2447

Toll-free: 1-888-579-2888

CRIMINAL INJURIES COMPENSATION BOARD (CICB)

The Criminal Injuries Compensation Board is an Ontario government agency that provides financial compensation to victims of a violent crime committed in Ontario.

Greater Toronto Area: 416-326-2900

Toll-free: 1-800-372-7463

Website: www.cicb.gov.on.ca

Legal Services

LEGAL AID ONTARIO

The Legal Aid program entitles individuals to receive advice and representation through a private lawyer of their choice or through legal aid staff lawyers. To apply for a legal aid certificate, which outlines the services legal aid will provide, individuals must attend in person at a local Legal Aid area office.

Greater Toronto Area: 416-979-1446

Toll-free: 1-800-668-8258

Website: www.legalaid.on.ca

COMMUNITY LEGAL CLINIC

Community legal clinics provide free legal services to individuals who meet their financial eligibility requirements. Most community legal clinics are located in specific geographic communities, and each community in Ontario is served by a clinic. Individuals should contact a community legal clinic directly to see if their legal problem can be addressed by the clinic and if they qualify financially for their services.

To find a local community legal clinic:

Check the Yellow Pages under “Legal Clinics”

OR

Check the Legal Aid Ontario website:

Website: www.legalaid.on.ca

(Click on “Getting Legal Help” and then “community legal clinic program” in the text)

LAWYER REFERRAL SERVICE

The Law Society of Upper Canada's Lawyer Referral Service (LRS) helps individuals find a lawyer to assist them with their particular legal problem. The service can also help find a lawyer who meets specific requirements such as speaking a certain language or accepting Legal Aid certificates. Individuals calling the LRS will be provided with the name of a lawyer who will provide the individual with a free consultation of up to 30 minutes. There is a \$6 fee for using the LRS, which will appear on the user's next phone bill. The \$6 fee does not apply to individuals in crisis (domestic abuse) situations OR those under the age of 18 OR are calling about a Child Protection issue. Individuals in these situations or those unable to get through on the 1-900 line should call the crisis line listed below.

For Bell Canada Customers in Ontario

Telephone: 1-900-565-4LRS (4577)

Crisis Line

Greater Toronto Area: (416) 947-3330

Toll-free: 1-800-268-8326

Website: www.lsuc.on.ca

(Click on "For the Public" and then "Lawyer Referral Service")

Criminal Justice System/Courts

COURTHOUSES

To find a list of courthouses in Ontario:

Check the telephone book – all court houses are listed in the Blue Pages of the telephone book under “Courts”.

OR

Check the *Ministry of the Attorney General* website:

Website: www.ontario.ca/attorneygeneral

VICTIM/WITNESS ASSISTANCE PROGRAM

The Victim/Witness Assistance Program (V/WAP) provides information, assistance and support for certain victims and witnesses of crime. V/WAP offices are located within most courthouses across the province.

To find the closest courthouse with a V/WAP office:

Check the telephone book – all court houses are listed in the Blue Pages of the telephone book under “Courts”.

OR

Check the Ministry of the Attorney General website:

Website: www.ontario.ca/attorneygeneral

Information about an Offender Who is in Prison

FOR OFFENDERS IN A PROVINCIAL PRISON: VICTIM NOTIFICATION SYSTEM

The Victim Notification System (VNS) is an automated telephone notification system that provides victims **who have registered with the VNS** with information on an offender who is serving his or her sentence in a provincial prison. Information includes such things as: the offender's scheduled release from prison, parole hearing dates and decisions, and similar information.

To register with the VNS:

Call the *Victim Support Line* and select the option for the Victim Notification service.

Greater Toronto Area: 416-314-2447

Toll-free: 1-888-579-2888

Users will need to leave their name and contact number and a staff person from the Ministry of Public Safety and Correctional Services will call back with information about the offender. Users will also be given the option of registering with the automated Victim Notification System for future updates/notification about when the offender is scheduled for release. Users must register to receive these updates.

FOR OFFENDERS IN A FEDERAL PRISON: VICTIM NOTIFICATION REGISTRY

The Victim Notification Registry provides victims **who have registered with National Parole Board and Correctional Service of Canada**, with information on an offender who is serving his or her sentence in a federal prison. Information includes such things as: the start date and length of the sentence, the offence for which the offender was convicted, and the eligibility and review dates of any release.

To register with the federal VNS, users must register with both the National Parole Board (to be notified of parole hearings) and Correctional Service of Canada (to be notified of transfers and escapes):

The National Parole Board

Toll-free (within Canada): 1-800-518-8817

Toll-free (outside Canada): 1-866-789-4636

Correctional Service of Canada

Toll-free: 1-866-875-2225

Other Resources**FEDERAL OMBUDSMAN FOR VICTIMS OF CRIME**

The Office of the Federal Ombudsman for Victims of Crime is an independent resource for victims in Canada. Victims can contact the Office to learn more about their rights under federal law and the services available to them, or to make a complaint about any federal agency or federal legislation dealing with victims of crime.

Toll-free: 1-866-481-8429

Website: www.victimfirst.gc.ca

ONTARIO VICTIM SERVICES SECRETARIAT

The Ontario Victim Services Secretariat (OVSS) is a division of the Ministry of the Attorney General (MAG) that works to ensure that victims of crime are treated with respect and receive the information and services they need. The OVSS website provides information on programs and services available to victims of crime.

Greater Toronto Area: 416- 325-3265

TTY: 416-325-4935

Website: www.attorneygeneral.jus.gov.on.ca/english/ovss

NATIONAL OFFICE FOR VICTIMS

The National Office for Victims is a central resource for victims of offenders under federal responsibility. It provides general information for victims and the public; referrals to the Correctional Service of Canada (CSC) and the National Parole Board (NPB) for specific enquiries; and a victim's perspective in national policy development. In addition, the office responds to complaints about the services provided to victims by the CSC and the NPB, once all existing avenues for complaint have been exhausted.

Toll-free: 1-866-525-0554

Website: www.publicsafety.gc.ca/prg/cor/nov/nov-bnv-en.asp

POLICY CENTRE FOR VICTIM ISSUES

The Policy Centre for Victim Issues (PCVI) at the Department of Justice Canada works toward improving the experience of victims of crime in the criminal justice system. The PCVI website provides information and resources, including the Justice Canada Victim Services Directory, which lists more than 350 organizations across Canada that provides services to victims.

Website: www.justice.gc.ca/eng/pi/pcvi-cpcv/index.html

USER FEEDBACK FORM

*Have you been a victim of crime? What's Next...
Information and Resources for Victims of Crime in Ontario*

An on-line copy of this form is available at www.ovc.gov.on.ca

Please circle your response; 1 = *Strongly Disagree* → 5 = *Strongly Agree*

The handbook was a useful resource. 1 2 3 4 5

The handbook helped me to understand the criminal justice process. 1 2 3 4 5

The handbook helped me to understand the types of supports/services that are available to victims of crime. 1 2 3 4 5

The handbook and the directory, "*Who to Contact*", helped me to find the supports/services that I needed. 1 2 3 4 5

The handbook was easy to understand. 1 2 3 4 5

The information I was looking for was easy to find in the handbook. 1 2 3 4 5

Comment /Suggestions for the handbook:

Where did you get this handbook?

Thank you for your feedback. Please send your completed response to:

By Regular Mail

Office for Victims of Crime
700 Bay Street, 3rd Floor
Toronto, ON M5G 1Z6

By Fax:

416-326-4497

