
Consultation on the *Canadian Victims Bill of Rights*

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**Association québécoise
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submitted to the
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Mission of the Association québécoise Plaidoyer-Victimes (AQPV)

The mission of the Association québécoise Plaidoyer-Victimes (AQPV) is to advocate for victims of crime by conducting representation, information, training and social engagement activities with victims, their loved ones, support workers and decision-makers. It is made up of a network of more than 200 organizations from various sectors of intervention, mostly involved in the community network.

AQPV involvement in various initiatives surrounding the implementation of the *Canadian Victims Bill of Rights* (CVBR)

With support from the Victims Fund and in collaboration with the federal and Quebec departments of justice, the AQPV has initiated and led important projects over the past five years:

- distributed more than 1,400 posters to raise awareness about the CVBR
- distributed more than 14,000 pamphlets to educate victims about their rights under the CVBR and how they apply at various stages in the criminal justice system
- launched an interactive website in March 2021 to educate minor victims of young offenders about their rights under the *Youth Criminal Justice Act*
- organized 23 training sessions on the CVBR (2017–2020) for more than 500 professionals and organizations in contact with victims in several regions of Quebec
- continued developing remote learning for workers and students interested in the rights and recourse available in the justice system to victims and their families
- provided funding in 2021–2022 to document the needs and rights of victims when the accused is found not criminally responsible by reason of a mental disorder

Preamble

In 2015, with the passage of Bill C-32, An Act to enact the Canadian Victims Bill of Rights and to amend certain Acts, Parliament recognized the importance of strengthening the rights of victims by enshrining them in law and allowing victims to seek recourse when they are harmed. This was a major step forward.

This submission exposes some of the barriers to implementing the CVBR and some of the challenges to be overcome so that victims can fully exercise their rights and remedies.

1. Lack of awareness of the CVBR

At the outset, it is important to acknowledge the federal government's efforts to raise awareness of the CVBR among victims, victim support workers and organizations. We would like to especially acknowledge the efforts of Justice Canada, Public Safety Canada [the Correctional Service of Canada (CSC) and the Parole Board of Canada (PBC)] and the Office of the Federal Ombudsman for Victims of Crime (OFOVC).

Despite these efforts, there continues to be little awareness about the CVBR among victims and the general public. This was evident in the public consultation on the OFOVC's 2017 criminal justice system review in several regions across Canada.

"We heard clearly that on-the-ground awareness of the CVBR remains limited and that action should be taken to make the legislation better known."

In Quebec, both victims and field workers came to the same conclusions during the work of the Comité d'experts sur l'accompagnement des victimes d'agression sexuelle et de violence conjugale, which heard from more than 100 organizations and received 56 submissions.

[TRANSLATION] "We are concerned about the lack of public awareness about the *Canadian Victims Bill of Rights*. The main problem identified has to do with its promotion and support for its application."

Ordre professionnel des criminologues du Québec

1.1 Caseworkers' perceived grasp of the CVBR during AQPV training sessions

The AQPV has noticed that, in the field, many caseworkers have not had a chance to familiarize themselves with this new legislative tool, either through training or as part of their work. This

is what came out of questionnaires completed by 306 professionals working mainly in the victim support network during training sessions on the CVBR given by the AQPV between March 29, 2017, and March 31, 2020.

This is how participants rated their level of knowledge of the CVBR:

- Very knowledgeable: 1%
- Somewhat knowledgeable: 11%
- Not very knowledgeable: 61%
- Not at all knowledgeable: 26%

As well,

- 63% had received information at work
- 5% had read the legislation
- 5% had received training on the CVBR

1.2. A few challenges

More work is needed to increase awareness about the CVBR. Work is also needed to educate the public and clarify information about the victims' rights enshrined in this legislation, since:

- these rights apply at different stages of the criminal justice system
- these rights are set out in several pieces of legislation [*Criminal Code*, *Corrections and Conditional Release Act* (CCRA), *Youth Criminal Justice Act*]
- these rights often depend on the discretion of the authorities or agencies in the justice system (CVBR, s. 20)
- the measures or programs that allow victims to exercise their rights in practice may differ depending on the context, resources and mission of the agencies—for example, the procedures for submitting a victim impact statement are not the same in criminal court, the Review Board for Mental Disorder, the Parole Board of Canada or the Commission québécoise des libérations conditionnelles

This means that these rights must be presented and explained with all the critical nuances. It is important to not to raise false hope, furthering victims' mistrust and disillusionment with the justice system.

Victims must also receive current information that is up to date with the latest changes in the laws that affect them.

Professionals working with victims must be very knowledgeable in order to provide the information they need as they move through the justice system, as well as to provide support when they wish to file a complaint. In a field where knowledge is constantly and rapidly changing, there is a need to support continuing education programs to supplement field work and critical thinking about advocating for the rights of victims.

2. Legislative changes to the CVBR

The wording of the rights in the CVBR is rather vague. They are broad statements that often do not mean much to victims and do not give them a clear picture of what they can expect.

Here are just some of the challenges:

- The wording used for these rights needs to be reviewed to make it clearer and stronger. It should include measures related to the *Criminal Code* and the CCRA that allow victims to exercise their rights to information, participation, protection and compensation.
- In her most recent report, Federal Ombudsman for Victims of Crime Heidi Illingworth stressed the importance of providing information proactively, not just on demand. While the AQPV supports this proposal, it believes there should be broader consultation to assess the processes to be put in place and the issues surrounding the sharing and confidentiality of information that can and must be provided.
- Ms. Illingworth also suggested that the concept of compensation be broadened and that the right to redress be enshrined in the CVBR instead. The AQPV made the same recommendation during the study of Bill C-32. At that time, it argued that the entitlement to a remedy includes a victim's right to restitution of property or to a refund of costs incurred when participating in the justice system as a witness, the right to compensation and the right to restorative justice services.

3. Obligations of the various players and accountability

If this legislation is to work,

- Victims need to know what the obligations are of each key player in the justice system at every stage of the proceedings.

- The agencies involved need to clarify their responsibilities and come up with standards for service delivery to victims. The *Code of Practice for Victims of Crime* adopted in the United Kingdom in 2003 could serve as a model for Canada.
- There absolutely need to be mechanisms and indicators to periodically evaluate the CVBR's implementation.
- All agencies should report to a federal, provincial or territorial independent authority. The AQPV had this in mind when it recommended that a provincial ombudsman for victims be appointed in Quebec during the consultations of the Expert Committee on Support for Victims of Sexual Assault and Domestic Violence.

4. Remedies

In 2015, when Bill C-32 was adopted, Parliament wanted to address a major criticism that the laws governing victims' rights were declaratory and not binding. This is why it introduced remedies.

4.1. At the federal level

Section 25 of the CVBR states that the various jurisdictions must have a complaints mechanism. They also have an obligation to inform victims of the results and may recommend corrective measures.

Soon after the CVBR was adopted, most organizations began meeting their obligations (e.g., complaints policies and forms, information on the website and through other sources) and reporting on these obligations (e.g., annual reviews of complaints received and how they were handled).

Unfortunately, these efforts have not been very successful.

The 2019 *Public Safety Canada Portfolio Report* states that a total of 27 complaints were received, of which 19 were admissible (13 involving CSC and 6 involving the PBC). The report concludes the following:

“Four years after the coming into force of the CVBR, there continues to be a small number of CVBR-related complaints It is important to note that in 2018–2019, there were approximately 23,000 offenders under federal supervision and 8,480 victims

registered with the federal correctional system. In this context, the number of victim complaints submitted to the PS Portfolio is very low. This may suggest that victims might not know they have a right to file a complaint.”

The Report also states that there were no complaints about the Department of Justice Canada or the Royal Canadian Mounted Police. Are we to believe that no victims were dissatisfied with how they were treated by the justice system? Clearly, critical data analysis is required to determine why so few victims file complaints and to come up with possible solutions.

4.2. In the provinces and territories

With respect to provincial agencies or departments, section 26 of the CVBR states that victims may file a complaint “in accordance with the laws of the province or territory.” Parliament’s intent was to respect their jurisdiction. In practice, this section seems to have had little impact.

- In Quebec, several agencies or departments (police services, prosecutors, correctional services and parole boards) currently have mechanisms that allow “clients” or “beneficiaries” to file complaints, including victims. But victims are just another “client” and there is currently no CVBR-specific mechanism. This appears to be the case elsewhere in Canada.
- The annual reports of most of the relevant agencies do not document the number of complaints filed by victims or how they were followed up.

4.3 Some progress

In recent months, the AQPV made several representations during the consultations and consideration of Bill 84, An Act to assist persons who are victims of criminal offences and to facilitate their recovery, in order to introduce remedies to strengthen victims’ rights. Quebec Justice Minister Simon Jolin-Barrette agreed to our requests. This is another step forward.

However, for the time being the remedies provided for in the CVBR are ineffective or even non-existent.

Raising awareness about them, improving them and engaging the organizations involved are all major challenges. This will require major changes so that

- the remedies provided for in the CVBR are established in all provinces and territories

- access to the current complaint mechanisms is simplified and that victims are supported every step of the way
- complaint follow-up leads to improvements to victims services and programs
- victims are better supported when filing complaints

5. Statutory review and periodic review

The reluctance to review the CVBR's implementation in 2021, a requirement in the Act enacting the Charter, is of great concern.

- What resources, programs and measures have been put in place or enhanced to ensure that victims can effectively exercise their rights and remedies?
- What were the results?
- What barriers have victims faced in exercising their rights?
- Why have federal agencies made so little use of their redress mechanisms? Why have the provinces and territories failed to fulfill their statutory obligations?

These and many other questions should be examined so that we can

- examine the problems to come up with solutions to promote victims' rights
- learn from experience and initiatives supported by the federal government and by the provinces and territories
- showcase the good practices and initiatives developed across Canada since the adoption of the CVBR and introduce them into our communities

Conclusion

The CVBR can be an effective tool to advance and strengthen victims' rights. However, this depends on engaging all the actors involved.

Five years after the CVBR was adopted, all stakeholders have a duty to take stock of how it has been implemented and consider what changes need to be made to promote victims' rights. The AQPV hopes that the Standing Committee on Justice and Human Rights will encourage the Minister of Justice of Canada and his partners to move in this direction.