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## Consultation on the Government's Obligations to Victims of Crime

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Brief prepared by **Arlène Gaudreault** for the **Association Québécoise Plaidoyer-Victimes** and submitted to the **House of Commons Standing Committee on Justice and Human Rights**.

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## Preamble

The Association Québécoise Plaidoyer-Victimes (AQPV) is a victims rights advocacy group. I am a founding member of this organization and have served as its president since 1988.

First, I want to thank you for giving us the opportunity to be a part of this consultation. At the outset, we would like to acknowledge the work undertaken by the federal government to raise awareness of the *Canadian Victims Bill of Rights* (CVBR), to update its implementation provisions, and to support the many organizations that work with victims.

Thanks to the financial support of the Department of Justice Canada and the collaboration of the Quebec Ministère de la Justice, the AQPV has initiated and directed several large-scale projects to give victims better access to their rights and to better equip those who work with them. We have attached a document to briefly introduce those projects.

In the time available to me, however, I would like to highlight some of the barriers to victims' rights and remedies in the criminal justice system and make some suggestions.

## Lack of awareness of the rights enshrined in the *Canadian Victims' Bill of Rights*

Right to information issues have been widely documented in consultations held across Canada and in reports by the Office of the Federal Ombudsman for Victims of Crime (OFOVC). One of the recommendations was that information to enable victims to exercise their rights and remedies be provided proactively rather than "on demand."

This is an interesting proposal, but its implementation warrants further study. This could be an opportunity to review provincial and federal confidentiality and privacy legislation, to look at what mechanisms and resources should be in place, and to consult with a wide range of victims to gather their views and concerns.

## Rights that victims do not always understand

The CVBR provides a brief, non-exhaustive list of rights that victims can exercise in different contexts and with different authorities. Rights are poorly defined. The obligations of the various judicial bodies and actors are not specified.

This does not give victims an idea of what to expect. This requires a lot of effort on their part to navigate the various proceedings and to find answers to the questions that concern them.

To address these challenges, many agencies have adopted policies, guidelines, and service statements that outline their roles and responsibilities to victims and the measures they can put in place to better address their needs and rights. The Commissioner's Directive 784 of the Correctional Service of Canada and the directives of Quebec's Directeur des poursuites criminelles et pénales are just such initiatives. They could provide an example to other organizations that have not yet set out their commitments.

### **Discretionary rights limited by other laws**

Enforcement of rights under the CVBR depends largely on the discretion of individual jurisdictions. Justice actors have a great deal of latitude to assess what is "reasonable," to evaluate what is or is not "within the realm of possibility" or to consider what is in the interest of the proper administration of justice.

This depends on the resources available to certain organizations, their mission and their attitude toward victims.

It should also be noted that victims' rights are set out in other legislation (*Criminal Code, Corrections and Conditional Release Act, Youth Criminal Justice Act, Act respecting the Québec correctional system*).

These realities are often not well accepted or understood by victims.

### **Inoperative or non-existent complaint mechanisms**

When the CVBR was passed, Parliament's intent was to provide remedies to victims when they felt their rights had been violated.

Judging by the number of complaints, the performance of federal agencies is very disappointing and suggests that victims are unaware of the remedies available to them.

With respect to the provinces and territories, it is difficult to gauge what has been done to meet the requirements of the CVBR because no analysis has been carried out and little data is available.

A stocktaking exercise is needed to review what has been put in place in all departments and agencies that have obligations with regard to victims, to identify the problems that they run into, and to identify changes and corrective measures so that they can effectively pursue their remedies. This process must be carried out in close collaboration with all the authorities concerned.

## **The lack of access to judicial and administrative remedies**

The CVBR does not allow victims to appeal a decision, order or judgment. In its 2020 CVBR Progress Report, the OFOVC recommended that judicial and administrative remedies be put in place.

We believe that a working group should study the feasibility of introducing this type of remedy and make recommendations to inform our thinking.

## **Restitution and compensation for harm caused**

Judging from recent Department of Justice Canada publications, the amendments made by Bill C-32 to improve the enforcement of restitution orders have had mixed results, both in terms of the imposition of such awards by the courts and the mechanisms for informing and assisting victims in their efforts.

From a broader perspective than restitution, the CVBR should recognize the right to compensation. This includes the right to have property returned, the right to repayment for costs incurred when testifying in court, the right to restitution and the right to be informed about restorative justice programs.

## **Review of the CVBR by a parliamentary committee**

There are many barriers to the full exercise of victims' rights and remedies in the criminal justice system that need to be addressed. We find it difficult to understand the government's reluctance to review the implementation of the CVBR, an obligation set out in Bill C-32, An Act to enact the Canadian Victims Bill of Rights and to amend certain Acts.

This review will:

- identify obstacles that prevent victims from exercising their rights and pursuing remedies, and make recommendations to take and reinforce corrective action.
- promote the knowledge, good practices and programs developed across Canada to support victims as they navigate the criminal justice system.

Despite our efforts, there is still much work to be done to ensure that victims' rights are respected and handled consistently across the country. The *Canadian Victims' Bill of Rights* can be a tool to continue advancing the rights of victims.

We thank you for your attention and for the work you do.

## APPENDIX I

### **Association Québécoise Plaidoyer-Victimes Publications Concerning the *Canadian Victims' Bill of Rights***

Association Québécoise Plaidoyer-Victimes (2013). Consultation on the Implementation of a Victims' Bill of Rights in Canada. Comments submitted to the Department of Justice Canada, 37 p.

Association Québécoise Plaidoyer-Victimes. (2014). Bill C-32, An Act to enact the Canadian Victims Bill of Rights and to amend certain Acts, House of Commons, 2nd Session, 41st Parliament. Comments submitted to the Standing Committee on Justice and Human Rights, October 31, 2014.

Gaudreault, A. (2006). "La déclaration orale de la victime dans les audiences des commissions d'examen : une mesure qui a soulevé un tollé d'objections lors de l'étude du projet de loi C-10", Les Cahiers de PV - Antenne sur la victimologie, no. 1 (Montréal: AQPv), pp. 39-43.

Gaudreault, A. (2010). "Les lois et chartes qui enchâssent les droits des victimes d'actes criminels : réflexions autour de l'expérience canadienne," Les Cahiers de PV – Antenne sur la victimologie, no 6, p. 2-9.

Gaudreault, A. (2010). Les lois et chartes qui enchâssent les droits des victimes d'actes criminels: réflexions autour de l'expérience canadienne. Actualités Justice, 25(1).

Gaudreault, A. (2013). "Des initiatives pour mieux répondre aux besoins des victimes d'actes criminels : l'expérience du Canada," Cahiers de la Sécurité intérieure, Les victimes de la délinquance, Revue trimestrielle, pp. 135-142.

Gaudreault, A. (2013). Renforcer les droits des victimes au Canada : un rêve illusoire. Ressourcez-vous, Société de criminologie du Québec, pp. 13-23.

Gaudreault, A. (2015). La loi édictant la Charte canadienne des droits des victimes remplira-t-elle ses promesses ? Actualités Justice, pp. 6- 10.

Gaudreault, A. (2015), La loi édictant la Charte canadienne des droits des victimes remplira-t-elle ses promesses ? Association canadienne de justice pénale, Actualités Justice, pp. 6-10.

Gaudreault, A. (2017). From Indifference to Engagement: A Victims' Advocate Reflects on the Evolution of Victims' Rights in Canada. In J. Winterdyk (ed.) *Pioneers in Canadian Criminology*.

## APPENDIX II

### AQPV Activities related to the Implementation of the CVBR (2016-2022)

- Delivery of 23 training sessions on the CVBR (2017-2020) that reached more than 500 professionals and organizations in contact with victims, in several regions of Quebec.
- Distribution of over 1,400 posters in [French](#) and in [English](#) to raise awareness about the CVBR.
- Distribution of over 14,000 pamphlets in [French](#) and in [English](#) for victims to educate them about their rights under the CVBR and how they apply at different stages of the criminal justice system.
- Launch of a video clip in [French](#) (1,200 views) and in [English](#) (1,300 views) to educate the general public about the *Canadian Victims' Bill of Rights*.
- Distribution of 2,000 calendars in [French](#) as a quick reference to the rights of victims of crime and a daily reminder of the importance of the role that assistance and support play in recognizing and exercising those rights.
- Launch in March 2021 of an [interactive website](#) for minor victims of young offenders to inform them of their rights under the *Youth Criminal Justice Act*. 4,772 visits and 12,557 page views from March 2021 to date.
- Ongoing development of an *e-learning* course on the rights and remedies of victims and their families in the criminal justice system for interested practitioners and students.
- Funding (2021-2022) to document the needs and rights of victims where the accused is unfit to stand trial or found not criminally responsible on account of mental disorder.
- Launch in November 2021, as part of *Victims and Survivors of Crime Week*, of [10 legal fact sheets](#) developed in collaboration with the Directeur des poursuites criminelles et pénales. These fact sheets were developed to facilitate the experience of victims in the criminal justice system and help them more effectively exercise their rights of participation, protection and information. The sheets are intended for victims, their families and supporters at the various stages of the process. 2,900 views from November 2021 to date.