

"Source: *Federal-Provincial-Territorial Working Group on Victims of Crime, Interim Report to Ministers Responsible for Justice*, Government of Canada, November, 1997. Reproduced with the permission of the Minister of Public Works and Government Services Canada, 2010."

**FEDERAL-PROVINCIAL-TERRITORIAL
WORKING GROUP ON VICTIMS OF CRIME**

**INTERIM REPORT
TO MINISTERS RESPONSIBLE
FOR JUSTICE**

NOVEMBER, 1997

TABLE OF CONTENTS

FEDERAL-PROVINCIAL-TERRITORIAL WORKING GROUP ON VICTIMS OF CRIME

INTERIM REPORT

NOVEMBER, 1997

	<u>Page</u>
INTRODUCTION	1
WHERE HAVE WE BEEN?	2
WHERE ARE WE NOW?	
Provincial & Territorial Victim Legislation	10
Canadian Statement of Basic Principles of Justice for Victims of Crime	16
Federal Legislation Benefiting Victims	17
<u>Criminal Code</u>	17
The <u>Corrections and Conditional Release Act</u>	21
Victim Services & Programs - Provincial & Territorial	23
EMERGING ISSUES	24
A Bill of Rights for Victims	25
Reform Party's Victim Bill of Rights	25
Report of the Standing Committee on Justice and Legal Affairs	26

MADD Victim Bill of Rights	27
CAVEAT's Recommendation for a Victim's Bill of Rights	28
The American Experience and Influence	29
Victim Initiatives and Related Initiatives	30
WHERE DO WE GO FROM HERE?	32
Victim Fine Surcharge	32
Victim Impact Statements	34
Publication Bans	36
Victim Awareness Day/Week	37
Federal and Provincial/Territorial Roles in Responding to Victims of Crime	38
Victim Rights Legislation	39
The Role of the Victim in the Criminal Justice System	39
CONCLUSION	42
APPENDICES	
Canadian Statement of Basic Principles of Justice for Victims of Crime	1
Provincial & Territorial Victim Services and Programs	2
Reform Party's Victim Bill of Rights	3

INTRODUCTION

At the May 1996 meeting of Ministers Responsible for Justice, Ministers discussed generally the issue of the victim's role in the criminal justice system and the benefits of developing a joint or national strategy to respond to the concerns of victims regarding the criminal justice system. It was agreed that the Coordinating Committee of Senior Officials should examine a variety of victim related issues including revisions to the Criminal Code's victim fine surcharge provisions, the coordination of victim services, the notion of a Victim Bill of Rights, including the jurisdictional and practical considerations or as an alternative, the enhancement of the Canadian Statement of Basic Principles of Justice for Victims of Crime, and to generally explore the feasibility and elements of a "national strategy" for victims of crime.

The Coordinating Committee of Senior Officials met in June 1996 and agreed that an ad hoc Working Group should examine the issues identified by Ministers.

Initially, CCSO representatives from several jurisdictions were identified to participate. A brief meeting took place in October 1996 to refine the mandate and workplan. In November, 1996 the ad hoc Working Group met in Regina, Saskatchewan in conjunction with a National Meeting of Directors of Victim Services hosted by Saskatchewan Justice with the assistance of Justice Canada. Directors of Victim Services had identified many of the same issues for discussion as had been identified by Ministers. It was agreed that given the expertise and knowledge of the Directors of Victim Services regarding the scope of existing services and the needs and concerns of victims of crime, all Directors should participate in the Working Group. Moreover, the participation of the Directors has ensured that all provinces and territories are represented in this initiative.

The full Working Group (except for the Yukon and Northwest Territories representatives) met again in October, 1997 in Winnipeg. On November 3, 4, 1997, a group composed of some representatives of CCSO, and some Directors of Victim Services met in Ottawa to develop recommendations and directions for future action to propose to Ministers for their consideration and to draft the outline for this interim report.

All participants agree that over the last 15-20 years significant progress has been made in responding to the concerns of victims, developing policy, programs and legislation and changing attitudes about the roles of criminal justice system personnel. Today, we can point to victim legislation and a range of victim services in all jurisdictions. However, there are continuing and competing pressures on the criminal justice system to change.

The Working Group has proceeded from the premise that there is scope for further improvement to the criminal justice system to recognize the victim's role and needs, yet

these improvements need not infringe or limit the rights of an accused person in any way.

This interim report addresses where we have been, where we are now and asks where do we go from here in addressing the concerns of victims of crime. The report is not intended to provide a comprehensive review of past and present initiatives, programs or legislation. Rather, the report is an overview intended to provide Ministers with sufficient information to assist them in their discussion.

The Working Group has benefited greatly from the opportunity to work together over the last year to share information, identify trends, emerging issues and concerns and best practices and to develop recommendations. There is a consensus that responding to victim concerns will continue to require responses and action from both levels of government and that this can be best accomplished through ongoing consultation and collaboration.

BACKGROUND: WHERE HAVE WE BEEN

Governments' interest in victims of crime can be traced back to the late 1960's and early 1970's with the introduction of criminal injuries compensation programs in several provinces. In 1973, the federal government initiated a cost-sharing program for provincial and territorial criminal injuries compensation programs designed to encourage their development and assist in their cost. A chronology of significant events to address victim issues follows. It is weighted toward federal initiatives but it should be noted that these events and initiatives were the product of provincial-territorial consultation, co-operation and encouragement. Significant provincial initiatives are also described in the following sections.

Criminal Injuries Compensation

In 1973 the federal government entered into cost-sharing agreements to assist in the funding of provincial-territorial criminal injuries compensation programs.

Federal "Enhanced" Initiative for Victims of Crime - (1981-83)

In July, 1981, the Ministry of the Solicitor General and Department of Justice began to work together to assess victim needs, promote services, develop information for victims and to undertake policy directed research in the victims area.

Federal-Provincial Task Force on Justice for Victims of Crime (1981-83)

In December, 1981, Federal and Provincial Ministers Responsible For Justice agreed to the establishment of a Task Force, chaired by the Deputy Provincial Secretary for Justice of Ontario to prepare a Report for Ministers which would:

- examine in depth the current needs of victims and their experiences with the criminal justice system;
- explore such issues as long-term funding implications, appropriate legislative options, coordinating mechanisms, imaginative funding alternatives such as fine surtax options, community involvement and other topics which may be considered important to the development of effective services to victims, and make appropriate recommendations to Ministers;
- recommend to Ministers how best to communicate and sensitize the public and criminal justice agencies as to the needs and concerns of victims; and
- recommend ways by which the two levels of government can ensure the efficient sharing of information and expertise in this area.

The Task Force submitted their Report to Ministers in July 1983.

The Report outlined the social, economic, legal and constitutional background of issues relating to victims and described the relationships among the state, offender and victim. It explored the varied and the common needs of victims and indicated the range of services which could be established to meet those needs. It explored the questions of the role of victims, their rights, and the extent to which the offender should make restitution to the victim and/or the extent to which compensation to the victim should be provided by the state. It also addressed the issues of costs and funding.

The Task Force made seventy-nine recommendations regarding criminal law and procedural reforms, victim services, the provision of information, the special needs of the elderly, children, domestic violence victims, sexual assault victims, aboriginal victims and families of homicide victims and the need to identify sources of revenue to support services and programs.

Report on Violence in the Family: Wife Battering

On May 12, 1981, the Report of the Standing Committee on Health, Welfare and Social Affairs was tabled in the House of Commons. The National Clearinghouse on Family Violence was established in response to a recommendation contained in the Report and in response to the National Plan of Action on the Status of Women.

The Canadian Urban Victimization Survey.

In 1982, the Ministry of the Solicitor General conducted the first major victimization survey in urban Canada, studying the nature and scope of victimization in relation to eight categories of personal and property crimes.

Federal Guidelines Regarding Spousal Assault

In December, 1983, the Minister of Justice and the Solicitor General of Canada jointly issued directives to police and prosecutors in the Northwest Territories and Yukon to investigate complaints of spousal assault promptly and to lay criminal charges where there were reasonable and probable grounds to believe an assault had occurred. Crown Attorneys were directed to proceed with the prosecution in all but the most exceptional circumstances.

Federal-Provincial-Territorial Working Group on Wife Battering

In May, 1983, a Working Group was established under the Chairmanship of Status of Women Canada to examine policies and programs pertaining to wife battering. Recommendations for all levels of government were contained in the Working Group's 1984 Report. A follow-up report was submitted to Ministers Responsible for the Status of Women in June, 1985, and a final implementation report was submitted to Federal-Provincial Ministers Responsible for the Status of Women in June, 1986. [Following this Report, initiatives to respond to family violence continued.]

Bill C-127

Amendments to the Criminal Code with respect to sexual assault and child abduction became law on January 4, 1983.

The Report of the Committee on Sexual offences Against Children and Youths

The Report was submitted to the Ministers of Justice and National Health and Welfare in 1984. Amendments to the Criminal Code regarding child sexual abuse became law on January 1, 1988.

The Second Enhanced Initiative For Victims Of Crime (1984-86)

In 1984, a further two-year enhanced joint initiative by the Department of Justice, the Ministry of the Solicitor General and the Department of National Health and Welfare was launched. The extension of the initiative permitted the Department of Justice to move toward the implementation of Task Force recommendations to review the need for improvement to cost-shared criminal injuries compensation programs and to continue efforts in the area of research and demonstration projects.

Federal-Provincial Working Group on Justice for Victims of Crime

In 1984, a Federal-Provincial Working Group was established to share information about victim issues, to monitor the implementation of appropriate Task Force recommendations and to examine certain issues in greater detail. The report of the

Working Group was submitted to Ministers in February, 1986. The report contained options for the implementation of Task Force recommendations, highlighted existing models of victim services and emphasized the need for expeditious action by both levels of government.

National Victims' Resource Centre.

In August, 1984, the Centre was opened by the Solicitor General as a repository for the collection and national dissemination of information regarding victimization research, program development and evaluation and victim services and programs. The Resource Centre was transferred to the Department of Justice in 1988, but closed in 1995.

Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders

The Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders held in Milan in August and September, 1985, adopted two resolutions; a Declaration of Basic Principles of Justice relating to Victims of Crime and Abuse of Power and a resolution on Domestic Violence. Canada co-sponsored the Victims Declaration. The U.N. General Assembly adopted these resolutions in November, 1985, and called upon Member States to implement these principles.

Federal Victims of Crime Strategy (1987)

In 1987, the Minister of Justice, jointly with the Solicitor General, launched a strategy to encourage the adoption of a Canadian Statement of Principles of Justice for Victims of Crime which included the negotiation of an interim three-year enhanced cost-sharing agreement with provinces and territories for criminal injuries compensation programs, funding of provincial and territorial Victim Assistance Funds, Criminal Code amendments to enhance the capacity of the criminal justice system to respond to the needs of victims, and policy, program, law information and research activities to promote victims' access to the justice system.

The establishment of the Victims Assistance Fund (1987) by the Department of Justice was intended to assist provinces and territories to develop services for victims. The fund was to be used to develop information, education and training programs and programs to improve the overall coordination of victim services and activities. The federal contribution to provinces and territories was based on a \$0.10 per capita formula with a minimum \$50,000 payment for approved victim services not otherwise subject to federal-provincial cost-sharing (e.g. criminal injuries compensation). The funding was available for a fixed two-year period.

Bill C-89, An Act to Amend the Criminal Code (Victims of Crime) received Royal Assent on July 21, 1988, as S.C. 1988, c. 30.

Canadian Statement of Basic Principles

In 1988, the federal government and the provinces and territories endorsed the Canadian Statement of Basic Principles of Justice For Victims of Crime. The Statement echoes the principles of the 1985 U.N. Declaration which Canada co-sponsored. The Statement was intended to guide the development of policy with respect to victim issues at the federal and provincial/territorial levels.

In 1994-95, in preparation for the 9th United Nations Congress on the Prevention of Crime and Treatment of Offenders, all provinces and territories responded to a U.N. questionnaire indicating their general compliance with the principles.

All provinces and territories have enacted legislation addressing the provision of services and assistance to victims of crime and in several jurisdictions enacting a provincial victim surcharge and establishing a Victim Assistance Fund.

Victim Fine Surcharge

The victim fine surcharge provision (s. 727.9) of the Criminal Code and regulations prescribing the amount of the surcharge were proclaimed on July 31, 1989. Proclamation followed from an eighteen month consultation process with the provinces on the model of victim fine surcharge to be adopted, whether regulations should prescribe the amount and what that amount should be.

Bill C-89 - Restitution

The restitution provisions of Bill C-89 were not proclaimed in force due to concerns raised by provinces and territories regarding the cost and operational implications of implementation. At the June 9, 1989, Meeting of Federal-Provincial-Territorial Ministers Responsible for Justice, it was agreed that the restitution provisions should be reviewed prior to proclamation in relation to cost and operational implications as well as possible legislative amendment. A Federal-Provincial-Territorial Working Group on Restitution chaired by Saskatchewan, was established for this purpose. The Report of the Working Group was submitted to Ministers at their June 15, 1990 meeting.

The Working Group estimated that implementation costs would total \$21,000,000 with annual operating costs of \$54,000,000. The Working Group also identified several practical concerns regarding the effective implementation of the C-89 restitution provisions. As a result, proclamation of the restitution provisions was postponed and the issue was referred to the consultation process regarding the reform of sentencing. [The Bill C-89 restitution provisions would have required the court to inquire into the ability of an offender to pay and provided criminal enforcement procedures with show cause hearings in the event of default and variation orders where necessary.]

Termination of Cost Sharing for Criminal Injuries Compensation

In March, 1992 the federal cost-sharing agreement for criminal injuries compensation terminated. In the last years of the cost-sharing agreement, the federal government contributed the greater of \$0.25 per capita or \$50,000, up to 50% of total compensation paid. Special agreements with the Northwest Territories and Yukon provided a greater federal contribution.

Research and Program Development

Throughout the three phases of the federal "victims initiative" (1982-1990), resources allocated for Research and Program Development were used to fund research into the needs of victims in various regions of Canada, both urban and rural, to evaluate a range of victim programs and services and for demonstration project funding to promote the development of court and community-based victim services. The research and program initiatives were developed in consultation and often in partnership with provinces and territories.

Victim Fine Surcharge - Implementation

In June, 1992 the federal Department of Justice and the New Brunswick Department of the Solicitor General co-hosted a workshop designed to exchange information and identify implementation issues regarding the Victim Fine Surcharge provisions of the Criminal Code. The workshop noted that surcharge amounts were too low, judicial awareness of the provisions needed to be increased and that the lack of a designated victim's fund in several jurisdictions was an impediment to the acceptance of the surcharge.

In July, 1993, the Department of Justice developed and circulated a document, "The Victim Fine Surcharge, Options For Revision". The paper reviewed the history of the victim fine surcharge provisions and the results of research on the implementation of the surcharge and requested input on several issues including the adequacy of the present surcharge amounts.

Child Sexual Abuse

Special initiatives to address child sexual abuse were also launched including,

- Bill C-15 created new offences expressly to protect children from sexually abusive behaviour, and amended the Criminal Code and the Canada Evidence Act to facilitate the testimony of children in court. The provisions which came into force in **January, 1988** include offences relating to sexual interference, invitation to sexual touching, sexual exploitation and bestiality involving children. The legislation also amended the law of evidence to deal

with the problem of the admissibility of children's evidence and provided procedures for obtaining their evidence. The legislation required that a Parliamentary Review be held after four years. The Standing Committee on Justice and the Solicitor General completed its review of Bill C-15 and tabled a Report in June, 1993.

- Bill C-126, An Act to reform the Criminal Code and the Young Offenders Act, proclaimed into force **August 1, 1993** further amended the Criminal Code to provide increased protection of children from sexual abuse. Section 161 creates a prohibition whereby a court may make an order, for up to life, prohibiting a convicted sex offender from attending a public park or swimming area, or a school ground or playground, and from being an employee or a volunteer in a position of trust over children. Section 810.1 allows a person to obtain a peace bond, lasting up to twelve months, if he or she fears that another person will commit a sexual offence against a child. A condition of the peace bond could be that the defendant be prohibited from engaging in an activity involving contact with children under 14, and from attending a public park or public swimming area, or a day-care centre, school ground, playground, or community centre. Further amendments to facilitate the giving of evidence by children in cases of child sexual abuse, were also enacted.

Implementation of United Nations Declaration (1994-97)

In 1994, the United Nations Commission on Crime Prevention and Criminal Justice developed a questionnaire and sought the response of all member states to gather information on the Implementation of the United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (in accordance with resolution 1989/57 and 1990/22). As a member state, Canada provided a response to the United Nations indicating general compliance and implementation of the principles. All jurisdictions, through the Coordinating Committee of Senior Officials were asked to respond to the questionnaire. Justice Canada submitted a coordinated response to the Crime Prevention and Criminal Justice Branch of the United Nations in March, 1995.

To follow up on United Nations resolutions calling for monitoring of the implementation of the Declaration of Basic Principles and to foster implementation, an Expert Group on Victims of Crime was convened by the Commission on Crime Prevention and Criminal Justice. The Expert Group, composed of member states (governments) and non-governmental bodies worked toward the development of a draft manual on the use and application of the Declaration of Principles. Canada has actively participated in this forum by providing examples of legislation and programs which reflect and effectively implement the principles. The Expert Group will soon finalize two documents; a Handbook and a Manual on Implementation. The Handbook is designed to provide cost effective practical examples. The Manual includes an extensive range of services, programs and assistance which could be considered by member states. The

participation of Canada has benefited from information provided by Directors of Victim Services.

Criminal Code Amendments

Related Criminal Code amendments resulted in improvements to the criminal justice system to benefit victims of crime include:

- Bill C-49, An Act to Amend the Criminal Code (sexual assault), S.C. 1992 c. 38 was proclaimed into force in August, 1992. The amendments restored protections for complainants of sexual assault to restrict questioning regarding sexual activity. In addition, a definition of consent was enacted and the defence of honest belief in consent was restricted.
- Bill C-42, An Act to Amend the Criminal Code (omnibus amendments) S.C. 1994, c. 42 included over one hundred amendments, several of which respond to victim concerns. For example, improvements were made to the peace bond provisions and the penalty for leaving the scene of an accident was increased from two years to five years. The amendments came into force early in 1995.
- Bill C-104, An Act to Amend the Criminal Code (DNA warrants) S.C. 1995, c. 27 provides for special warrants to be issued to collect bodily samples for DNA analysis in specified circumstances.
- Bill C-37, An Act to Amend the Young Offenders Act (S.C. 1995, c. 19) included amendments to clarify that victim impact statements apply in proceedings against young persons.
- Bill C-17, An Act to Amend the Criminal Code (the Criminal Law Improvement Bill) S.C. 1997, c. 18 includes some amendments to address the concerns of victims; provisions regarding the use of blood sample evidence in impaired driving prosecutions have been clarified and the mandatory prohibition from driving provisions have been strengthened; in addition, peace bond provisions have been enhanced.
- Bill C-41 An Act to Amend the Criminal Code (sentencing) received Royal Assent in June, 1995 and was proclaimed into force on September 3, 1996. As a result the Criminal Code now requires the court sentencing the offender to consider a victim impact statement, where one has been prepared. (The former provision in the Code permitted the court to consider a victim impact statement.) In addition, Bill C-41 repealed the unproclaimed restitution provisions of Bill C-89 (1988) and made modest

changes to the existing restitution provisions; restitution can be ordered as an additional sentence on the court's own motion; restitution may be awarded for reasonably ascertainable loss or damages to property or for pecuniary damages resulting from bodily injury (not for pain and suffering), enforcement of restitution will remain the victim's responsibility.

- Bill C-27, An Act to Amend the Criminal Code (child prostitution, child sex tourism, criminal harassment and female genital mutilation), S.C. 1997, c. 16 includes provisions to facilitate the testimony of young victims and witnesses by expanding the use of screens and closed circuit TV to include both complainants and witnesses under eighteen years of age. In addition, the provisions designed to facilitate the giving of testimony will now include offences of prostitution, child pornography and assault in addition to the sexual offences already listed. The amendments also clarify that the existing provisions which prohibit publication of the identity of sexual offence victims apply to current and historic sexual offences. Section 715.1, which permits a young victim of a sexual offence to adopt video testimony at trial, will now be available in the prosecution of other offences including assault, prostitution and child pornography. In addition, the Code now provides that murder is first degree murder when death is caused by a person while committing a criminal harassment offence.
- Bill C-46, An Act to Amend the Criminal Code (production of records in sexual offence proceedings), S.C. 1997, c. 30 increases protections for sexual offence complainants by requiring judges to carefully scrutinize applications by accused persons for personal records of complainants and witnesses, by providing for a two step production regime placing the onus on the accused to establish the likely relevance of the records sought and by requiring judges to consider the Charter rights of both the complainant and accused at both stages of the determination.

WHERE ARE WE NOW

PROVINCIAL AND TERRITORIAL VICTIMS LEGISLATION

All provinces and both territories have enacted victim legislation which, in most jurisdictions, contains purposes, principles or a preamble statement which reflects the Canadian Statement of Basic Principles of Justice for Victims of Crime.

In addition, some provinces have criminal injuries compensation programs which are governed by specific provincial legislation. British Columbia, Manitoba, Ontario and Quebec have separate statutes. In Alberta, Saskatchewan, New Brunswick, Nova Scotia and Prince Edward Island, compensation is addressed in the victim legislation.

There is no compensation program in the Yukon, Northwest Territories and Newfoundland.

A brief description of provincial and territorial victim legislation follows. A binder of all legislation is available on request to interested jurisdictions.

Manitoba

The Justice for Victims of Crime Act was assented to in September, 1986. The Act includes a Declaration of Principles, establishes a Victims Assistance Committee to promote the principles, develop guidelines for criminal justice personnel and oversee expenditures from the Victim Assistance Fund, establishes the Victim Assistance Fund, and enacts a surcharge on provincial offences.

New Brunswick

The Victims Services Act was assented to on June 27, 1987. The Act includes a Declaration of Principles, establishes a Victim Services Committee to promote the principles, make recommendations to the Minister regarding expenditures from the Victim Services Fund, to promote research and to work with criminal justice personnel to develop guidelines to promote the principles of the Act. In addition, the Act establishes the Victim Services Fund, enacts a surcharge on provincial offences and provides for compensation to eligible victims.

Newfoundland

The Victims of Crime Services Act was passed in 1988. The Act includes a Statement of Principles, establishes the Victims of Crime Services Division of the provincial Department of Justice, provides that the revenue raised by the Criminal Code victim fine surcharge shall be used for the purposes of the Act and provides that the Lieutenant Governor may make regulations to give effect to the purposes of the Act.

Northwest Territories

The Victims of Crime Act was passed in November, 1988. The Act establishes the Victim Assistance Committee to promote a range of services to victims including the provision of information and training for criminal justice personnel. The Committee also receives and reviews applications for funding to address victim needs, research and services. The Victim Assistance Fund is created by the Act and is composed of revenue generated by the Criminal Code surcharge and the surcharge on territorial offences. Revenue from the fund is used to promote and deliver services to victims, provide information, conduct research and to generally carry out the purposes of the Act.

Prince Edward Island

The Victims of Crime Act was passed in 1988. The Act includes a Statement of Principles, establishes the Victim Services Advisory Committee, establishes the Victim Assistance Fund and provides for criminal injuries compensation for eligible victims. The Act also provides for a surcharge on provincial offences, the revenue from which is deposited into the Victim Assistance Fund. The Victim Services Advisory Committee is mandated to inter alia review policies and recommend changes to benefit victims and assist criminal justice personnel and other agencies to promote the principles of the Act. The Act also established the Victim Services Program to assist victims through the provision of direct services, information and referrals to other agencies.

Quebec

An Act Respecting Assistance To Victims Of Crime was passed in 1988. The Act provides for the Rights and Duties of Victims; for example the right to courtesy and fair treatment, prompt return of property, information about the victim's role, rights and remedies and information about the specific case. The Act establishes the Bureau d'aide aux victimes d'actes criminels within the Ministère de la Justice. The Bureau is mandated to, inter alia, establish victim assistance programs and centres, coordinate the provision of services to victims, support the promotion of victim rights under the Act and provide advice to the Minister. The Fonds d'aide aux victimes d'actes criminels is established to receive revenue from the Code surcharge, appropriations from general revenue and other gifts or contributions.

Nova Scotia

The Victims Rights and Services Act was passed in 1989. The Act sets out a victim's "absolute" rights in section 3, including the right to be treated with courtesy, compassion and dignity and the right to prompt return of property. Victim's "limited" rights are set out in section 4. They are subject to the availability of resources and any other limits reasonable in the circumstances. These "limited" rights include the right to information about the charge laid, progress of the prosecution and services or remedies available.

Section 4 establishes the Office of Director of Victim Services in the Department of the Attorney General. The Director is to make recommendations to the Attorney General with respect to expenditures from the fund and policies respecting victim services and to generally promote and develop victims' services. Section 5 also provides that the Attorney General may appoint an advisory committee to advise on matters relating to victims and victims' rights.

Section 6 establishes the Victims' Assistance Fund and enacts a provincial surcharge, the revenue from which is deposited in the Fund.

The Act provides that the Minister may authorize expenditures from the Fund to promote and deliver services, to distribute information regarding victim services, needs and concerns, for research and for other related purposes. The fund cannot be used for compensation to individual victims.

The Act also provides for compensation to eligible victims and establishes eligibility criteria, procedural provisions and appeal procedures.

Yukon

The Victim Services Act was passed in 1992. The Act provides for a surcharge on territorial offences, establishes a Victim Services Fund which is composed of territorial surcharge revenue, appropriations from the Legislature and donations. The Fund is required to be used to promote and provide services for victims, to conduct research to determine the needs of victims and to publish information about victim needs and services. The Act establishes the Victim Services Committee to make recommendations to the Territorial Minister regarding expenditures from the Fund.

Saskatchewan

The Victims of Crime Act, 1995 was assented to in May, 1995. The Act establishes a Victims Fund to be used to promote the principles enumerated, including treatment of victims with courtesy and compassion, provision of information and assistance to victims, and wherever possible, prompt and fair redress. The Fund includes provincial surcharge revenue (a provincial surcharge is enacted by this Act), Code surcharge revenue, appropriations from the Legislature, investment earnings of the Fund and other amounts which may be prescribed. The Act provides that the Fund can be used to establish programs to promote and deliver services to victims, conduct research, distribute information respecting services, crime prevention and any other purpose necessary to further the intent of the Act.

The Act also provides for compensation to victims and sets out the application procedure, eligibility criteria and compensable losses.

Ontario

The Victim's Bill of Rights was passed in December, 1995 and proclaimed into force on June 11, 1996. The legislation sets out a range of principles in section 2 regarding the treatment of victims of crime including: that victims should be treated with courtesy, compassion and respect for their personal dignity and privacy; that victims should have access to information about services, protection against intimidation, the progress of investigation and prosecution, court dates, the sentence imposed and release conditions; on request, victims should be notified of release from prison and in the case

of persons found unfit or not criminally responsible on account of mental disorder of any dispositions made by the Criminal Code Review Board.

The legislation clarifies that these principles 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 public interest and what is necessary to ensure that the resolution of the criminal proceedings is not delayed".

The Ontario legislation has created a civil cause of action for victims of "prescribed" crime. The offender is liable in damages to the victim for emotional distress and resulting bodily harm. The legislation creates a presumption that a victim of sexual assault or attempted sexual assault or spousal assault suffers emotional distress.

In addition, the Act amends the provincial Evidence Act to facilitate the testimony of child witnesses in certain civil proceedings.

The legislation also enacts a surcharge on provincial offences and creates the provincial Victims Justice Fund Account, which will include federal and provincial surcharge revenue donations and appropriations from provincial general revenue. The fund is used for provincial victim services (provided by the Solicitor General and Attorney General) and for grants to community agencies.

British Columbia

The Victims of Crime Act was proclaimed in July, 1996. The Act sets out a range of entitlements for victims and assigns the responsibility to "justice system personnel" or, for example, to the Crown, Commissioner of Corrections or Attorney General.

For example, the Act provides that "all justice system personnel must treat a victim with courtesy and respect and must not discriminate against a victim on the basis of race, colour, ancestry, place of origin, religion..." and other similar grounds. Section 4 directs that Crown Counsel "must ensure that a victim is given a reasonable opportunity to have admissible evidence concerning the impact of the offence, as perceived by the victim presented to the court before sentence is imposed for the offence". Section 5 directs that "justice system personnel" must offer a victim certain information regarding the justice system, victim services, the victim legislation and privacy legislation. Section 6 provides that certain information must be provided to victims such as the status of the investigation, name of accused, court dates and probation or parole conditions. Section 7 addresses information that will be provided on request of the victim.

Section 8 sets out several "goals" that the government must promote to the extent practicable including the development of victim services, prompt return of stolen property, protection from intimidation, appropriate facilities in court houses and training for criminal justice system personnel.

The legislation enacts a surcharge of provincial offences (proclaimed in July, 1997) and establishes the Victim Surcharge Special Account which receives the provincial surcharge revenue, Code surcharge revenue and other amounts including donations and appropriations from the provincial government,

The Act further provides that on request of a victim, the Attorney General must take reasonable measures to ensure the victim is provided with advice and legal representation where a victim requires independent representation from that of the Crown regarding applications for production of personal records and the victim, due to the lack of financial resources, cannot otherwise receive this representation.

Alberta

The Victims of Crime Act was passed in May, 1996 and proclaimed in part in August, 1997. The provisions regarding financial benefits were proclaimed on November 1, 1997.

The Act consolidates the former Victim's Programs Assistance Act and Criminal Injuries Compensation Act, and makes significant reforms to the compensation scheme.

Section 2 sets out the principles which apply to the treatment of victims including that victims should be treated with courtesy, compassion and respect, receive information about relevant services and their participation in criminal proceedings, scheduling and ultimate disposition and that their views and concerns should be considered where appropriate.

The Act also empowers the Minister to appoint a Director to implement the Act; to provide information to victims, to resolve the concerns of victims who believe they have not been treated in accordance with the principles of the Act and to evaluate applications for financial benefits (formerly referred to as criminal injuries compensation).

The Act imposes a surcharge on provincial offences and establishes the Victims of Crime Fund into which both federal and provincial surcharge revenue is deposited. The fund may also receive other revenue, including appropriations from general revenue. The Victims of Crime Program Committee is established to recommend expenditures for programs.

The fund is to be used to provide grants with respect to programs benefiting victims of crime and for financial benefits to eligible victims of crime (i.e. specific victims). The Director is mandated to determine the eligibility and amount of the financial benefit for the victim applicant. An Appeal Board is also established to adjudicate appeals of the Director's decision. Eligibility criteria and the amount of the applicable financial benefits are prescribed by regulations.

CANADIAN STATEMENT OF BASIC PRINCIPLES OF JUSTICE FOR VICTIMS OF CRIME

A Statement of Basic Principles of Justice for Victims of Crime was developed in 1988 and endorsed by the federal and provincial Ministers Responsible for Justice to guide policy development on victim issues. The Canadian Statement responded to the United Nations Declaration of Basic Principles of Justice for Victims of Crime which Canada co-sponsored in 1985.

The approach of a joint statement was agreed upon following over two years of consultation with the provinces. The consultation process explored the feasibility of victim legislation and guidelines or directives to criminal justice personnel (police, prosecutors, court administrators) and the content of such policy, legislation or directives.

At that time all jurisdictions were of the view that the content of the United Nations Declaration (which is reflected in the Canadian Statement) could not be addressed in a single federal statute for jurisdictional and practical reasons.

Enforcement of the law, the investigation of offences, the prosecution of offences and the administration of justice in general, including the provision of services for victims, in the provinces, is a provincial responsibility. Federal legislation could not create rights or duties or impose obligations in respect of matters outside the federal jurisdiction. The general view was that victim legislation should be considered at the provincial level to address matters of provincial responsibility.

Federal legislation focused on amendments to the Criminal Code; victim impact statements, victim fine surcharge, prompt return of property and restitution and The Corrections and Conditional Release Act. (described below)

All provinces and territories have now enacted victim legislation as described in the preceding section. When the federal and provincial/territorial legislation is viewed together, it appears that the Canadian Statement of Basic Principles of Justice for Victims of Crime has played a significant role in guiding the development of legislation.

The services, programs and other assistance available to victims of crime in the provinces and territories must also be taken into account in assessing the impact of the Canadian Statement.

FEDERAL LEGISLATION BENEFITING VICTIMS OF CRIME

Criminal Code

Victim Impact Statement

The Criminal Code requires the court to consider a victim impact statement at the time of sentencing an offender where such a statement has been prepared. The victim impact statement describes the harm done to or loss suffered by the victim of the offence. The form of the statement may be in accordance with procedures established by a victim impact statement program designated by the Lieutenant Governor in Council of the Province.

Victim Fine Surcharge

A victim fine surcharge is required to be imposed in addition to any other punishment imposed on an offender convicted or discharged of a Criminal Code offence or an offence under the Controlled Drugs and Substances Act. The revenue raised by the victim fine surcharge remains in the province or territory where it is imposed. The Criminal Code requires that victim fine surcharge revenue shall be used to provide assistance to victims of offences as the Lieutenant Governor in Council of the province directs.

The legislation and regulations read together provide that the maximum victim fine surcharge that may be imposed is 15% of any fine imposed, or where no fine is imposed, \$35.00.

Where imposition of the surcharge would cause undue hardship, the sentencing judge may waive the victim fine surcharge.

The majority of provincial/territorial victim services and programs are financed in part by surcharge revenue. The majority of provinces/territories have also enacted legislation imposing a surcharge on provincial offences, the revenue from which is used for victim programs and services. Generally, provincial surcharge revenue is significantly higher than federal surcharge revenue.

Restitution

A court sentencing an offender may order, in addition to any other sentence imposed, that the offender pay restitution to the victim of the offence. The court may impose the restitution order based on an application by the prosecutor or on its own motion.

Restitution, as an additional sentence, may be ordered for readily ascertainable loss of or damage to property suffered as a result of the commission of the offence and readily

ascertainable pecuniary (monetary) damages, including loss of income or support, incurred as a result of bodily harm suffered as a result of the commission of the offence. In addition, in the case of an offence causing bodily harm to the offender's spouse or child (family violence), restitution may be ordered for readily ascertainable expenses incurred by the victim as a result of moving out of the offender's household, for temporary housing, child care, food and transportation.

Where restitution is ordered as an additional sentence and the restitution is not paid within the time period specified by the court, the person to whom the restitution is to be paid (i.e. the victim/the beneficiary of the order) may file the order in any civil court in Canada. The restitution order made in the criminal proceedings will then have the same effect as a civil judgement for damages made by a civil court. The victim can enforce the order against the offender in the same manner as a civil judgment.

Restitution may also be a condition of an offender's probation order, where probation is the appropriate sentence, or as an optional condition of a conditional sentence.

Publication Bans, Exclusion Orders and Facilitating Testimony

In criminal proceedings, while the general rule is that all proceedings against an accused shall be held in open court, the Criminal Code sets out several exceptions, many of which are intended to protect the privacy of victims and to facilitate their participation;

- s. 486(1) provides that generally proceedings against an accused are in open court but, where the judge is of the opinion that it is in "the interest of public morals, the maintenance of order or the proper administration of justice to exclude all or any members of the public from the courtroom ...", he or she may do so.
- s. 486(1.2) permits that in proceedings in respect of a sexual offence or offence involving violence a support person may be present in court with a witness under the age of 14 years.
- s. 486(2.1) permits that in proceedings in respect of sexual offences, prostitution and violent offences, a complainant or witness who is under the age of 18 years or who has difficulty communicating, may provide their testimony from behind a screen or by closed circuit TV, where the judge is of the opinion that this is necessary to obtain a full and candid account.
- s. 486(2.3) provides that, in specified proceedings, generally, an accused shall not personally cross-examine a witness under 14 years of age and the court may appoint counsel to conduct such cross-examination.

- s. 486(2) provides that for specified offences (e.g., sexual, prostitution, and violence), an application may be made for an order excluding the public and the judge may grant the order.
- s.486(3) provides that where an accused is charged with a specified offence, (e.g., sexual, prostitution or extortion) the judge may order that the identity of the complainant or a witness or any information which could disclose the identity shall not be published or broadcast.
- s. 486(4) provides that in such proceedings the judge must advise a witness under 18 years of age and the complainant of the right to apply for an order under s. 486(3) and where such an application is made by the complainant, prosecutor, or any such witness, the judge shall make the order.
- s. 486(5) provides that it is an offence punishable by summary conviction to fail to comply with an order made pursuant to s. 486(3).

Sexual Assault Victims

Sections 276 to 276.5 of the Criminal Code govern the admission of evidence regarding a sexual assault complainant's other sexual activity. The Code makes it clear that evidence that a complainant has engaged in sexual activity is not admissible to suggest that the victim was more likely to have consented to the sexual activity which is the subject matter of the charge or that he/she is less worthy of belief. The provisions restrict the admissibility of evidence to specific instances of sexual activity, relevant to an issue at trial and to evidence which has "significant probative value which is not substantially outweighed by the danger of prejudice to the administration of justice. The judge is required to consider a range of factors set out in the Code in making this determination.

The Code also sets out the procedure to be followed and includes provisions to safeguard the victim's privacy including an in camera hearing, non-compellability of the victim and a publication ban on the proceedings.

Sections 278.1 - 278.9 of the Code govern the production of records about victims and witnesses in sexual offence proceedings. The provisions place the onus on the accused to establish that the records sought are likely relevant to an issue at trial and require the trial judge to carefully scrutinize applications and determine production in accordance with a two-part process involving a consideration of both the accused's rights to full answer and defence and the victim's rights to privacy and equality. The procedure to be followed is also set out in the Code and includes safeguards for the victim's privacy including an in camera hearing, non-compellability of the victim at the hearing, a publication ban on the proceedings and the contents of the application,

editing of records (where ordered to be produced) to delete irrelevant personal information and the imposition of other appropriate conditions on production.

Other Code Provisions

- s. 161 - permits the court to make an order prohibiting an offender convicted of a sexual offence involving a young person (under 14) from attending at or near certain public places where children may be present or seeking, obtaining or continuing employment that involves being in a position of trust or authority towards a young person.
- s. 810.1 allows a person to obtain a peace bond, lasting up to 12 months, if he or she fears that another person will commit a sexual offence against a child. Where the defendant fails or refused to enter into the recognizance, the judge may sentence the defendant to jail for up to 12 months.
- s. 264 provides for the offence of criminal harassment (stalking). It is an offence to engage in harassing conduct, including repeatedly following a person, watching a dwelling house or place where the other person lives or carries on business or happens to be or engaging in threatening conduct knowing that this causes the person to reasonably fear for their safety or the safety of anyone known to them.
- s. 745.63 clarifies that in proceedings under s. 745.6 to determine whether a convicted offender's number of years before eligibility for parole should be reduced, the jury hearing the application shall consider, among other information, "any information provided by a victim at the time of imposition of the sentence or at the time of the hearing under this section".
- s. 718 sets out the purpose of sentencing;

The fundamental purpose of sentencing is to contribute, along with crime prevention initiatives, to respect for the law and the maintenance of a just, peaceful and safe society by imposing just sanctions that have one or more of the following objectives: ...

- (e) to provide reparations for harm done to victims or to the community; and
- (f) to promote a sense of responsibility in offenders, and acknowledgement of the harm done to victims and to the community.

The Corrections and Conditional Release Act

The Corrections and Conditional Release Act (CCRA) was proclaimed in 1992, and inscribed in law that protection of the public is the paramount consideration in all decisions relating to the treatment and release of offenders. In addition, victims of crime were formally recognized in the federal corrections and conditional release process.

The following sections of the CCRA pertain to victims:

Section 2(1) of the CCRA defines a victim as a person to whom harm was done or who suffered physical or emotional damage as a result of the commission of an offence. Where the victim is deceased, ill or otherwise incapacitated, it includes the spouse or any relative of that person, anyone who has in law or fact the custody of that person or is responsible for the care or support of that person or any dependent of that person.

Section 23 of the CCRA addresses gathering information about an offender who is sentenced, committed or transferred to a federal institution. Correctional Services is required to take all reasonable steps to obtain relevant information about the offence, the offender's personal and criminal history, the reasons and recommendation relating to the sentence, etc. It is also required to gather existing information from the victim, the victim impact statement and the transcript of any comments made by the sentencing judge regarding parole eligibility.

Under section 26 and 142 of the CCRA, Correctional Services and the National Parole Board shall disclose to the victim the following information about the offender: the offender's name; the offence; the court that convicted the offender; the date the sentence commenced and the length of sentence; and eligibility dates and review dates in respect of temporary absences or parole.

A victim may be provided additional information where, in Correctional Services or the National Parole Board's opinion, the interest of the victim clearly outweighs any invasion of the offender's privacy that could result from this additional disclosure of information including: the offender's age, the penitentiary where the sentence is being served; the date, if any, on which the offender is to be released on any kind of release; the date of any hearing for detention purposes; any of the conditions attached to the offender's release; the destination of the offender on any kind of release, and whether the offender will be in the vicinity of the victim while travelling to that destination; whether the offender is in custody and, if not, the reason why; and if the offender has been transferred to a provincial correctional facility, the Correctional Services may disclose the name of the province to which the offender has been transferred. The National Parole Board may also disclose whether or not the offender has appealed a decision of the Board and the outcome of the appeal where the interest of the victim outweighs any invasion of the offender's privacy.

Under section 101(b) of the CCRA victims may also provide information to the National Parole Board, which the Board must take into consideration when reviewing the offender for any kind of conditional release. This may be done in writing, or at an interview with a Board staff member who will make a record of the discussion for inclusion in the offender's file.

The legislation specifies that victims may submit written statements to the National Parole Board, and may attend the parole hearing as observers. Information-sharing provisions require that any information presented at the hearing must be shared with the offender at least fifteen days prior to the hearing.

Section 140(4) of the CCRA also permits people to apply in writing to the National Parole Board for permission to attend a parole hearing as an observer.

Section 144 of the CCRA requires the National Parole Board to maintain a registry of the decisions rendered by its members and the reasons for the decision. Any person who demonstrates an interest in a case may, by writing to the National Parole Board, have access to the contents relating to a case in this registry. The National Parole Board may, however, withhold information which could reasonably be expected to jeopardize the safety of any person; reveal a source of information obtained in confidence; or, if released publicly could adversely affect the reintegration of the offender into society.

Victim Services in Correctional Services of Canada

A Co-ordinator for Victims' Services has been established at each Regional Headquarters and at each operational unit (each institution and parole office) to co-ordinate the services to victims.

Where a victim requests notification on a continuing basis, Correctional Services is to provide the relevant information, in a manner that keeps the victim informed. It is the duty of the victim to notify the service of any change of address and/or telephone number. A record is kept of each occasion that information is provided to a victim and the nature of the information disclosed.

Correctional Services is required to collect all information relevant to an offender which could assist in making a decision on the offender's case, including existing information from the victim, the victim impact statement, and any information concerning an offender that a victim provides directly to the CSC. The victim will be advised that, if the information is used in a decision affecting an offender, it must be shared with the offender, unless there are reasonable grounds to believe that the disclosure of the information would jeopardize the safety of any person, including the victim or a member of the victim's family, the security of the penitentiary, or the conduct of any lawful investigation. If the victim requests that the information not be disclosed to the

offender, the victim shall be advised that it may not be legally permissible to use the information in a decision affecting the offender.

Victim Services in the National Parole Board

Victim Fact Sheets

In the summer of 1996, the Parole Board met with victim services groups to discuss how to best provide information between victims services groups and the National Parole Board.

The victim groups provided the National Parole Board with ideas on what information they were most in need of accessing and the best way to provide that material. As a result of that consultation, the Board wrote two-victim specific fact sheets: how to provide information; how to obtain information.

The finalized fact sheets were returned to the victim services groups in an electronic format (on disk), in order that each group could insert their own local/organization-specific additional material.

Additionally, the Board provided the victim services groups with information on applying as observers and the different types of releases provided for under the law.

Victim Information Lines

The Board has established Victim Information Lines in its regional offices across Canada in order to provide victims and their families with easy access to information about corrections and conditional release. These telephone lines are staffed by the Parole Board and in some cases Correctional Services Canada staff, who listen to the concerns of victims and attempt to both assist them with their concerns and provide them with the type of information they may require.

VICTIM SERVICES AND PROGRAMS; PROVINCIAL AND TERRITORIAL

A wide range of programs and services are currently available to victims of crime in Canada.

The goal of creating a comprehensive inventory of services by jurisdiction (and by regions within jurisdictions) is achievable but would require financial assistance and sufficient time.

Manitoba recently published the Report of the Operational Review of Victims Assistance Programs in Manitoba. The review was conducted by Prairie Research Associates over several months. Appendix G of the Report provides an overview of

victim assistance programs and services in Canadian jurisdictions. Appendix H provides a comprehensive list of victim programs, services and related assistance available in Manitoba grouped into seven categories; advocacy services, court services, safety services, counselling services, restorative justice services, compensation and health related services.

The Canadian Criminal Justice Association publishes an Annual Directory of Services for Victims of Crime. The Directory provides an alphabetical list of victim related services by province and territory with a brief description of the nature of the service, a contact person and phone number. The list includes police-based services, community services including shelters and sexual assault centres and government-based programs plus related services such as health and social services and suicide prevention and education.

The Federal-Provincial-Territorial Working Group has gathered information to provide an overview of provincial and territorial victim services and programs. Note that this is not intended to be a comprehensive account of all available services provided in each jurisdiction. It is intended only to reflect the scope, variety and range of services currently available and provide some specific examples.

This information has been provided by provincial and territorial Directors of Victim Services and is set out in chart format attached as Appendix 2.

EMERGING ISSUES AND PUBLIC PRESSURES

The Working Group discussed various issues currently affecting the delivery of services to victims of crime and governments' response to victim concerns, particularly the repeated calls from victim advocates (as distinguished from victim services providers) for a federal Victim Bill of Rights, the influence of American legislation and lobbying efforts for a constitutional amendment in the United States and the need to distinguish calls for more severe punishment from increased services for victims and a greater recognition of the victim's role in the criminal justice system. The Working Group examined the impact of applications for production of personal records on sexual offence complainants, the impact on victim services and the need for independent legal representation. In addition, the Working Group examined options for the revision of the Criminal Code victim fine surcharge provision, discussed the disparity in acceptance of victim impact statements and other related issues, and explored the feasibility of expanding the Code publication ban provisions to a wider range of victims and witnesses. The Working Group also considered the respective roles of provincial/territorial governments and the federal government in responding to the needs and concerns of victims and in identifying emerging issues, including the funding of victim services.

A Bill of Rights for Victims

As noted above, all provinces and both territories have enacted victim legislation which generally includes a statement of purpose or principles (following the Canadian statement) and in most jurisdictions provides for a victim fine surcharge on provincial offences.

Provincial legislation deals with the notion of victim "rights" in several ways.

For example, there are provisions referred to as a "Declaration of Principles" or simply "principles" in the victim's legislation in Alberta, Manitoba, New Brunswick, Newfoundland, Ontario and Prince Edward Island. Ontario's "Victim's Bill of Rights" also includes a preamble. Saskatchewan's Victims of Crime Act includes a "Statement of Purpose"; to establish a fund to be used to promote several principles.

Some provinces employ the term "rights". For example, British Columbia's Victims of Crime Act sets out several "rights" for victims of crime in sections 2-8. Nova Scotia's Victims Rights and Services Act also employs the term "right"; section 3 sets out the "victims absolute rights" and section 4 sets out the "victim's limited rights". Quebec's Act Respecting Assistance to Victims of Crime provides for victim's "Rights and Duties" in sections 2 to 7.

Despite the varying terminology used, all provincial victim statutes include provisions which clearly state that no cause of action lies based on the statute for anything done or omitted. In other words, there is no remedy for the inability to provide for a right or fulfill a principle set out in the legislation.

The provision is typically worded, as in British Columbia's Victims of Crime Act,

- s. 11 No cause of action, right of appeal, claim for damages or other remedy in law exists because of this Act or anything done or omitted to be done under this Act.

(See similar provisions in Alberta's Victim of Crime Act, section 18, Manitoba's Justice for Victims of Crime Act, section 19, New Brunswick's Victim Services Act, section 25, Newfoundland's Victims of Crime Services Act, section 13, Northwest Territories' Victims of Crime Act, section 18, Nova Scotia's Victims Rights and Services Act, section 13, Ontario's Victim Bill of Rights, section 2(5), Prince Edward Island's Victims of Crime Act, section 34 and Saskatchewan's Victims of Crime Act, section 4.)

The Reform Party's Victim Bill of Rights

In April, 1996, Reform MP, Randy White (Fraser Valley West) proposed a motion in the House of Commons urging the Government to direct the Standing Committee on

Justice and Legal Affairs to draft a Victim's Bill of Rights and that in such areas where the Committee determines a right to be more properly a provincial concern, that the Minister of Justice initiate consultations with provinces to arrive at a National Standard for a Victim's Bill of Rights.

The motion was passed and the issue was referred to the Standing Committee.

To support his motion, Mr. White attached the Reform Party's "Victim's Bill of Rights" (a copy is attached as Appendix 3).

The Reform Party's "Bill of Rights" provides inter alia that victims have a right to information about their rights at every stage of the process, to be informed of the offender's status throughout the process, to provide an oral and/or written victim impact statement at sentencing, parole and at judicial reviews, to be informed of the Crown's intention to offer a plea bargain before it is discussed with the accused, to know why charges are not laid (if applicable), to protection from intimidation, to know if a person convicted of a sexual offence has a sexually transmitted disease and to require police to pursue domestic violence charges once a complaint has been made.

The majority of these "rights" relate to matters of provincial responsibility, where the Attorney General of the province is responsible for the prosecution. Information regarding the offender's status, where incarcerated in a federal penitentiary, relates to the responsibilities of the Solicitor General of Canada.

Report of the Standing Committee on Justice and Legal Affairs

In April, 1997, the Standing Committee on Justice and Legal Affairs considered Motion 168 (Randy White, MP, Victim's Bill of Rights). The Committee heard from a few witnesses including representatives of Victims of Violence, Plaidoyers Victims, and the Department of Justice and from surviving victims of homicide, including Debbie Mahaffy (mother of Leslie Mahaffy killed by Paul Bernardo) and Theresa McCuaig (grandmother of Sylvain Leduc, killed by a young offender) and from Randy White. The witnesses described very different experiences, varying degrees of assistance and varying degrees of sensitivity from criminal justice personnel.

The Committee submitted their Report (Twelfth Report) to the House of Commons in April, 1997 recommending

- that the Government formally adopt the 1988 Basic Principles of Justice for Victims of Crime and explore with the provinces how to inform the public about these principles
- that the Department of Justice review federal statutes to identify options to enhance the victim's ability to collect restitution orders.

The Committee agreed

- that it would undertake national consultations on the issue of a Victim Bill of Rights
- that the consultations would address the funding of programs, the need for legislation, service delivery and related issues
- that it would report to the House of Commons with findings and recommendations.

The Working Group is not aware of the Standing Committee's intention to proceed with consultations. However, the Working Group would recommend that provincial and territorial officials including Directors of Victim Services should have an opportunity to appear as witnesses and/or submit a brief to the Committee in the event that they undertake further consultations.

MADD Victim Bill of Rights

In May, 1997, MADD Canada (Mothers Against Drunk Driving and Canadians Against Drunk Driving) issued a press release criticising the federal political parties for not focusing on impaired driving as an election issue. In addition to MADD's concerns regarding impaired driving, MADD recommended a National Victim's Bill of Rights;

"The rights of victims of impaired drivers must be established in a Bill. This would ensure victims rights are parallel to the rights of the accused. It would include fundamental principles for the victim, like the right to be kept informed of all proceedings and the right to be present and to be heard at every stage of the judicial process. MADD Canada wants to ensure victim's rights are not overlooked or abused in the courts of this land."

MADD advocates a federal Victim's Bill of Rights to include the following;

- *Victims* must be kept informed of all proceedings, including the offender's status throughout the judicial process; including but not restricted to notification of any arrests, upcoming court dates, sentencing dates and plans to release the offender from custody (including notification of what community the parolee is being released into); conditions of release; parole dates, etc.
- *Victims* have the right to be present and the right to be heard at every stage of the judicial process, including those rights involving compensation from the offender.

- *Victims* must be given copies of all documents relating to the case, including police and autopsy reports if requested.
- *Victims* must be informed of the charges which are laid and the meaning of such charges and know the reasons why, if charges are not laid, such a decision was made by the crown or police.
- *Victims* have a right to protection from anyone who intimidates, harasses or interferes with the rights of the victim.
- *Victims* must have the right to time off from employment, without penalty, to attend court.
- *Victims* have the right to vigorous prosecution and no plea bargaining of charges unless agreed to by the victim.
- *Victims* must have the right to present a Victim Impact Statement to the Court.
- *Victims* must be given a separate waiting area apart from defense witnesses.
- *Victims* must be made aware of any victim's support services which may be available.

CAVEAT's Recommendation for a Victim's Bill of Rights

CAVEAT (Citizens Against Violence Everywhere Advocating its Termination), a victim's advocacy organization with chapters in Ontario, Alberta and British Columbia, recently commissioned a paper from Professor Alan Young (Osgoode Hall Law School), Justice For All: The Past, Present and Future of Victim Rights in Canada. In that paper, Young recommends (and appears to be endorsed by CAVEAT):

- The Criminal Code should deal with more minor offences while "predatory" offences should be subject to a Predatory Crime Act which would include strict time lines for preliminary inquiries and trials, presumptive sentences and victim involvement and consultation at every stage.
- A constitutional amendment to enshrine the rights of crime victims should be pursued as a longer term goal. In the short term, a federal Bill of Rights for Victims should be enacted.

At p. 53, Young states

“Ultimately, the goal would be the enshrinement of victims’ rights within the Canadian constitution as this would firmly entrench victims’ rights as a legitimate and necessary component of criminal justice, and this would serve to provide flexible and innovative remedies for the violation of these rights. Due to the fact that constitutional amendments are cumbersome and difficult to enact, I would recommend that the federal government create a five-year pilot project in which the implementation of victims’ rights is seriously evaluated in order to pave the way for inclusion of these rights in the Canadian constitution.”

Young recommends that the following “basic, and generic” rights should be considered for inclusion in federal legislation;

1. the right to attend and/or participate in criminal justice proceedings
2. the right to notification of the critical stages of the process
3. the right to notification of other victim related legal remedies including the possibility of state-funded legal assistance
4. the right to protection from intimidation and harassment
5. the right to confidentiality of records
6. the right to a prompt resolution of the proceedings
7. the right to prompt return of the victim’s personal property seized as evidence.

Young notes that it will be necessary to give greater thought to how to allow for victim participation including whether to allow victims to review any prosecutorial decision which is contrary to the interests of the victim.

The American Experience and Influence

In the United States, a variety of victim “rights” legislation has been enacted at the state and federal level. In addition, twenty-nine states have amended their state constitutions to enshrine victim rights.

More recently, the United States Senate and House of Representatives have been addressing a joint resolution to amend the United States Constitution to guarantee victim rights.

The American federal and state legislation, the wide range of services available to victims and the administrative mechanisms established to coordinate policy and legislative initiatives, fund services and establish standards for service delivery provide excellent examples and models for Canadian policy makers and service providers. At the same time, these excellent examples create expectations that similar programs and services can be implemented in Canada. However, these examples must be considered in the context of the differences between the Canadian and American legislative, political and legal systems.

With respect to victim "rights" legislation, as indicated above, a constitutional amendment to enshrine victim rights has been proposed. Both the United States Senate and House of Representatives are studying the content of the amendment and its benefits and implications.

The President of the United States and the Attorney General of the United States have indicated their support for a constitutional amendment to ensure "basic" rights to crime victims.

The President, however, urged caution in drafting the amendment to ensure that it would not impede law enforcement activities or otherwise impair the criminal justice process. The President noted that the amendment should be developed to give rights to victims while preserving the protections for the accused.

U.S. Attorney General, Janet Reno, in her presentations to both the Senate Committee and House Judiciary Committee studying the constitutional amendment noted several issues that remain to be resolved in the development of the constitutional amendments, including: whether the amendment should give constitutional rights to victims of all crime or only victims of violent crime; how the rights should be enforced within the justice system; the resource implications particularly for an effective notification system; and the need to ensure that victim rights do not impair the defendant's right to a fair trial (due process).

Critics of the proposed constitutional amendment have noted that a constitutional amendment is not necessary; effective implementation of state statutory protections would address victim concerns. In addition, concerns have been expressed about the complexity of enforcing constitutional rights, the limited resources available to victims to seek enforcement of constitutional rights, the resource implications of implementation and most importantly, the potential adverse impact of the accused's rights.

Victim Initiatives and Related Initiatives

The Working Group noted that several other initiatives and trends within the criminal justice system will have implications for victims of crime, many of which will be beneficial.

The Working Group noted the need to share information and make the necessary links with related initiatives to ensure that such initiatives do not have any negative impact on victims and to promote consistency in policy development.

It is anticipated that amendments to the Criminal Code will be developed to address **criminal procedure reform** in accordance with proposals developed in consultation with the Federal/Provincial/Territorial Working Group on Criminal Procedure.

Several anticipated reforms should facilitate the victim's role in the criminal justice system. For example, the reclassification of offences and reform of the preliminary inquiry process will alleviate the need for many victims to give their evidence twice. In addition, the presiding justice will have greater ability to control the nature of questioning to avoid abusive and repetitive questions to victims and witnesses. These amendments may also lead to a more expeditious disposition which many victim advocates have called for.

The Working Group has also noted that the Federal/Provincial/Territorial Working Group of Diversity and Equality has developed a "screen" (i.e. a framework for analysis) to assess the implications of policies and legislation from a **diversity and equality perspective**.

Similarly, the Department of Justice Canada has established the **Office of the Senior Advisor on Gender Equality** to *inter alia* ensure that federal justice policies, programs and legislation are carefully analyzed to determine whether there is a differential impact on men and women and to address such differential impacts.

The Working Group has noted that a similar analysis should be applied to determine the impact of policies, programs and legislation on victims of crime.

The Working Group is aware that the federal, provincial and territorial governments are currently engaged in discussions to develop a National Children's Agenda (NCA). The NCA seeks to establish a vision for Canada's children, a statement of values to govern policies and programs, and a framework identifying priority policy directions, as well as possible priority joint initiatives. It is the intention of the governments to engage Canadians in the development of the vision, values and framework, as well as the identification of priority initiatives non-governmental sectors can initiate or in which they can participate.

The neglect and abuse of children has been identified as a possible priority for federal-provincial-territorial joint action, involving the health, education, child protection and justice sectors. This work would focus on joint policy development and law reform, as well as improving methods for prevention of child victimization and joint case management.

The Working Group also noted that reforms to the **youth justice system** must be responsive to the concerns of victims of crime committed by young offenders. The same pressures from victim advocates for changes to the adult system (eg. enhanced role for the victim and greater information) and more generally the issue of victim "rights" face those tasked with developing reforms to the youth justice system.

The Working Group also noted the federal government's commitment to **crime prevention**. The Working Group expressed the general view that preventing crime is the ultimate goal for all potential victims of crime. If crime is prevented and reduced, victimization is prevented and reduced. However, not all crime will be prevented and consequently there will continue to be victims of crime. Members of the Working Group encouraged federal officials to consider victim issues and perspectives in the allocation of resources available through the federal crime prevention initiative.

Working Group members expressed several concerns about the emergence of **restorative justice initiatives**. The Working Group noted that restorative justice initiatives often do not consider the victim's perspective in their development or implementation. Restorative justice possesses many advantages for offenders and for some, but not all, victims of crime. For example, in circumstances where there is any power imbalance between the victim and offender, particularly domestic violence, a restorative approach is often not appropriate. In addition, for serious crimes, including sexual offences and child abuse, a restorative approach should generally not be an option.

The Working Group focused on the need for restorative justice initiatives to consider the perspective of the victim in their development and implementation and to recognize that "restorative" should mean more than restoring the offender.

The Working Group noted the need for the development of guidelines or principles for restorative justice programs to ensure that the victims perspective is taken into account.

WHERE DO WE GO FROM HERE?

Victim Fine Surcharge

For the last several years, many jurisdictions have noted that the Criminal Code's victim fine surcharge provision required revision to address concerns regarding its implementation and revenue raising capacity. While the federal government agreed to pursue recommended revisions, no consensus emerged regarding the amount of surcharge to be imposed or other matters.

The Working Group considered an options paper in November, 1996 and a revised options paper in November, 1997. The working Group has recommended several revisions to the Code provision (s. 737) most notably that the surcharge be presumed

or deemed to be imposed to avoid the revenue lost where judges inadvertently fail to order the surcharge. The recommended option, which is set out in greater detail below, has been referred to the Department of Justice for follow up. The Working Group has also identified a second and third recommended option, in the event the first option is not constitutionally viable.

The Working Group's recommendation focuses on the need for the surcharge to generate revenue to fund victim programs and services. It is acknowledged, however, that simply amending the Code to increase the revenue potential will not ensure more revenue for programs and services.

The Working Group agrees that further work is necessary to develop strategies for effective enforcement and collection of the surcharge, to increase awareness of the uses for surcharge revenue and to gather data on the imposition of surcharge, amounts currently imposed, reliance on undue hardship and default rates. All jurisdictions have agreed to provide available data based on the existing provisions to assist in estimating the revenue potential of the proposed revisions.

The **preferred option** for a revised surcharge provision follows;

- a mandatory minimum amount shall be imposed. For example, a minimum surcharge of 15% of a fine and for non-fine dispositions, a minimum of \$50 for summary conviction offences and a minimum of \$100 for indictable offences (or other amounts)
- these minimum amounts shall be automatically (presumed to be or deemed to be) imposed in addition to any other sentence unless;
 - 1) the judge determines that a greater amount of surcharge should be imposed, or
 - 2) the judge determines that undue hardship would result from the imposition of the surcharge.
- a maximum amount for the surcharge could be also prescribed
- waiver of the surcharge due to undue hardship would require an application by the offender and where the judge so waives, written reasons should be provided
- the fine option program would continue to be inapplicable to the surcharge
- the Code should also permit the judge to order the offender to pay ANY amount into the Victim Assistance Fund, in addition to the surcharge imposed

- the surcharge would be renamed "victim surcharge".

The second option, to be pursued if the preferred option is not feasible, is to amend section 737 to require a mandatory minimum surcharge to be imposed (e.g., 15% of a fine, \$50 for a non-fine disposition). A maximum amount could also be set out to provide discretion to increase the surcharge. The undue hardship provision would be available in exceptional circumstances. In addition, the surcharge would be renamed "victim surcharge".

The third option, would be to amend the current regulations to the Code to provide for an increased maximum surcharge on non-fine dispositions. For example, \$50 on summary convictions and \$100 on indictable convictions could be prescribed. This would result in a maximum surcharge of 15% on fines and \$50/\$100 on non-fine dispositions. Other amendments to the Code provision, including changing the name and permitting donations could be pursued at a later date.

The Working Group recommends that consideration be given to permitting a victim surcharge to be imposed on a young offender.

The Working Group also noted the need to examine other sources of revenue for victim services, for example, proceeds of crime should be used to support victim services.

Victim Impact Statements

The Working Group considered a paper prepared by Prince Edward Island which addressed the varying practices regarding victim impact statements in different jurisdictions and particularly the impact of the revised wording as a result of amendments to the Criminal Code regarding sentencing.

The information provided by Directors based on their experience regarding victim impact statements strongly suggests that they may not provide the intended benefits to victims, i.e. a means of describing the impact of the crime upon them and of having some "voice" in the sentencing of the offender. In some jurisdictions the statement is a form completed by the police or another person based on an interview with the victim. Oral victim impact statements are not common. Only half of all jurisdictions have "designated" victim impact statement programs, and in some cases, the lack of a designated program has lead judges to reject the statement prepared.

The enhancement of the Crown's disclosure obligations in accordance with the principles established by the Supreme Court of Canada in Stinchcombe, Chaplin and Carosella have resulted in Crown's disclosing the victim impact statement to the accused as soon as the statement comes into the Crown's possession. This practice has generated concern among service providers who point out that the victim impact statement was intended as a sentencing tool; it is not part of the Crown's case against

the accused. As a result of disclosure, victims may be cross-examined about their victim impact statement during the trial.

The revisions to the Code provision occasioned by Bill C-41 have compounded this concern. Bill C-41 amended the victim impact statement provision to require the court to consider a statement, where one had been prepared. This was an improvement over the former provision which stated "the court may consider a statement...". However, the amendments made an additional change regarding the obligation of the court clerk to provide copies.

The former provision, which referred to both presentence reports and victim impact statements, stated:

- (2) Where a report or statement is filed with the court under subsection (1) or (1.2) the clerk of the court shall forthwith cause a copy of the report or statement to be provided to the offender or counsel for the offender and to the prosecutor.

The current provision (C-41) is set out in section 722.1 and again, refers to both presentence reports and victim impact statements:

- 722.1 The clerk of the court shall provide a copy of a document referred to in section 721 or subsection 722(1), as soon as practicable after filing, to the offender or counsel for the offender, as directed by the court, and to the prosecutor. (emphasis added)

The change in wording (highlighted) has resulted in the court clerk providing the victim impact statement to the accused as soon as it is filed, rather than after conviction, in accordance with the previous practice. The term "as directed by the court" has created confusion by suggesting that the clerk requires a direction from the court regarding the provision of a copy to the offender or counsel.

While the Working Group acknowledges that the Code cannot override the Crown's disclosure obligations and that where the Crown is in possession of the victim impact statement he or she will be obliged to disclose the statement, they would recommend that section 722.1 be amended to clarify the clerk's obligations.

The Working Group has reviewed the options considered by the Federal-Provincial-Territorial Working Group on sentencing and has considered several additional options. The Working Group recommends that section 722.1 should be amended to provide:

- The Clerk of Court shall provide a copy of a document referred to in subsection 722(1) [victim impact statement] as soon as practicable after a determination of guilt, to the offender or counsel for the offender, and to the prosecutor.

In jurisdictions where the victim services program retains the victim impact statement (i.e. it is not provided to the Crown until after a determination of guilt), this amendment may alleviate the use of the statement for other purposes. However, it is acknowledged that the Victim Services Program could be subject to a subpoena for the production of the statement at trial.

The Working Group emphasized the need for research to be conducted on the use and benefits of victim impact statements in Canada. There appears to be a great deal of disparity in how the statement is gathered, the nature of the information contained, the judge's acceptance of the statement and the weight attached to it. Comprehensive research on these issues and the emerging trends regarding disclosure and cross-examination would benefit all jurisdictions. The Working Group recommends that Justice Canada pursue this research initiative as soon as possible, but the recommended amendment should not be delayed pending this research.

Publication Bans

The Working Group considered the need to expand the existing provisions of the Criminal Code which permit (and in some circumstances, mandate) an order prohibiting publication or broadcast of the identity of a complainant or witness. The existing provisions (e.g., s. 486(3), s. 486(4)) offer protections to victims and witnesses of sexual offences, prostitution offences and extortion. The Working Group considered the need to expand these protections to a wider range of victims and witnesses to facilitate their participation in the criminal justice system. The Working Group sought the advice of the Department of Justice regarding the Charter implications of their proposals.

Preliminary and general Charter advice indicated;

- Section 486 of the Code has already attracted a significant amount of litigation as regards its current coverage: see, Canadian Broadcasting Corp. v. New Brunswick (Attorney General) (1996) 110 CCC (3d) 193 (SCC), re subsec. 1; R. v. Levogiannis (1991) 85 CCC (3d) 327 (SCC), re subsec. 2.1; and see esp., Canadian Newspapers Co. Ltd. v. Can. (Attorney General) [1988] 1 SCR 122, re subsec. 4. In each of these challenges the constitutionality of the provision has been sustained. Thus, the justification has been judicially accepted for protecting the identity of these complainants (victims of and witnesses to the commission of sexual offences) in these circumstances and by these devices (which include publication bans, exclusion orders and testimony behind screens).
- A publication ban constitutes a per se infringement of section 2(b) of the Charter and consequently a measure of the nature contemplated will depend for its survival upon an adequate justification under section 1 of the Charter. Therefore, it would be important to know whether there is a verifiable empirical reality that supports the

expansion - such as evidence of the fact that publication creates a significant barrier to the reporting of the type of crime in question; or evidence demonstrating that victims of these crimes suffer inordinate trauma in testifying and that this trauma could possibly be off-set by a non-publication order, etc..

- A discretionary ban is more easily defended than a mandatory prohibition.
- A mandatory ban risks the entire legislative provision while a discretionary ban structured and confined by appropriate criteria merely may call into question the propriety of the exercise of discretion in the circumstances of a given case: Dagenais v. Canadian Broadcasting Corp. [1994] 3 SCR 835.
- The viability of a discretionary ban will depend in large measure on the sufficiency of the criteria governing the exercise of the discretion.
- The ultimate viability of the measure will depend upon the sufficiency of the section 1 record and evidence that can be marshalled in support of or as a justification for the enactment of the measure.
- A more definitive Charter assessment is not possible in the absence of a more clearly delineated proposal.

The Working Group also noted that the court has a common law discretionary power to impose a publication ban. In Dagenais v. CBC [1994] 3 SCR 835, the Supreme Court of Canada restated the common law rule regarding publication bans to reflect the principles of the Charter.

Given the preliminary Charter advice, the Working Group agreed that the Department of Justice should consider codification of the common law discretionary power, in accordance with the principles set out in Dagenais.

The Working Group agreed that it should continue to be alert to situations where a publication ban would benefit the victim and encourage victim service providers to make victims aware of the court's common law jurisdiction.

Victim Awareness Day/Week

Victim advocates and lobbyists have called on both provincial and federal Ministers to establish a Victims "Rights" Week or Day or a "Victims" Week.

The Working Group canvassed jurisdictions to attempt to reach a consensus on the timing of such an initiative. It was observed that some jurisdictions have already set aside a day or week. For example, Ontario has designated June 11 and Saskatchewan

schedules a variety of events to raise awareness of victim concerns annually in the third week of October.

In the United States, the federal Office for Victims of Crime together with NOVA, annually designate the third week in April as Victims Rights Week.

A Private Member's Bill currently before the Ontario Legislature also proposes the third week of April to commemorate victims of violent crime.

The Working Group agreed that a day should be designated to raise awareness of the needs and concerns of crime victims and the programs and services available to them. A day within the third week of October was recommended. The preferred approach would be for the federal government to take the lead and develop generic public awareness materials and each jurisdiction would plan their own events.

Federal and Provincial/Territorial Roles In Responding To Victims of Crime

The initiatives taken to date to improve the situation of the victim within the criminal justice system have reflected both the traditional division of powers and responsibilities between the federal and provincial and territorial governments and joint initiatives where the federal government has encouraged the development of initiatives through the provision of resources and through ongoing consultations.

All jurisdictions now face increased demands for programs and services with limited resources. Hence, the identification of innovative funding sources will remain an issue for further joint action.

As noted throughout this interim report, there currently exists a wide range of programs and services in Canada. The same services and programs do not exist in all jurisdictions, and there is currently no information which suggests that the same services should be available in each jurisdiction or should be delivered in the same manner. The Working Group recognizes that jurisdictions require flexibility in developing services and programs to respond to the needs of their communities whether urban or rural. However, victim advocates continually criticize the lack of national "standards".

The Working Group is of the view that much more needs to be done to make Canadians aware of the existence of laws, programs and services which respond to these concerns. In addition, there is a need to develop effective ways to coordinate services and programs and avoid duplication.

There is little support for the notion of "national standards". Generally, the Canadian Statement of Basic Principles can be said to have addressed this issue. "National standards" implies that provinces and territories would be required to offer the same

services in the same way with a monitoring body overseeing their performance. The Working Group is of the view that this notion of "national standards" should not be pursued at the present time. However, the Working Group agrees that a mechanism to foster ongoing co-operation and consultation in guiding the development of consistent victim services and legislation in Canada should be pursued and that the federal government should take the lead in this regard.

The Working Group suggests that, in their discussion of their respective roles, Ministers consider an option developed by the Working Group based on their view that all jurisdictions would benefit from the establishment of an "Office" or "Policy Unit" at the federal level to (*inter alia*);

- ensure that the victim's perspective is considered in the development of criminal justice policy and legislation
- provide a central source of information about emerging issues and trends regarding victims and the criminal justice system (e.g., links to restorative justice, children as victims, criminal procedure reform)
- act as a repository/co-ordinate and disseminate best practices in victim programs and services
- identify research priorities
- establish a network of provincial victim services and ensure inquiries are appropriately referred
- establish a centre of expertise (awareness of existing provincial legislation and programs, federal legislation, related programs and links to other initiatives) to respond to issues nationally and internationally
- to explore specific issues; particularly the benefits, feasibility, resource implications and content of a Victim Bill of Rights
- to explore innovative funding mechanisms for victim programs and services
- to facilitate the ongoing federal-provincial-territorial initiatives including annual meetings of Directors of Victim Services and Victim Working Group (or an Advisory Committee), consultations and victim awareness week initiatives

Working Group members noted that a large and expensive bureaucracy was not necessary to fulfil this role. Moreover, any expenditure of scarce resources for such an

"Office" would be criticized by victim advocates and service providers. The Working Group is of the view that any available resources should be used for direct services for victims. The Working Group also noted that such an "Office" is not intended to direct provinces or territories to take specific initiatives or develop specific legislation; existing jurisdictional responsibilities would be respected.

One of the primary functions of the "Office" would be to facilitate the exchange of information and "best" practices among jurisdictions and identification of emerging issues and trends. Therefore, all jurisdictions would play an ongoing role in the success of the "Office". Reliance on technology will assist in this task.

Directors of Victim Services in all jurisdictions have already agreed to participate in an informal network of contact persons to assist in responding to requests and gathering information not currently available to them.

Victim Rights Legislation

The Working Group discussed the issue of federal victim rights legislation and the increasing pressure on both levels of government for "rights" rather than principles. (See pages 26-31 for a discussion of lobbying efforts and approaches for victim rights.)

The Working Group is aware of the jurisdictional and practical impediments to federal victim "rights" legislation. Basically, federal legislation can only address matters falling within federal responsibility. Provincial legislation is appropriate (and generally is already in place) to address issues such as the provision of case specific information and other issues related to the administration of justice.

However, it was acknowledged that the enactment of federal legislation may be necessary to respond to growing demands.

As an alternative to federal legislation, Ministers may consider how to enhance awareness of the Canadian Statement of Basic Principles of Justice for Victims of Crime. For example, "Victims Day" activities could highlight the Statement or it could be published and distributed by jurisdictions with other available public information material. In addition, Ministers may consider whether each jurisdiction should analyze their own programs, services and the implementation of relevant legislation to determine whether the Statement is a true guide for the criminal justice system.

The Role of the Victim in the Criminal Justice System

The Working Group has identified several issues which require further consideration in order to determine whether the victim should have a greater role or different role in the criminal justice process.

Several of the draft victim "bill of rights" proposed by advocacy groups suggests that the victim would have input into decisions regarding the appropriate charge to lay, acceptance of a plea to a lesser or included offence, and submissions on sentence. The Crown is required to consider a variety of factors when exercising their discretion. Any requirement to accede to the views of a victim would fundamentally alter the traditional role of the Crown as representing the interests of the State. Clearly the Crown does not represent the victim of crime. However, victims generally assume that the Crown represents their interests and in many cases their interests do coincide. However, victims may have interests that are independent from interests of the Crown in the prosecution. For example, complainants in sexual offence proceedings may assert their privacy and equality rights when faced with applications for production of records. Similarly, complainants and witnesses may assert their rights to privacy in applications by the media to publicize proceedings which are subject to a publication ban. In both these situations, the victim may seek independent legal representation. It is anticipated that many other victims may seek independent counsel where they are dissatisfied with the Crown's approach and may seek standing to assert their Charter rights in appropriate cases. This raises other issues including responsibility for payment of the victim's lawyer where the victim is lacking financial resources.

The Working Group noted that the traditional role of the victim in the criminal justice system as a witness does not appropriately address their concerns. However, the implications of expanding the victim's role to require greater consultation with the victim would place more responsibility on a victim (who may not want this responsibility) and would have serious implications for the current system, particularly the role of the Crown.

Many court-based victim services were developed to assist victims of crime by providing information about the criminal justice system, the role of the Crown and case specific information including the charge laid (and why a particular charge was laid), whether a plea to another charge has or may be accepted, the sentence, etc. These court or Crown-based services should complement the role of the Crown; the Crown fulfils their traditional role and victim services act as a liaison between the Crown and the victim and can refer the victim to seek independent advice where the Crown's interests and the victim's interest come into conflict.

Directors of Victim Services have noted that victims sometimes regard Crown or court-based victim services as assisting the Crown rather than serving the victim. Similarly, victims may regard police-based victim services as facilitating the role of the police rather than serving the victim.

Despite these perceptions, the Working Group is of the view that the provision of as much information as possible and referral to available services should be the starting point in addressing the victim's role. Greater efforts to ensure that the victim is aware of the current status, the reason why a particular charge is laid, etc., may alleviate the

need to make more fundamental changes to the system. Victim services should be marketed as serving the victim and should, in practice, serve the victim.

The Working Group is also of the view that further consideration of the role of the Crown *vis-à-vis* the victim is necessary. Crown Attorneys face significant pressures dealing with heavy case loads and complex legal issues. Consultations with Crown Attorneys regarding current practices and policies in dealing with victims would assist in developing options to address both the concerns of victims and the Crown. As a starting point, the Working Group would suggest that all Crown policy manuals or guidelines should be examined and “best practices” identified.

CONCLUSION

The Working Group cannot provide the single answer to “Where Do We Go From Here?”. However, several recommendations are proposed for the consideration of and discussion by Ministers regarding;

- amendments to the Criminal Code victim fine surcharge
- amendment to the victim impact statement provision, specifically s. 722.1
- research regarding the disparity in victim impact statement programs, the acceptance of victim impact statements and the uses of victim impact statements
- possible amendments to the Criminal Code to codify the common law power to order publication bans in accordance with Dagenais
- designation of a day within the third week of October as “Victim Awareness Day”
- development of federal victim “rights” legislation

The Working Group proposes that an “Office” be established, preferably at the federal level, as described on pages 38-39. This “Office” would, in general, facilitate the coordination and dissemination of best practices, act as a centre of expertise, and ensure that provinces, territories and the federal government continue to work together, but within their respective areas of responsibility, to improve the criminal justice system.

Finally, the Working Group strongly recommends that its work continue to, *inter alia*,

- further explore the role of the victim and the role of the Crown and other criminal justice personnel

- further explore innovative funding sources for victim services including effective strategies to enforce and collect victim surcharge revenue
- examine the impact on complainants and witnesses in sexual offence cases of applications for personal records, their need for independent legal representation and models for the provision of and funding for independent legal representation. In addition, the Working Group notes that complainants of other offences (e.g., domestic violence) are subject to records applications raising the same issues.
- examine the role of victim services generally in the context of domestic violence
- monitor restorative justice programs and the role of the victim
- to develop a comprehensive inventory of programs and services by jurisdiction and to raise awareness of their availability (this would require financial resources)
- follow up on the options set out above

November 19, 1997

APPENDIX 1

CANADIAN STATEMENT OF BASIC PRINCIPLES
OF JUSTICE FOR VICTIMS OF CRIME

STATEMENT OF BASIC PRINCIPLES OF JUSTICE
FOR VICTIMS OF CRIME

In recognition of the United Nations Declaration of Basic Principles of Justice for Victims of Crime, Federal and Provincial Ministers Responsible for Criminal Justice agree that the following principles should guide Canadian society in promoting access to justice, fair treatment and provision of assistance for victims of crime.

1. Victims should be treated with courtesy, compassion and with respect for their dignity and privacy and should suffer the minimum of necessary inconvenience from their involvement with the criminal justice system.
2. Victims should receive, through formal and informal procedures, prompt and fair redress for the harm which they have suffered.
3. Information regarding remedies and the mechanisms to obtain them should be made available to victims.
4. Information should be made available to victims about their participation in criminal proceedings and the scheduling, progress and ultimate disposition of the proceedings.
5. Where appropriate, the views and concerns of victims should be ascertained and assistance provided throughout the criminal process.
6. Where the personal interests of the victim are affected, the views or concerns of the victim should be brought to the attention of the court, where appropriate and consistent with criminal law and procedure.
7. Measures should be taken when necessary to ensure the safety of victims and their families and to protect them from intimidation and retaliation.
8. Enhanced training should be made available to sensitize criminal justice personnel to the needs and concerns of victims and guidelines developed, where appropriate, for this purpose.
9. Victims should be informed of the availability of health and social services and other relevant assistance so that they might continue to receive the necessary medical, psychological and social assistance through existing programs and services.
10. Victims should report the crime and cooperate with law enforcement authorities.

APPENDIX 2

Interprovincial Comparison of Canadian Victims Services Programs

Province and Legislative Basis	Dedicated Fund for Surcharges	Provincial Surcharge Rates	Program Funding	Program Delivery	Staffing (FTE'S)
<p>British Columbia</p> <p><i>The Victims of Crime Act</i></p> <p><i>The Criminal Injuries Compensation Act</i></p> <p><i>The Criminal Injuries Compensation Amendment Act</i></p>	<p>Yes.</p> <p>Section 10 of <i>The Victims of Crime Act</i> sets up a Victim Surcharge Special Account of the consolidated revenue fund for both federal and provincial surcharges.</p>	<p>15%.</p> <p>Proclaimed in October 1997.</p>	<p>Programs are currently funded through general revenues.</p> <p>1995/96 federal surcharge revenue was \$205,658. The projection for 1996/97 is \$191,000. Judges in B.C. do not impose the surcharge very often.</p> <p>Program budget for the Victims Services Division in 1996/97 is \$6,800,000.</p> <p>1995/96 expenditures for Victim/witness Services were approximately \$2.5 million</p> <p>1995 expenditures for the Criminal Injuries Compensation Program were \$27,400,000.</p> <p>Victims of Crime Program expenditures are approximately \$1.7 million.</p>	<p>The Victims Services Division is a branch of the Ministry of the Attorney General</p> <p>Most of the services provided by the Victims Services Division are through community-based programs</p> <p>63 Police-based Victims Services Programs (26 fully funded and 37 cost shared with communities)</p> <p>39 Specialized or Community Victims Services Programs</p> <p>23 Sexual Assault Centres (11 are funded by Women's Equality but are managed by Victims Services)</p> <p>Provincial Training and Education component that provides development and basic training for paid staff</p> <p>Victim Information Line which is a 1-800 number that victims of crime can call to get referred to a program anywhere in the province</p> <p>The Criminal Justice Division manages the Crown Counsel Victim/witness Services and the Victim of Crime Act/Victim Impact Statement Program. There are 24 Victim/Witness Programs throughout the province.</p> <p>The Criminal Injuries Compensation Program is administered by the Workers Compensation Program. This program is currently under review.</p>	<p>All staffing costs are funded through general revenue.</p> <p>Victims Services Division has 11 staff in the provincial office. Total staffing \$510,000</p> <p>1 Director</p> <p>1 Program Manager</p> <p>2 Full-time Policy Analysts</p> <p>1 Policy Analyst (fine surcharge)</p> <p>1 Research Officer</p> <p>1 Provincial Training Coordinator</p> <p>3 Clerical support</p> <p>2 Temporary staff working on the changes to the Crimes Compensation Program</p> <p>Victim/Witness Services</p> <p>35 Victim/Witness Case Workers and 7 Managers</p> <p>35 Victims of Crime Act staff for the Victim Impact Statement Program</p> <p>As of December 1995, CICP has 56 staff.</p> <p>2 managers,</p> <p>2 psychologists,</p> <p>1 medical doctor,</p> <p>2 investigators, 1 senior counsel, 6 adjudicators and 42 support staff.</p> <p>Total salaries were \$2,564,431.</p>

Province and Legislative Basis	Dedicated Fund for Surcharges	Provincial Surcharge Rates	Program Funding	Program Delivery	Staffing (FTE'S)
<p>Alberta</p> <p><i>Victims' Programs Assistance Act (1991)</i></p> <p><i>Criminal Injuries Compensation Act (1969)</i></p> <p><i>Victims of Crime Act (1997)</i></p>	<p>Yes.</p> <p>The new <i>Victims of Crime Act</i> makes provision for a new fund, the <i>Victims of Crime Fund</i>, which will combine both provincial and federal surcharges.</p> <p>The new Act is being proclaimed in two stages, on August 1, 1997 and November 1, 1997.</p>	<p>The rate is 15%</p>	<p>In addition to community funding, all victims assistance programs are supported by revenues from the <i>Victims of Crime Fund</i>. Under the new <i>Victims of Crime Act</i>, the compensation program has been replaced by the <i>Financial Benefits Program</i>, which is an administrative model, and is financed by the <i>Victims of Crime Fund</i>.</p> <p>1996/97 federal surcharge revenues (excluding interest): \$340,000</p> <p>1996/97 Fund Balance: \$999,000</p> <p>1996/97 Expenditures: \$731,530</p>	<p>In conjunction with community groups, Alberta has established a network of 46 police-based programs operating a total of 85 victims services units. The units provide services to victims in over 90% of the province. These programs are community directed, operate out of a police facility and utilize volunteers to provide services. These programs provide information, assistance, referral and court orientation and support.</p> <p>Grants are also approved for programs and projects that assist child victims, sexual assault victims and victims of domestic violence.</p> <p>In 1996/97, 44 grants totalling \$719,385 were approved.</p>	<p>Three FTEs. The Manager of Victims Programs, the Administrator of the <i>Financial Benefits Program</i> and clerical support.</p> <p>Additional clerical support on an as required basis from the <i>General Revenue Fund</i> (equivalent of 1.5 FTE).</p> <p>Administration budget for the <i>Victims of Crime Fund</i> is \$250,000 which includes staffing, <i>Appeal Board</i> and <i>Victim of Crime Program Committee</i> and cost of operations.</p>

Province and Legislative Basis	Dedicated Fund for Surcharges	Provincial Surcharge Rates	Program Funding	Program Delivery	Staffing (FTE'S)
<p>Saskatchewan</p> <p><i>Victims of Crime Act</i></p>	<p>Yes.</p> <p>Section 5 of the Act established the Victims Fund for federal and provincial surcharges.</p>	<p>\$10 < = \$100 \$20 < = \$200 \$30 > 200 > = \$500 10% > 500</p> <p>\$20 surcharge on non-fine offences</p> <p>Currently under review; increase of \$5 per level anticipated in 1997/98</p>	<p>All programs including victims compensation and staffing costs are funded through the Victims Fund.</p> <p>1995/96 federal and provincial surcharge and interest revenue: \$2M</p> <p>1995/96 Fund Balance: \$5.3M</p> <p>1995/96 Expenditures: \$3.2M</p> <p>Budget for 1997/98: \$2.6M</p>	<p>Saskatchewan has established a network of 14 police-affiliated Victims Services Programs which serve approx. 70% of the population. These programs provide information support and assistance to victims of crime and traumatic events. In addition 3 specialized programs are funded primarily for victims of domestic violence and sexual assault, 1997/98 budget for these services: \$1.1M</p> <p>Three specialized Victim/Witness Programs are delivered through Crown Prosecutors offices in major urban centres. 97/98 budget: \$250,000</p> <p>Two special three year projects to improve Sask.' response to child abuse investigation are supported in Saskatoon and Regina . Annual budget: \$450,000.</p> <p>Victims Compensation is administered by Victims Services. 97/98 budget : \$250,000.</p> <p>Support is provided for research and education (97/98:\$180,000) and for prevention (97/98: \$120,000) initiatives.</p> <p>Restitution is also financed but not administered by the Fund. Annual budget: \$135,000.</p>	<p>The provincial office has 8 staff: Director, Program Manager, one admin assistant, researcher, communications specialist, accounting clerk, one clerical support person and an Administrator responsible for compensation and the Victims' Fund investment and budget.</p> <p>Three Victim/Witness Coordinators and two half-time clerical support persons. The Program Manager has responsibility for supervision of victim/witness services as well as contract management for all police-affiliated and specialized programs which are community-based and board run.</p> <p>The 1997/98 administrative budget for the Program is \$327,000</p>

Province and Legislative Basis	Dedicated Fund for Surcharges	Provincial Surcharge Rates	Program Funding	Program Delivery and Staffing
<p>Manitoba</p> <p><i>Justice for Victims of Crime Act</i></p> <p><i>The Criminal Injuries Compensation Act</i></p>	<p>Yes.</p> <p>Section 12 of the <i>Justice for Victims of Crime Act</i> establishes the fund and 13(1) establishes the surcharge.</p>	<p>Currently we have a 12% surcharge but are proposing going to 15% in new legislation.</p>	<p>Funding is provided through the Victims Trust Fund and general revenues.</p> <p>In 1996/97, \$1.8 million was provided by the Trust Fund and \$2.6 million from general revenues.</p> <p>Funds are allocated as follows:</p> <p>Criminal Injuries Compensation Program \$3.5 million</p> <p>Grants - \$0.4Million</p> <p>Court Based Victim Services - \$0.6 million.</p>	<p>Victims Services is a component of the Public Safety Branch of the Department of Justice.</p> <p>Victims Services is comprised of 5 Women's Advocacy staff, 1 child/witness, 3 rural staff with a combined child/witness-women's advocacy role, 3 victim/witness staff and a provincial coordinator. The province recently announced a program expansion, for 1998, which will increase the staffing in these areas by 9.</p> <p>The Branch also funds 7 RCMP victim service workers. The Department is requesting additional funds to expand this program throughout Manitoba. The cities of Winnipeg and Brandon fund their own police-based victim services.</p> <p>The Criminal Injuries Compensation Program has 3 staff who are employed by the Workers compensation Program. New legislation is to be introduced in 1998 bringing this Program into the Department of Justice. Administrative costs are \$0.2 of the total \$3.5 million in expenditures.</p>

Province and Legislative Basis	Dedicated Fund for Surcharges	Provincial Surcharge Rates		Program Funding	Program Delivery	Staffing (FTE'S)
<p>Ontario</p> <p><i>An Act Respecting Victims of Crime</i></p> <p><i>Compensation for Victims of Crime Act</i></p>	<p>Yes.</p> <p>Section 5 of <i>An Act Respecting Victims of Crime</i> requires that a victims' justice fund account be maintained as a special account in the Consolidated Revenue Fund.</p>	Fine Range	Surcharge	<p>Victims Justice Fund: supports those dealing with Victims Crisis Assistance and Referral Services</p> <p>total of \$10.2 million of which \$4 million used as a float</p> <p>\$500,000 goes to Community fund</p> <p>Administration costs comprise 6% of the total budget</p> <p>Overall budget for the program in \$18 million</p> <p>Victim Witness program had budget, which is submitted to Cabinet Board of \$1.8 million for 1995/96</p> <p>VCARS and VWAP are funded out of the Victim Justice Fund</p> <p>VCARS \$644,000</p>	<p>Victim/Witness Assistance Programme is funded out of the Victim Justice Fund.</p> <p>There are currently 22 established Regional Offices with the hopes of expanding to 4 new sites this fiscal year.</p>	<p>Staffing for the Victim/Witness Assistance Programme is paid out of the money budgeted from the Victim Justice Fund.</p> <p>There are 7 staff in the head office.</p> <p>1 Director 1 Deputy Director 1 Assistance Crown Attorney 1 Program & Policy Analyst 2 Administrative Assistants 1 Human Resources/Finance Coordinator</p> <p>In 16 of the 22 Regional Offices of the Victim/Witness Services there is a Co-ordinator, an Assistant Co-ordinator and one support person. In the remaining 6 offices, there is not 3 staff.</p> <p>Total Victim/Witness Staff = 74</p>
		\$0 - \$50	\$5			
		\$51 - \$75	\$10			
		\$76 - \$100	\$15			
		\$101 - \$150	\$20			
		\$151 - \$200	\$30			
		\$201 - \$250	\$40			
		\$251 - \$300	\$50			
		\$301 - \$350	\$60			
		\$351 - \$400	\$70			
		\$401 - \$450	\$80			
		\$451 - \$500	\$90			
		\$501 - \$1,000	\$100			
\$1,000+	20%					

Province/Act	Assistance Fund	Provincial Fine Surcharges	Funding Sources	Programs	Employees (FTE)
<p>Quebec</p> <p>An Act respecting assistance for victims of crime, R.S.Q., c. A-13.2</p>	<p>An assistance fund to be known as the Fonds d'aide aux victimes d'actes criminels is hereby established at the Ministère de la Justice – Section 11 of the Act respecting assistance for victims of crime</p>	<p>There is no provincial fine surcharge.</p>	<p>Source of the fund's income:</p> <ul style="list-style-type: none"> - victim-fine surcharges; gifts, legacies and other contributions <p>Income of the Fonds d'aide for 1995/96: \$1,399,121. For 1996/97: \$1,361,277.</p> <p>The Fonds makes it possible to fund the activities of the Bureau d'aide aux victimes d'actes criminels [Crime victim compensation office] and to grant financial assistance to community organizations that provide services directly to victims.</p>	<p>The Bureau d'aide aux victimes d'actes criminels is part of the Ministère de la Justice. Its mandate is to support the promotion of victims' rights and to see to the development of assistance programs and to the coordination of activities related to crime victim assistance.</p> <p>It provides technical and professional support required for the establishment and operation of community organizations.</p> <p>Organizations funded by the Fonds d'aide aux victimes d'actes criminels (1997/98):</p> <ul style="list-style-type: none"> • Centres d'aide aux victimes d'actes criminels (CAVAC) <ul style="list-style-type: none"> 9 centres at \$90,000 1 centre for \$125,000 1 centre for \$30,000 Total: \$965,000 • SOS Violence conjugale (emergency hotline operating 24 hours a day) : \$200,000 <p>Association québécoise Plaidoyer victimes, an</p>	<p>The salaries of the 5 FTEs, as well as the Bureau's operating costs, are covered by the Fonds d'aide aux victimes d'actes criminels</p> <p>The staff consists of a director, a legal counsellor, two (2) research and planning officers, and one secretary.</p> <p>Projected operating costs for 1997/98: \$495,000</p>

umbrella organization
including individuals and
groups: \$400,000

Province/Act	Assistance Fund	Provincial Fine Surcharges	Funding Sources	Programs	Employees (FTE)
Quebec An Act respecting health services and social services R.S.Q., c. A-13.2	—	—	Consolidated fund	Community organization support program: Financial assistance granted in 1995/96 to victim assistance organizations: <u>Shelters</u> (including the umbrella organization): 93 organizations \$1.56 M <u>Sexual assault crisis centres (CALACs)</u> : 21 CALACs \$2.21 M <u>Women's centres</u> : 81 organizations \$5.51 M	

Province and Legislative Basis	Dedicated Fund for Surcharges	Provincial Surcharge Rates	Program Funding	Program Delivery	Staffing (FTE'S)
<p>New Brunswick</p> <p><i>Victims Services Act</i></p>	<p>Yes.</p> <p>Section 17 established the Victims Services Fund for provincial and federal surcharges. Section 20(2) provides that the Fund shall be held in a separate account of the Consolidated Fund.</p>	<p>20% on all fines. No non-fine surcharge</p>	<p>1997/98 \$1,175,000 (\$275,000 - Federal) (\$900,000 - Provincial)</p> <p>The Fund is not augmented by additional government appropriations.</p>	<p>Direct Service \$415,000</p> <p>Trauma Counselling \$80,000</p> <p>Domestic Legal Aid \$250,000</p> <p>Compensation \$629,000</p> <p>Research Grants to Organizations \$20,000</p> <p>The program is operated in five regional offices and nine satellite office locations</p>	<p>11 full-time coordinators, 3 part-time and 4 paraprofessionals in the field and one dedicated central office administrative support person</p> <p>Central office management is not costed to the program.</p>

Province and Legislative Basis	Dedicated Fund for Surcharges	Provincial Surcharge Rates	Program Funding	Program Delivery	Staffing (FTE'S)
<p>Nova Scotia</p> <p><i>Victims' Rights and Services Act</i></p> <p>Proclaimed in force January 1, 1990.</p> <p>Amended to include Criminal Injuries Compensation April 28, 1992</p>	<p>Yes. Section 6 established the Victims' Assistance Fund. Section 11 provides that the Fund be maintained as a special account in the Consolidated Fund.</p> <p>Section 9 specifies that expenditures from the Fund are to be used for services and research respecting victims of crime.</p> <p>Section 10 prohibits use of the Fund for direct compensation to individual victims.</p>	<p>15% on all fines except fines pursuant to the Young Persons Summary Proceedings Act and parking offences. No non-fine surcharge.</p>	<p>Victims' Services Division Budget for 1997/98: Total (including administration and awards) \$1,853,900 (\$1,164,100 is from consolidated revenue; \$689,000 from surcharge revenue)</p> <p>Administration of Criminal Injuries Compensation is included in administrative costs for the Victims' Services Division; Division budget includes \$600,000 annually (from Consolidated Revenue) for Criminal Injuries Compensation awards.</p> <p>Dept. of Justice Family Violence Program (1995 - 1998) \$792,437 from surcharge revenue.</p> <p>1996/97 surcharge revenue was \$695,726.28 of which 25% was federal surcharge revenue.</p>	<p>Victims' Services Division is a separate Division within the Department of Justice.</p> <p>The Division operates 4 interdependent, province-wide programs: Criminal injuries Compensation Program, Regional Victims' Services Program, Child Victim/Witness Program and Victim Impact Statement Program.</p> <p>Services are delivered through 4 Regional Victims' Services Offices which have 1-800 numbers. Offices are staffed by Victims Services Officers (employees of Department of Justice) as well as Victims' Services Support Workers who, on a fee-for-service basis, assist Victims' Services Officers by providing court preparation sessions and assistance with victim impact statements in local communities.</p> <p>The Criminal Injuries Compensation Program is delivered from Division Head Office: however, assistance with claims is provided through the Regional Offices. All other programs are offered directly from the Regional Offices.</p>	<p>All staff are employees of the Department of Justice.</p> <p>Provincial Office staff include: Director; Manager of Regional Victims' Services; Manager of Criminal Injuries Compensation; Coordinator of Community Programming and Research, plus 3 support staff. Salaries and administrative costs are paid from consolidated revenue.</p> <p>The Halifax Metro Regional Office is staffed by 3 Victims' Services Officers and 1 Support Person; the 3 other Regional Offices are staffed by 2 Victims' Services Officers and 1 support person. There are 30 Victims' Services Support Workers who provide services such as court preparation in each County and also work on an occasional basis in the Regional Offices.</p>

Province and Legislative Basis	Dedicated Fund for Surcharges	Provincial Surcharge Rates	Program Funding	Program Delivery	Staffing (FTE'S)
<p>Prince Edward Island</p> <p><i>Victims of Crime Act</i></p>	<p>Yes.</p> <p>Section 8 established the Victim Assistance Fund comprising federal and provincial surcharges.</p> <p>Section 12 provides that the Fund will be held in a separate account of the Consolidated Fund</p>	<p>\$10.00 on all fines.</p> <p>No non-fine surcharge.</p>	<p>The Program is funded through surcharge and general revenues.</p> <p>1995/96 Revenue:</p> <p>Federal surcharge 26,528.21</p> <p>Provincial surcharge 139,304.50</p> <p>1995/96 Expenditures: 322,339.69</p> <p>Provincial Government picks up the short fall in revenue approximately \$150,000 from GRF.</p>	<p>Victim Services operates province-wide. It is a criminal justice system based program assisting victims of crime throughout their contacts with the justice system, at the police, court, and corrections stages.</p> <p>Office locations are in Charlottetown and Summerside and staff travel throughout the province. Each worker is assigned to work with specific RCMP and municipal police detachments/departments.</p> <p>Services include: information, support, and referral; short-term counselling; court preparation and accompaniment; victim impact statements; criminal injuries compensation; and corrections information.</p> <p>Services are provided to victims of crime of all ages on an as-needed basis. In 1995/96, Victim Services opened 626 new cases and 364 cases from previous years continued to be active.</p>	<p>The program has 5.5 staff:</p> <p>1 Coordinator</p> <p>2 Victims Services Workers</p> <p>1 Assistant Victims Services Worker</p> <p>1 Secretary</p> <p>.5 Secretary</p> <p>1995/96 salaries totaled \$206,000.</p> <p>Program costs are payed from Victims Assistance Fund and general revenue.</p>

Province and Legislative Basis	Dedicated Fund for Surcharges	Provincial Surcharge Rates	Program Funding	Program Delivery	Staffing (FTE'S)
<p>Newfoundland and Labrador</p> <p><i>Victims of Crime Services Act</i></p>	<p>No</p>	<p>No provincial surcharge</p>	<p>Consolidated Revenue Fund - \$765,000</p> <p>(Contribution from federal surcharge channelled through general revenue - \$60,000)</p>	<p>Victim Services Branch Adult Corrections Division Department of Justice</p> <p>10 professionally staffed Regional Offices deliver direct services to victims and coordinate additional resources as needed at the community level.</p> <p>Services available include:</p> <ul style="list-style-type: none"> * case and court information; * court orientation; * referrals; * counselling; * victim impact statements. <p><u>Specific Programs within mandated authority of Victim Services</u></p> <ul style="list-style-type: none"> * Regional Victims Services * Professional Services Program (counselling) * Victim Impact Statement Program * Victim Services Assistants Program 	<p>1 Provincial Manager</p> <p>1 Administrative Assistant</p> <p>12 Regional Coordinators</p> <p>4 x .5 Word Processing Equipment Operators</p>

Province and Legislative Basis	Dedicated Fund for Surcharges	Provincial Surcharge Rates	Program Funding	Program Delivery	Staffing (FTE'S)
<p>North West Territories</p> <p>Victims of Crime Act, R.S.N.W.T</p>	<p>Yes. Victims Assistance Fund</p>	<p>Surcharge rate 15% (maybe 20%) on offences ans \$25 non-fine surcharge</p>	<p>In 1996/97, the Department of Justice, Community Justice Division, through general revenues, budgeted \$215,000 for 4 community-based victim service projects (\$170,000) and 1 part-time coordinator (\$45,000). During that same year, the Victims Assistance Fund generated \$105,928 of which \$57,205 was from territorial victim fine surcharge and \$48,723 which was from federal victim fine surcharge.</p> <p>In 1996/97, \$106,900 was distributed from the Victims Assistance Fund for 6 recipients. Of this total, \$47,000 was for direct service delivery, \$32,400 was for training/direct service delivery, and \$27,500 was for information/promotion/public awareness. To this point in the current fiscal year (97/98) \$52,000 has been disbursed from the Victims Assistance Fund for projects related to victims of residential school abuse.</p>	<p>GNWT Department of Justice, Community Justice Division, provides annual contributions to 4 ongoing community-based victim service projects located in Fort Smith, Yellowknife, Iqaluit, and Rankin Inlet. Community-based non-profit organizations sponsor these projects and provide personnel and administrative support to the program coordinators/victim support workers they hire to deliver services to victims. Project coordinators/workers provide victims with information, practical assistance, emotional support, court orientation and referral services.</p> <p>There are two crown based victim/witness assistance workers (1 in Iqaluit and 1 in Yellowknife) employed by Justice Canada who provide victims/witnesses with assistance during the court process.</p> <p>There is no formalized victim impact statement program in the NWT.</p> <p>In the summer of 1996, the <i>Criminal Injuries Compensation Act</i> was repealed.</p>	<p>1 part-time Coordinator</p>

Province and Legislative Basis	Dedicated Fund for Surcharges	Provincial Surcharge Rates	Program Funding	Program Delivery	Staffing (FTE'S)
Yukon (Information not available)					

VICTIMS' BILL OF RIGHTS

DEFINITIONS

"Victim": anyone who suffers, as a result of an offence, physical or mental injury, or economic loss; or, any spouse, sibling, child or parent of the individual against whom the offence was perpetrated, or anyone who had an equivalent relationship, not necessarily a blood relative.

Victims have a right to:

- 1.) be informed of their rights at every stage of the process, including those rights involving compensation from the offender. They must also be made aware of any victims' services available.
- 2.) be informed of the offender's status throughout the process, including but not restricted to, notification of any arrests, upcoming court dates, sentencing dates, plans to release the offender from custody (including notification of what community parolee is being released into), conditions of release, parole dates, etc. All information is to be made available upon request.
- 3.) choose between giving oral and/or written Victim Impact Statements before sentencing, at any parole hearings, and at judicial reviews.
- 4.) be informed in a timely fashion of the details of the crown's intention to offer a plea bargain before it is presented to the defence.
- 5.) know why charges were not laid, if that is the decision of the crown or the police.
- 6.) protection from anyone who intimidates, harasses or interferes with the rights of the victim.
- 7.) have police follow through on domestic violence charges. Once a victim files a complaint, police should have the authority to follow it through to the end.
- 8.) know if the person convicted of a sexual offence has a sexually-transmittable disease.

Randy White

