

CORRECTIONAL SERVICE CANADA

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Victim Complaints: 2021-2022 Annual Report

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Executive Summary

The *Canadian Victims Bill of Rights*¹ (CVBR) enshrined victims' rights to information, protection, participation and restitution in order to ensure that they are considered throughout the criminal justice system. It also required all federal departments involved in the criminal justice system to have a complaints mechanism for victims who believe their rights have been infringed or denied.

The Correctional Service of Canada (CSC) is committed to providing a fair and prompt complaint process. The enclosed report, covering the period from April 1, 2021 to March 31, 2022, covers the seventh fiscal year reporting period since the coming into force of the CVBR on July 23, 2015.

In fiscal year 2021-2022, CSC provided services to approximately 8,500 registered victims. Of the eleven formal admissible complaints received by CSC during this time period, four instances involved complaints in which CSC did not fully uphold victims' rights under the CVBR.

In addition to the formal complaint process, staff across CSC, in particular in the Regional Victim Services Units, respond to victims' questions, concerns and informal complaints on a daily basis. In 2021-2022, CSC's Victim Services Officers were involved in tens of thousands of contacts with registered victims, completing over 30,000 notifications to victims.

CSC strives to address victims' concerns and continues to look for improvements, in order to ensure that victims' rights are upheld and that victims have an effective voice in the federal correctional system.

Background

The *Corrections and Conditional Release Act* (CCRA) is the law that governs CSC. CSC is responsible for administering sentences of adult offenders serving a term of two years or more, as imposed by the courts. The CCRA's principles incorporate the place of victims within CSC's overall mandate and Section 26 of the *Act* specifies the information that victims can request and the parameters within which CSC must provide it to them.

Both the CCRA and the CVBR define a victim as a person who has suffered physical or emotional harm, property damage, or economic loss as a result of a crime, and both statutes recognize that victims of crime and their families deserve to be treated with courtesy, compassion and respect, including respect for their dignity.

In July 2015, CSC's victim complaint policy (see [Commissioner's Directive \(CD\) 786, Victim Complaints](#)), was approved by CSC's Executive Committee. In addition, in April 2016, CSC promulgated [Guidelines 786-1, Victim Complaint Process](#), which outline CSC's process for managing complaints from victims. CD 786 and its related guidelines seek to ensure a fair and expeditious complaint process for victims who believe that CSC has infringed or denied their rights under the CVBR.

¹ See Annex A for a list of the sections of the CVBR that outline the rights afforded to victims in Canada.

Process

CD 786 specifies that for its complaints mechanism to apply, victims must communicate their concerns to CSC in writing. To do this, victims may use the [Victim Complaint Form \(CSC 1524\)](#) or send a letter, email or fax, specifying how they believe CSC has infringed or denied one or more of their rights under the CVBR. Each complaint is tracked throughout the resolution process.

Given the passage of time and evolution of the National Victim Services Program since CD 786 was first developed, the CD is currently under review. Amongst the changes being proposed, CSC is seeking to clarify the process as it relates to complainant eligibility to submit a complaint and complaint admissibility.

To be eligible to submit a complaint, the complainant must meet several criteria: (a) the definition of victim pursuant to the CVBR; (b) be present in Canada or be a Canadian citizen or a permanent resident within the meaning of subsection 2(1) of the *Immigration and Refugee Protection Act*; (c) the offender was under the jurisdiction of CSC at the time of the complaint or of the occurrence complained; (d) the matter that is the subject of the complaint must fall under CSC's jurisdiction.

In order to be admissible, a complaint must relate to at least one of the four rights pursuant to the CVBR:

- i. Right to information
- ii. Right to protection
- iii. Right to participation
- iv. Right to seek restitution

When a complaint is inadmissible (i.e., does not relate to at least one of the four rights listed above), CSC prepares a letter for approval and signature of the Director, Citizen Engagement, specifying why the complaint is inadmissible and sends the signed response to the complainant within the prescribed timeframe noted in policy.

A complaint that is admissible in part is one that contains a number of issues, but not all fall under CSC's jurisdiction, or not all pertain to one of the four rights under the CVBR. In such cases, CSC responds to the issues that meet the admissibility criteria in accordance with the procedures for responding to admissible complaints. When CSC determines that one or more concerns fall outside of its jurisdiction, CSC obtains the victim's consent to share the complaint and forwards it to the appropriate agency for direct response to the victim about the issue(s) under their jurisdiction. CSC advises the victim when their complaint has been forwarded in this way.

When admissible complaints are reviewed by CSC, all relevant information is provided by the institution/community site, the regional Victim Services Unit and the region responsible for the subject of the complaint. An analysis is then completed to determine whether relevant law and policy were followed and whether the victim's rights under the CVBR were infringed or denied. Policy holders at National Headquarters are also consulted, as needed. A written response, approved by CSC's Senior Deputy Commissioner, outlines the findings of the review, corrective measures and/or recommendations (if any), and the contact information for the Office of the Federal Ombudsman for Victims of Crime, should the victim not be satisfied with CSC's response to their complaint.

Admissible complaints are assessed as unfounded, founded or founded in part. As per CD 786, a complaint is unfounded when it is determined that CSC's decision/action was in compliance with the CVBR and law and policy governing CSC's responsibilities to victims. A complaint is founded when it is determined that CSC's decision/action was not in compliance with the CVBR and law and policy governing CSC's responsibilities to victims. A complaint is founded in part when several issues are raised in the complaint, but not all of them are considered founded.

Letters of response to victims whose complaints were founded/founded in part include an apology and outline CSC's findings as well as any corrective measures that CSC has taken. As per the requirement of subsection 25(3) of the CVBR, the Victim Services Division has the power to make recommendations to remedy such infringements or denials and notifies the victim of the result of such recommendations, if any were made. Beginning in 2020-2021, the Senior Deputy Commissioner officially tasks the Office of Primary Interest within CSC to address the recommendation within a specific timeframe, and the Victim Services Division monitors all recommendations for completion and documents the information accordingly. The Victims Services Division also informs victims by letter when actions to address the recommendations are completed.

Under current policy, the existing process requires CSC to provide a response to victim complaints in 25 business days. In all cases when this timeframe will not be met, a letter is sent to the victims to notify them of the delay.

As a result of the longer timeframes taken to reply to complaints in recent fiscal years, the extension of timeframes for response to victim complaints will be explored as part of the review of CD 786 in order to reflect the time required to complete case-specific consultations with the institution/community sites, regions, and policy holders at National Headquarters. Extending the timeframes will also provide victims a more accurate idea of how long they can expect the review and resolution of their complaint to take.

Statistics

Table 1: Overview of the complaints received by CSC between April 1, 2021 and March 31, 2022.

| Year 2021/2022 (Quarter) | Total Complaints Received | Inadmissible | Admissible | Admissible in Part | Findings for Admissible Complaints | Completed within Expected Timeframe (25 business days from date of receipt) |
|--------------------------|---------------------------|--------------|------------|--------------------|--|---|
| Q1 (April-June) | 6 | 0 | 6 | 0 | 2 Founded in part 4 Unfounded | 6 Late |
| Q2 (July-September) | 3 | 0 | 3 | 0 | 1 Founded 2 Unfounded | 3 Late |
| Q3 (October-December) | 2 | 0 | 2 | 0 | 1 Founded 1 Unfounded | 2 Late |
| Q4 (January-March) | 1 | 1 | 0 | 0 | Not applicable | Not applicable |
| Totals | 12 | 1 | 11 | 0 | 2 Founded 7 Unfounded 2 Founded in Part | 11 Late |

As noted above in Table 1, in 2021-2022, CSC exceeded the allotted timeframe outlined in CD 786, which is 25 business days, to respond to all eleven complaints. Similar to the previous fiscal year, these delays were due to detailed consultations with the institutions/community sites and regions involved, and with the policy holders at National Headquarters. These increased consultations allow the Victim Services Division to collect all the information necessary to complete a thorough analysis of the issues, better understand the circumstances of the complaint, and confirm the findings of the review with the relevant policy holders. While consultations were case-specific, CSC believes that this increased collaboration also serves to augment the visibility of victim issues within the organization and maintain a high level of accountability on CSC's obligations to victims.

Table 2: Five-year overview of annual complaints received by CSC.

| Fiscal Year | Total Complaints Submitted | Inadmissible | Admissible | Admissible in Part | Founded | Unfounded | Founded in Part | Infringement/ Denial of CVBR |
|------------------|----------------------------|--------------|------------|--------------------|----------|-----------|-----------------|------------------------------|
| 2017-2018 | 16 | 7 | 7 | 2 | 5 | 4 | 0 | 2 |
| 2018-2019 | 18 | 5 | 13 | 0 | 0 | 12 | 1 | 1 |
| 2019-2020 | 15 | 6 | 8 | 1 | 0 | 7 | 2 | 2 |
| 2020-2021 | 10 | 1 | 9 | 0 | 2 | 6 | 1 | 5 |
| 2021-2022 | 12 | 1 | 11 | 0 | 2 | 7 | 2 | 4 |
| TOTAL | 71 | 20 | 48 | 3 | 9 | 36 | 6 | 14 |

Summary of Findings

This section of the report provides a detailed overview of the findings of the twelve formal complaints received by CSC in 2021-2022. In brief:

- The number of inadmissible complaints remained the same as last year. There was only one.
- The number of admissible or admissible in part complaints increased from nine to eleven.
- The number of complaints deemed founded or founded in part increased slightly from three to four.
- Of the eleven admissible complaints, four resulted in corrective measures being taken at the local (institution/community site) level.

The issues raised by the victims in the eleven admissible complaints can be summarized as follows:

- Timeliness of sharing offender-related information and the accuracy of that information; and
- Consideration of victim concerns within case management processes/decisions.

Inadmissible Complaint:

Of the twelve total complaints received by CSC in 2021-2022, CSC determined that one of the complaints was inadmissible as it questioned an offender's access to controlled substances while in federal custody and the frequency of urinalysis testing. The questions raised in the complaint did not represent an infringement of the victim's rights pursuant to the CVBR.

Admissible Complaints:

Of the eleven admissible complaints received by CSC in 2021-2022, CSC determined that two were founded, two were founded in part, and seven were unfounded. The founded and founded in part complaints are described below.

- In the first **founded** complaint, the Victim Services Unit did not notify the victim of the date on which the offender's residency in a halfway house ended and of his change in release destination when he moved into private accommodations, as required by Annex C of CD 784, *Victim Engagement*. The Victim Services Officer had spoken to the Regional Communications Officer at the Parole Board of Canada (PBC) who indicated they would notify the victim of this information as part of their notification. In order to streamline the notifications to the victim, the Victim Services Officer did not contact the victim about this notification. However, as CSC and PBC have different notification procedures, this resulted in a missed notification to the victim by CSC and infringed the victim's right to information. As a corrective measure, the Regional Victim Services Manager advised the Victim Services Officer against the streamlining of notifications with the PBC and reinforced the requirement to complete notifications in accordance with CSC policy and procedures.
- In the second **founded** complaint, the Victim Services Unit did not contact the victim regarding a 60-day Unescorted Temporary Absence (UTA) application which was being reviewed at the same time as a timeline extension for the offender to complete a previously authorized 5-day UTA. CSC did not comply with the requirement to notify victims when case preparation begins for pre-release decisions, as outlined in CD 784, *Victim Engagement*, Annex C. As a result, the victim missed the opportunity to submit a statement for consideration by CSC and the PBC, which infringed the victim's rights to information and participation. When the error was brought to CSC's attention, the victim was invited to submit updated statements. These statements were then shared with the offender's Case Management Team and the PBC for consideration. As a corrective measure, all Victim Services Officers in the region received a written reminder regarding their obligations to solicit victim statements when completing consultations with institutional Case Management Teams for UTAs.
- In the first complaint that was **founded in part**, the Parole Officer did not notify the Victim Services Unit at least five days in advance of the offender's travel permit or immediately when the travel permit was approved. This resulted in the Victim Services Unit failing to notify the victim of the travel permit "at least three days" prior to the beginning of the travel permit, as required by Annex C of CD 784, *Victim Engagement*. As a result of the late notification to the victim, the victim's right to information was infringed. (The victim's right to protection was found to have been upheld as the travel permit was issued in accordance with law and policy; hence, the complaint was only founded in part). As a corrective measure, the Area Director reviewed the policy requirements with the case management staff involved.
- In the second complaint that was **founded in part**, the Parole Officer issued a travel permit less than five days in advance, because of the offender's employer's requirement, but did not inform the Victim Services Unit of the decision. In addition, the Parole Officer did not consider the victim concerns (as expressed in a Victim Statement) prior to approving travel outside the boundaries established in the PBC's condition, which is required under CD 715-1, *Community Supervision*, and CD 784, *Victim Engagement*. This resulted in an infringement of the victim's rights to information and participation. (The

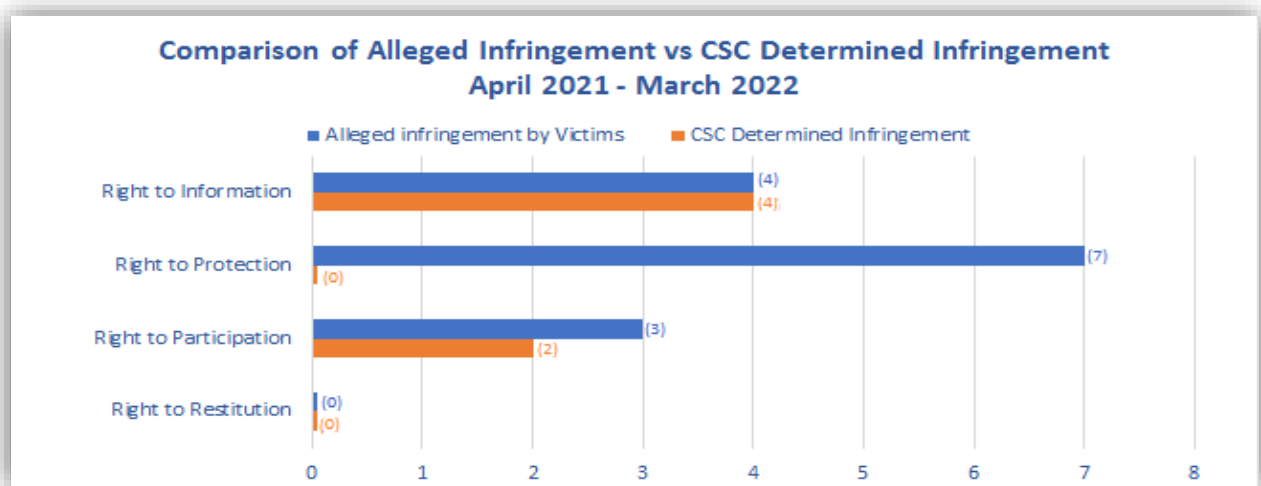
victim's right to protection was found to have been upheld as the travel permit was issued in accordance with law and policy; hence, the complaint was only founded in part). Upon becoming aware of the victim's concerns expressed in the Victim Statement, the travel permit was reviewed by the Parole Officer and parameters and additional supervision instructions were applied to the offender, given that the approved travel radius included the area where the victim resided. As a corrective measure, reminders were issued to the case management staff at the Parole Office in question to reinforce the importance of taking victim concerns into consideration when offenders apply for travel permits and ensuring the timely sharing of information with CSC's Victim Services Units.

Unfounded complaints:

In the seven **unfounded** complaints, it was found that CSC's actions were in compliance with law and policy and the victims' rights were not infringed or denied.

Upholding Victims' Rights

The following figure compares the rights that victims believed CSC infringed or denied, as reflected in each of their complaints received in 2021-2022, with the rights that CSC determined were infringed. Some victim complaints alleged that more than one right was infringed.



As shown in the figure above, four complaints alleged that CSC had infringed/denied the victims' **Right to Information**. CSC found that it had infringed this right on four occasions, as described earlier in this report.

Seven complaints alleged that CSC had infringed/denied the victims' **Right to Protection**, whereas CSC found that it had not infringed this right in any of these cases.

Three complaints alleged that CSC had infringed/denied the victims' **Right to Participation**, whereas CSC found that it had infringed this right on two occasions, as described earlier in this report.

No complaints concerned the **Right to Restitution**.

Challenges and Opportunities

Every victim complaint provides CSC with an opportunity to review and reflect on our policies, processes and procedures. Based on our review and analysis of complaints received by CSC in 2021-2022, we have identified challenges associated with upholding two of the four victim rights (Right to Information and Right to Participation), as well as opportunities for improvement going forward.

The issue of timely notification and consideration of victim concerns as it relates to travel permits remains at the forefront of victim concerns this year. In collaboration with CSC's Reintegration Operations Division (Correctional Operations and Programs Sector), upcoming changes to related CDs will restrict the reasons for which approval of travel permits may be authorized to areas with geographical restrictions and heighten the level of scrutiny and approval of travel permits for valid reasons to these areas.

As previously mentioned in this report, the current 25-day complaint response timeframe set out in CD 786 continues to be a challenge given the thorough consultations with institutions/community sites, regions, and policy holders at National Headquarters. CSC sees this as an opportunity to update our policy, during which we will also:

- propose amendments to revise and clarify responsibilities and procedures for complaints;
- increase the complaint response timeframe to allow for thorough consultations;
- create a protocol specific to CSC's Victim Services Division to replace the current Guidelines 786-1, *Victim Complaint Process*; and
- review the definitions used in the complaint process to ensure that our findings are clearer.

As mentioned in last year's report, discussions with provincial and territorial Victim Services have begun and focus on seeking to strengthen continuity of services for victims between our jurisdictions and exploring opportunities for increased collaboration (e.g., exploring revisions to victim registration forms, Memoranda of Understanding or Information Sharing Agreements between jurisdictions, provincial/territorial representation on CSC and PBC's joint Regional Victim Advisory Committees, etc.).

While CSC makes extensive efforts to explain the corrections and conditional release process to victims, in many cases victims state their objection not only to the decision CSC has made in the management of the offender, but also their dissatisfaction with aspects of current legislation. CSC consistently refers dissatisfied victims to existing mechanisms within Canada's democratic framework that allow them to express their views and pursue the changes they believe are needed, including the Office of the Federal Ombudsman for Victims of Crime whose role includes ensuring that policy makers and other criminal justice personnel are aware of victims' needs and concerns and identifying important issues and trends that may negatively impact victims. Where appropriate, the Ombudsman may also make recommendations to the Government of Canada.

Conclusion

CSC strives to provide victims with an effective voice in the federal correctional system. The findings of this report demonstrate that the organization meets its legislative and policy requirements and its commitment to uphold victims' rights. However, the founded and founded in part complaints including the four infringements of victim's rights, highlight the need for constant diligence in how victim information is shared and used, especially when it comes to victims' rights to information and participation. Furthermore, the issues raised in the unfounded complaints underscore the need for CSC to ensure that its ongoing engagement with victims provides them with meaningful interaction about the offender and the need for its management practices to demonstrate accountability and effective victim engagement.

CSC is dedicated to a culture of ongoing self-reflection and continues to review its policies and practices within an evolving environment. In support of continuous quality improvement, in 2021-2022, CSC has simultaneously worked to strengthen the policy framework of the National Victim Services Program to improve service delivery to victims and support CSC's capacity to uphold its mandate pursuant to the CVBR. The main policy for the Program - CD 784, *Victim Engagement*, is also under review. The policy is being modified in response to the 2021 Internal Audit Report of Victim Services, recommendations from the National Task Team on Victim Engagement and the evolution of the program over time. These updates will strengthen the consideration of victim information during review for some in-custody decisions and for some post-release CSC-authority decisions. CSC intends to implement various activities and changes beginning in 2022-2023.

We would like to take this opportunity to thank all staff from the National Victim Services Program, as well as case management staff and other officials from across the organization who have worked diligently and collaboratively to implement the CVBR over the past seven years. This has allowed CSC to respond methodically to both formal and informal complaints and to provide respectful and compassionate interactions with victims of crime.

Annex A

SECTIONS OF THE CANADIAN VICTIMS BILL OF RIGHTS OUTLINING THE RIGHTS GUARANTEED TO VICTIMS

RIGHT TO INFORMATION

6. Every victim has the right, on request, to information about
 - (a) the criminal justice system and the role of victims in it;
 - (b) the services and programs available to them as a victim, including restorative justice programs; and
 - (c) their right to file a complaint for an infringement or denial of any of their rights under this Act.
7. Every victim has the right, on request, to information about
 - (a) the status and outcome of the investigation into the offence; and
 - (b) the location of proceedings in relation to the offence, when they will take place and their progress and outcome.
8. Every victim has the right, on request, to information about
 - (a) reviews under the *Corrections and Conditional Release Act* relating to the offender's conditional release and the timing and conditions of that release; and
 - (b) hearings held for the purpose of making dispositions, as defined in subsection 672.1(1) of the *Criminal Code*, in relation to the accused, if the accused is found not criminally responsible on account of mental disorder or unfit to stand trial, and the dispositions made at those hearings.

RIGHT TO PROTECTION

9. Every victim has the right to have their security considered by the appropriate authorities in the criminal justice system.
10. Every victim has the right to have reasonable and necessary measures taken by the appropriate authorities in the criminal justice system to protect the victim from intimidation and retaliation.
11. Every victim has the right to have their privacy considered by the appropriate authorities in the criminal justice system.
12. Every victim has the right to request that their identity be protected if they are a complainant to the offence or a witness in proceedings relating to the offence.
13. Every victim has the right to request testimonial aids when appearing as a witness in proceedings relating to the offence.

RIGHT TO PARTICIPATION

14. Every victim has the right to convey their views about decisions to be made by appropriate authorities in the criminal justice system that affect the victim's rights under this Act and to have those views considered.

15. Every victim has the right to present a victim impact statement to the appropriate authorities in the criminal justice system and to have it considered.

RIGHT TO RESTITUTION

16. Every victim has the right to have the court consider making a restitution order against the offender.

17. Every victim in whose favour a restitution order is made has the right, if they are not paid, to have the order entered as a civil court judgment that is enforceable against the offender.