



**Department of Justice *Canadian Victims Bill of Rights* Complaint
Mechanism**

2015-2016 Annual Report

Submitted by the Policy Centre for Victim Issues at the Department of Justice
Canada



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I. Introduction

The *Canadian Victims Bill of Rights* (CVBR) came into force on July 23, 2015. The CVBR created statutory rights at the federal level for victims of crime. The legislation establishes statutory rights for victims to information, protection, participation, and to seek restitution. It also requires that a complaint process be established by federal departments, agencies, or bodies for breaches of these rights.

In July, 2015, the Department of Justice's CVBR Complaint Policy was approved. This Complaint Policy was recently updated in September 2016 (see Section III for details). The 2015 policy provided three separate levels of review for complaints: the Director General (DG) or equivalent, the Senior Assistant Deputy Minister (SADM) Policy Sector, and the Deputy Minister (DM). The Complaint Policy also required that a pre-assessment form be completed by the complainant to demonstrate that the complaint falls under the CVBR. Then, a complaint form would be provided once the pre-assessment determines that the complainant has status to file a complaint.

The Department of Justice CVBR Complaint Policy states that, within six months after the end of the fiscal year (i.e., by the end of September each year), a report will be submitted to the DM of Justice Canada that will include:

- the number of complaints made to the Department;
- how these complaints were addressed; and
- the average length of time to address them.

The policy also states that the report will be proactively disclosed on the Department of Justice Canada website. This is the first annual report on the Department of Justice CVBR Complaint Mechanism and provides the required information for proactive disclosure on all CVBR complaints received from July 23, 2015 to July 23, 2016. This period marks the first year of operation for the complaints mechanism.

For the purposes of this report, a "complaint" is any submission which included the official form required by the Department to make a CVBR complaint (i.e., a pre-assessment form). An "enquiry" is any correspondence to the Department's CVBR Complaint Mechanism which did not include a pre-assessment form.

II. Report on CVBR Complaints

Number of complaints made to the Department

During the first year of operation, the Department of Justice received ten (10) complaints through pre-assessment forms. Four (4) of those complaints related to the Victims Fund, including one (1) complaint with regards to the Canadians Victimized Abroad Fund and two (2) complaints related to the Parole Board Fund. The fourth complaint was not the subject of

a review because the complainant declined to submit a complaint form to continue the complaint process. The remaining six (6) complaints were regarding a variety of subjects which did not relate to any Department of Justice programs or services.

In addition to these complaints, the Department of Justice received one hundred and four (104) enquiries (without pre-assessment forms) to the complaints inbox, which were not clearly related to the CVBR.

How the complaints were addressed

After receipt of each pre-assessment form, the form was assessed to determine whether or not the complaint met the basic criteria of the Department of Justice CVBR Complaint Policy. All CVBR complaints received in the first year were responded to according to the 2015 Complaint Policy. This policy was recently updated (September 2016) and is referred to as the 2016 Complaint Policy (see Section III for details).

The complaints that related to the Parole Board Fund were the only complaints that fell within the ambit of the Complaint Policy (i.e., victim access to the fund to attend parole board hearings relates to the right to participation), though no infringement of rights was found at the first level of review (i.e., the DG level). In each case, the complainants were provided with a letter of explanation from the responsible DG. Neither of the complainants decided to request a further level of review (i.e., SADM review) after receiving the DG's response.

The complaint that related to the Canadians Victimized Abroad Fund did not fall within the ambit of the Complaint Policy and did not require review at the DG level. The CVBR applies only to crimes committed in Canada and, therefore, complaints related to the Canadians Victimized Abroad Fund do not generally fall within the scope of the CVBR. The Policy Centre for Victim Issues (PCVI) provided a response explaining why the complaint did not meet the basic criteria of the CVBR. In the same manner, the remaining complaints received by the Department did not fall within the ambit of the Complaint Policy and were responded to with an explanation from PCVI.

With regards to the enquiries that fell outside the scope of the CVBR, they were nonetheless responded to with due diligence, or forwarded to the appropriate section in the department for a response, except in the circumstance where the enquiries did not meet the criteria to receive a response (e.g., frivolous, vexatious, or abusive submissions). In every case, an acknowledgement of receipt was provided through an automated email response and the enquirer was informed that, if further action was required, a response would be provided within three (3) business days.

Each complaint and enquiry was inputted into an excel database in order to track progress through the complaints process and to collect the required data for evaluation and reporting purposes.

Average length of time to address complaints

The time required to assess and provide an initial response to each complainant was 2.5 business days on average. If a complaint was determined to meet the basic criteria of the Complaint Policy, the time required for the responsible DG to investigate the complaint and provide a response to the complainant was 13 business days on average. These timelines are well within the time allowances set out in the 2015 Complaint Policy, which provided that the initial complaint response should occur within 3 business days and the DG's response should occur within 30 business days.

III. Complaint Policy Developments

Since the CVBR came into force, the Department of Justice has been working to implement its CVBR Complaint Mechanism and has made several key changes in an effort to streamline the complaints process for complainants. These efforts will be ongoing in order to ensure that the process evolves to become as simple and efficient as possible for those victims and survivors of crime who choose to make a CVBR complaint to the Department of Justice.

The 2015 Department of Justice CVBR Complaint Policy provided three levels of review for a complaint, including the Director General (DG) or equivalent, Senior Assistant Deputy Minister (SADM), and the Deputy Minister (DM). In order to streamline the process for complainants, the 2016 policy now provides that the SADM act as a first level of response following an internal review from the responsible DG. If the complainant is dissatisfied with the first level response, they can request to have the DM review their complaint as a second level of review. In addition, the maximum time allowance for review has been significantly reduced from 196 business days total to 63 business days total.

As part of the objective to streamline the complaints process and reduce the burden upon victims of crime, the Department of Justice has also combined the mechanism's pre-assessment form and complaint form into one complaint form. Now, complainants can provide all of the information required to make a complaint in a single submission. In addition, the new complaint form now specifies the types of CVBR complaints the Department is responsible for, including:

- Complaints concerning general information requested by the complainant about the criminal justice system, which relates to the right to information; and
- Complaints concerning victim access to the Parole Board Fund to attend parole board hearings, which relates to the right to participation.

If the complaint does not relate to one of the above, it may not be related to the Department's CVBR Complaint Policy.

The complaint form has also been updated to provide clarity with regards to the Canadians Victimized Abroad Fund. The CVBR applies to crimes committed in Canada and, therefore,

complaints related to the Canadians Victimized Abroad Fund would generally not fall within the scope of the CVBR.

Finally, the Department of Justice and the Public Safety portfolio (i.e., National Office for Victims, Correctional Service Canada, Parole Board of Canada, Canadian Border Service Agency, and the RCMP) have been meeting on a regular basis in order to develop a coordinated approach toward CVBR complaints across the federal government. The Public Prosecution Service of Canada has also been engaged. As part of this effort, the departments and agencies have implemented a forwarding mechanism. Where a complaint relates to another federal department or agency other than the one to which it was submitted, it will be forwarded to that department or agency if the complainant has indicated their consent on the complaint form. This responds to a concern raised by the Federal Ombudsman for Victims of Crime that victims may have to make multiple complaints to different federal departments and agencies.

IV. Communications

The Department of Justice coordinated with the Public Safety portfolio to update information on the Justice website with regards to federal complaints mechanisms, which now includes more specific information about the types of CVBR complaints that each department or agency is responsible for. The Justice website is currently the only website that houses information about all of the federal CVBR complaint mechanisms together. The updated information can be found on the *Making a Complaint about Infringement or Denial of a Victim's Right* web page.

The updated web page will serve to provide victims of crime with more clarity regarding which department or agency they should direct their CVBR complaint to. In addition, it provides a new section to briefly define the role of the Office of the Federal Ombudsman for Victims of Crime in the federal complaints process and provides the office's contact information.

The web page on *How to Make a Complaint to the Department of Justice Canada* has also been updated to reflect changes to the Complaint Policy.

V. Conclusion

The Department of Justice has met its obligations pursuant to the CVBR to establish a complaints mechanism. The complaints received within the first year of implementation of the CVBR were addressed within the timelines set out in the 2015 Complaint Policy. The Department also took the opportunity to learn from the application of the complaints process during this first year and to make a series of changes to the complaints process to ensure that it is more efficient, effective and user-friendly in the future.