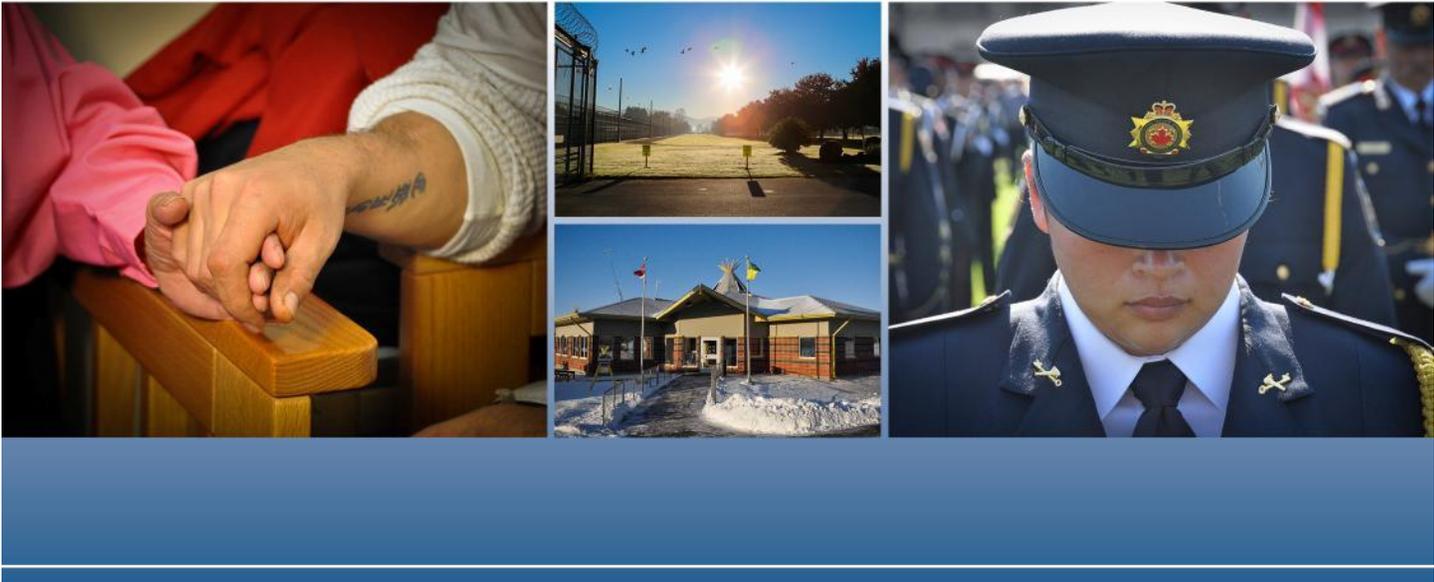


CORRECTIONAL SERVICE CANADA

CHANGING LIVES. PROTECTING CANADIANS.



Victim Complaints: 2020-2021 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, 2020, to March 31, 2021, covers the sixth fiscal year reporting period since the coming into force of the CVBR on July 23, 2015.

In fiscal year 2020-2021, CSC provided services to approximately 8,678 registered victims. Of the nine formal admissible complaints received by CSC during this time period, five 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 2020-2021, CSC's Victim Services Officers were involved in tens of thousands of contacts with registered victims, completing 38,660 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 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 are of the opinion 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.

To be admissible, the complainant must meet several criteria: (a) the definition of victim pursuant to the CVBR; (b) must 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 of; (d) the matter that is the subject of the complaint must fall under CSC's jurisdiction; and, (e) the complaint must relate to at least one of the four rights pursuant to the CVBR. A complaint that is admissible in part is one that contains a number of concerns, some of which fall under CSC's jurisdiction and others which fall under the jurisdiction of another agency.

When complaints that meet the above admissibility criteria are reviewed by CSC, all relevant information is provided by the institution/site and the region who made the recommendation and/or decision that is 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, includes the findings of the review, recommendations (if any), and contact information for the Office of the Federal Ombudsman for Victims of Crime, should the victim not be satisfied with the outcome of their complaint.

Admissible complaints are assessed as unfounded, founded or founded in part. Per Commissioner's Directive 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 with founded/founded in part complaints include an apology and outline CSC's findings as well as any corrective measures that CSC has taken. As per the requirement of section 25(3) of the CVBR, the Victim Services Division has the power to make recommendations to remedy such infringements and denials and notifies the victim of the result of those recommendations, if any were made. Beginning in 2020-2021, the Senior Deputy Commissioner now 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 file accordingly.

Statistics

Table 1: Overview of the complaints received by CSC between April 1, 2020, and March 31, 2021.

Year 2020/2021 (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)	3	0	3	0	3 Unfounded	2 Late 1 On Time
Q2 (July-September)	4	1	3	0	2 Unfounded 1 Founded in Part	2 Late 1 On Time
Q3 (October-December)	0	0	0	0	Not applicable	Not applicable
Q4 (January-March)	3	0	3	0	1 Unfounded 2 Founded	3 Late* 0 On Time
Totals	10	1	9	0	6 Unfounded 1 Founded in Part 2 Founded	7 Late 2 On Time

*The three complaints received in Q4 were not responded to until after March 31, 2021 (i.e., the next fiscal year).

As noted above in Table 1, in 2020-2021, CSC exceeded the allotted timeline outlined in Commissioner's Directive 786, which is 25 business days, to respond to seven of the nine complaints. In cases where there are delays in responding, a delay letter is sent to the victims to notify them of the delay. These delays were due in part to the COVID-19 pandemic, which was the primary focus of the organization and impacted the workload of those being consulted and those approving complaint responses. The delays were also due to detailed consultations with the involved institution and region, and with policy holders at National Headquarters, who were also involved in formulating recommendations related to changes in policy and/or practice. While consultations were case-specific, CSC hopes that this increased collaboration within operations will serve to raise awareness about all victims in the future.

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
2016-2017	19	4	15	0	5	8	2	1
2017-2018 ²	16	7	7	2	5	4	0	2
2018-2019	18	5	13	0	0	12 ³	1	1
2019-2020	15	6	8	1	0	7	2	2
2020-2021	10	1	9	0	2	6	1	5
TOTAL⁴	85	25	56	4	14	40	6	11

Summary of Findings

This section of the report provides a detailed overview of the findings of the ten formal complaints received by CSC in 2020-2021. In brief:

- The number of inadmissible complaints decreased significantly this year from last year, from six to one.
- The number of admissible or admissible in part complaints remained the same at nine.
- The number of complaints deemed founded or founded in part increased slightly from two to three.
- Of the nine admissible complaints, three resulted in corrective measures being taken at the local (institution/site), regional and/or national level, and two resulted in a recommendation for changes to policy and practice.

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

- Gaps in continuity of services between federal and provincial jurisdictions after the offenders' federal sentences had expired.
- Timeliness of sharing offender-related information and the accuracy of that information.
- Consideration of victim concerns within case management processes/decisions.
- Offender-related concerns (programming, access to technology).

Inadmissible Complaint:

Of the ten total complaints received by CSC in 2020-2021, CSC determined that one of the

² The original data for 2017-2018 erroneously reported 8 admissible complaints, for a total of 17 total complaints. However, when a husband and wife submitted two identical complaints, CSC counted them as a single complaint, and as such, this year's report reflects the corrected data (7 admissible and 16 total complaints) for this time period.

³ The reported number of unfounded complaints in 2018-2019 included one withdrawn complaint as it would have been unfounded if it had not been withdrawn.

⁴ As a result of corrections made to the data from 2017-18, the numbers in the first three columns have been adjusted to report the correct totals.

complaints was inadmissible because the offender, who was the subject of the complaint, was not under CSC jurisdiction.

Admissible Complaints:

Of the nine admissible complaints received by CSC in 2020-2021, CSC determined that two were founded, one was founded in part, and six were unfounded. The founded and founded in part complaints are described below.

- In the first **founded** complaint, the institution did not share the offender's conditional release information with the Victim Services Unit when it became available, as required by Commissioner's Directive 784, *Victim Engagement*, Annex C, which resulted in a delay in notifying the victim and infringed the victim's right to information. As a corrective measure, the institution implemented processes to support and improve communication between their staff and the Victim Services Unit in the region.
- In the second **founded** complaint, the institution did not follow the program referral process as outlined in Guidelines 726-2, *National Correctional Program Referral Guidelines*, which resulted in an error in the offender's referral to correctional programs. The victim's right to protection was found to be infringed as a result of no programs being recommended. As a corrective measure, a new referral was submitted for the offender to the appropriate correctional program. To ensure a higher level of scrutiny in future cases, the region changed the authority level of the approval process for specific cases. At the time of this complaint, the related policy was already being amended to clarify the criteria and processes for program referrals and to increase monitoring of decisions.
- In the complaint that was **founded in part**, the institution did not integrate the victim's concerns into its recommendation to the Parole Board of Canada in advance of the offender's hearing and did not specifically address the victim's geographic/proximity-related concerns as outlined in the victim's statement. This non-compliance with Commissioner's Directive 712-1, *Pre-Release Decision-Making*, resulted in an infringement of the victim's right to protection (the victim's right to participation was found to have been upheld; hence the complaint was founded in part). As a corrective measure, discussions occurred with staff and written reminders were issued within the region to reinforce the need for compliance with the responsibilities under the CVBR as it relates to thoroughly considering and documenting victim concerns in recommendations. In addition, the complaint was discussed with CSC's senior regional executives to ensure increased vigilance in the reviews of documentation, particularly with regard to victim concerns and requests for conditions.

Unfounded complaints with a CVBR right infringement:

Of the six **unfounded** complaints, it was found that the victims' rights were infringed in two of the complaints despite CSC's actions being in compliance with law and policy. These were similar, complicated situations that challenged current definitions. CSC chose to address these complaints in this way in order to honour the challenges faced by the victims. CSC is currently working with Portfolio partners to determine how best to define complaint findings, in future, where law and policy were followed but the victim's rights were found to be infringed or denied.

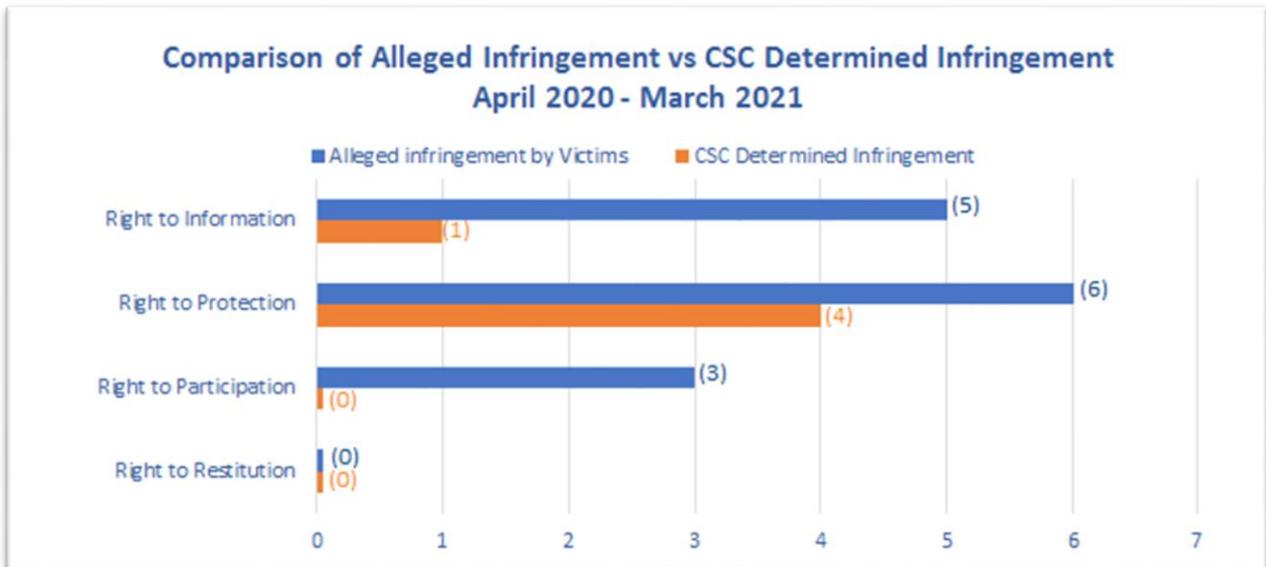
- In the first **unfounded complaint where it was determined that a right was infringed**, CSC did not fully uphold the victim's right to protection in how it framed the

rationale for the offender's supervision plan. While policy was followed, the review found that more careful consideration of the victim's privacy and safety in case documentation was needed. In addition, although not required by policy, CSC did not accompany the offender between the releasing institution and the approved destination for supervision. It was recommended that CSC's Reintegration Operations Division develop additional training tools to assist in framing victim concerns in case documentation without infringing victims' privacy and right to protection. CSC also explored the possibility of accompaniment and/or transfer of offenders before the end of their sentence if their supervision is in another area/province.

- In the second **unfounded complaint where it was determined that a right was infringed**, CSC complied with law and policy in the management of the offender's case; however, CSC could have taken steps to better coordinate communication between federal and provincial officials to more fully uphold the victim's right to protection. The review found inconsistencies occurred in accessing and recording information in CSC's Offender Management System regarding a provincial probation order to be served by the offender after completion of the federal sentence. It was recommended that CSC's Reintegration Operations Division review the procedure to obtain court documentation in order to ensure that all relevant information is provided for use in case management processes and that all applicable court orders are identified in the Offender Management System.

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 2020-2021, 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, five complaints alleged that CSC had infringed/denied the victims' **Right to Information**, whereas CSC found that it had infringed this right on one occasion, as described earlier in this report.

Six complaints alleged that CSC had infringed/denied the victims' **Right to Protection**, whereas CSC found that it had infringed this right in four complaints, as described earlier in this report.

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

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 2020-2021, we have identified challenges associated with upholding two of the four victim rights (Right to Information and Right to Protection), as well as opportunities for improvement going forward.

As noted earlier in this report, in two unfounded complaints where CSC complied with law and policy, CSC found that the victims' rights had been infringed. These scenarios led CSC to reflect on ways to more fully uphold victims' rights and to improve its processes. CSC is also reviewing the definitions used in the complaint process to ensure our findings are clearer.

Both unfounded complaints, which involved multi-jurisdictional situations, highlighted the importance of ongoing collaboration between federal agencies and local, provincial or territorial jurisdictions to ensure victims' rights are upheld across service providers. These two complaints emphasized the challenges victims face within Canada's criminal justice system where victim services are provided by local (i.e., police), provincial or territorial, and federal agencies. While the CVBR enshrined victims' rights at all levels of the system, it does not address the fragmented nature of victim services or help victims overcome the gaps in services when the offender(s) moves through the system.

To help address these issues, CSC launched a three-year national outreach strategy in 2021 that seeks to focus efforts on bridging jurisdictional gaps through regional and national outreach to Crown prosecutors, police and/or provincial/territorial victim services. In 2022, CSC Victim Services will begin bilateral meetings with provincial and territorial counterparts to explore options to maintain continuity of service, which may include amending victim registration forms to include victim consent for sharing of victim information between jurisdictions and the development of a Memorandum of Understanding and/or Agreements between jurisdictions.

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 with aspects of current law. 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 policymakers 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 federal government.

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 and the five infringements of victims' rights highlight the need for constant diligence in how victim information is shared and used, especially when it comes to victim safety and their right to protection. 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 information about the offender and that its management practices demonstrate accountability and effective victim engagement.

CSC recognizes the need to weigh victims' interests and to consider their requests within the legislated framework of managing the sentences of federal offenders. 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 2020-2021, a National Task Team on Victim Engagement brought together victim services and case management to address issues raised by victims, such as concerns about travel permits, an issue identified in victim complaints. CSC intends to implement various activities and changes beginning in 2022-2023 related to the findings of the Task Team.

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 six 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.