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February 28, 2013

The Honourable Robert Douglas Nicholson
Minister of Justice and Attorney General of Canada
284 Wellington Street
Ottawa, Ontario K1A 0H8

Dear Minister:

The Canadian Resource Centre for Victims of Crime (CRCVC) is writing to you to offer our support for the recent announcement you made on February 4, 2013 to make Canadian streets and communities safer.

We were particularly pleased to learn about the government’s plans to enhance the rights of victims by 1) Bringing forward legislation to implement a Victims’ Bill of Rights, entrenching their rights into a single law at the federal level and 2) Address the important issue of restitution by facilitating victims’ ability to obtain restitution where they incur losses.

Victims’ Bill of Rights

While there are a number of *Criminal Code* provisions that are intended to benefit victims of crime (testimonial aids, victim impact statements, community impact statements, victim surcharge, restitution, publication bans, non-communication orders, and peace bonds) there is no recourse for victims if they are not informed of these provisions, for example. If such rights become entrenched in a Victims’ Bill of Rights, a remedy must also be prescribed for victims where their rights are not met so that victims have legal recourse.

It is our hope that the proposed Victims’ Bill of Rights will go beyond current *Criminal Code* provisions and legislate all of the well-documented needs of victims (Waller 2011) listed below:

1. **Right to PARTICIPATION/REPRESENTATION** – victims must be able to participate in legal processes and have their interests defended by independent counsel, especially in cases of sexual violence.
Recommendation:
 - a. The right to provide a victim impact statement at sentencing does not provide enough voice. The interests of victims are related to privacy, safety, reparation and justice and must be voiced by federally funded independent legal counsel for victims.
2. **Right to RECOGNITION** – crime causes harm, loss and injury to people; not states. Recommendation:



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- a. The Bill of Rights must clearly state that federal/provincial/territorial criminal justice officials are required to treat victims with fairness, courtesy, compassion and respect.
3. **Right to INFORMATION** – victims need to know what services and financial assistance are available to help them; how law enforcement and criminal justice processes operate so they can decide whether to participate; and they need information about their case, if they do get involved. Recommendation:
- a. The Bill of Rights must specifically prescribe the agencies responsible for providing information to crime victims when they report, e.g., police and Crown attorneys.
4. **Right to ASSISTANCE** – support services for victims must be available and accessible in all communities (even rural and remote areas) recognizing that supports are needed immediately, intermediately and over the long-term. Supports must meet the needs of women, men, children, and persons from different racial and ethnic/language backgrounds. Recommendation:
- a. Increased federal funding for NGOs and provinces/territories to deliver important support services, with an emphasis on remote, rural and underserved areas of the country.
5. **Right to REPARATION** – victims must be able to recover financial losses as a result of their victimization. Government funded compensation is a universal right and must provide non-pecuniary compensation such as counselling, medical expenses, funeral costs, rehabilitation, etc. equally to all victims of violent crimes. Recommendations:
- a. Restitution orders can be paid directly to victims through compensation schemes. Governments can recover costs directly from offenders (as legislation currently allows). If not, enforcement of restitution orders must be a service offered by and paid for by each province/territory.
 - b. Current compensation schemes across Canada are inequitable because programs do not exist in all of the provinces and territories and where programs do exist, they offer very differing levels of assistance. A national program of financial assistance would create standardized levels of assistance and ensure that all Canadians have equal access to financial support in their recovery and healing following violent victimization.
6. **Right to SAFETY** – victims must be protected from the accused and from intimidation and retaliation, especially in cases of domestic violence and child abuse. Recommendation:



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- a. Federally funded women’s advocates (through existing shelters and sexual assault centres) to voice victims’ safety and security concerns to police and the courts.
7. **Right to PREVENTION OF VICTIMIZATION** – victims want more than anything to prevent others from suffering in the way that they have. The cost of crime in Canada in 2008, was an estimated \$99.6 billion, a majority of which, \$68.2 billion or 68%, was borne by the victims. Victim costs include the value of damaged or stolen property, pain and suffering, loss of income and productivity, and healthcare services.
Recommendation:
- a. Significant federal investment annually in implementing evidence-based strategies known to prevent victimization through crime prevention.
8. **Right to IMPLEMENTATION** – victims’ rights set out in legislation must be implemented across Canada and enforced. Recommendation:
- a. Legislation must include specific strategies to monitor and assess enforcement and implementation of victims’ rights.

Restitution

We are also very concerned about the issue of restitution in Canada. We feel it should be ordered more frequently by the courts because it is a way to hold offenders directly accountable for the losses they have caused. We have written recently to Minister Toews on this issue as we believe that the success of our corrections and parole systems in Canada can and should be measured by how much restitution is being paid to victims of crime by their offenders. In the United States, the amount and share of the restitution a victim has collected is a performance measure for probation and parole systems. The CRCVC strongly supports this notion and feels the payment of restitution should be an integral aspect of an offender’s incarceration and eventual parole. It speaks to the accountability of the offender and the likelihood of their successful societal reintegration.

We feel a restitution plan should be included within the offender’s correctional plan. The restitution plan should be agreed to by the offender and become part of their parole conditions. If the offender fails to obey the agreed upon restitution plan while on parole, it should be considered a parole violation and cause a return to prison. The goal here is not to create undue hardship for the offender, but to establish that some restitution must be paid to the victim. As part of parole the offender should give to the victim a blanket authorization to access any financial institution records in their name world wide. This increases the difficulty in hiding money that could be used to pay restitution. Yearly, audits of the offender’s finances should be conducted until the restitution is paid, and failure to willingly and openly submit to such audits should result in criminal



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charges. A minimum level of mandatory restitution per annum should be set, to motivate the offender to work to pay back the victim.

Why not build a collection mechanism into existing victim services programs offered by Correctional Service of Canada and the Parole Board to help ensure victims are paid the restitution as ordered by the courts while the offender serves their federal sentence or are on parole in the community?

Only Saskatchewan and Nova Scotia currently boast programs to ensure that the collection of restitution for victims actually occurs. Saskatchewan's Adult Restitution Program and the Restitution Civil Enforcement Program provide information to victims about restitution and works with offenders to ensure payments are made in a timely and effective manner. The latter program pursues civil enforcement of the restitution order on the victims' behalf – including the garnishment of offenders' wages and bank accounts, the seizure of personal property, etc. Nova Scotia has recently implemented its own restitution project based on the success of Saskatchewan's experiences.

While legislation does exist that requires judges to consider restitution for victims of crime in Canada, the issue of enforcement has not been addressed at all and this not acceptable. Having a judge order restitution for a victim is only the first step; actively enforcing this order is the next and more crucial step. Victims must not be left on their own to enforce such orders, adding to their financial losses. Offenders must be made to fulfill all aspects of their sentence and this includes the payment of restitution to the victim where it has been ordered. Successfully collecting restitution for victims will make a real and positive difference in their lives and can also be a way to measure the success of Canada's corrections and parole systems.

We would be pleased to be consulted in the drafting of the forthcoming legislation in both of these areas and look forward to hearing from your officials.

Sincerely,

A handwritten signature in blue ink, appearing to read "Heidi Illingworth".

Heidi Illingworth
Executive Director