

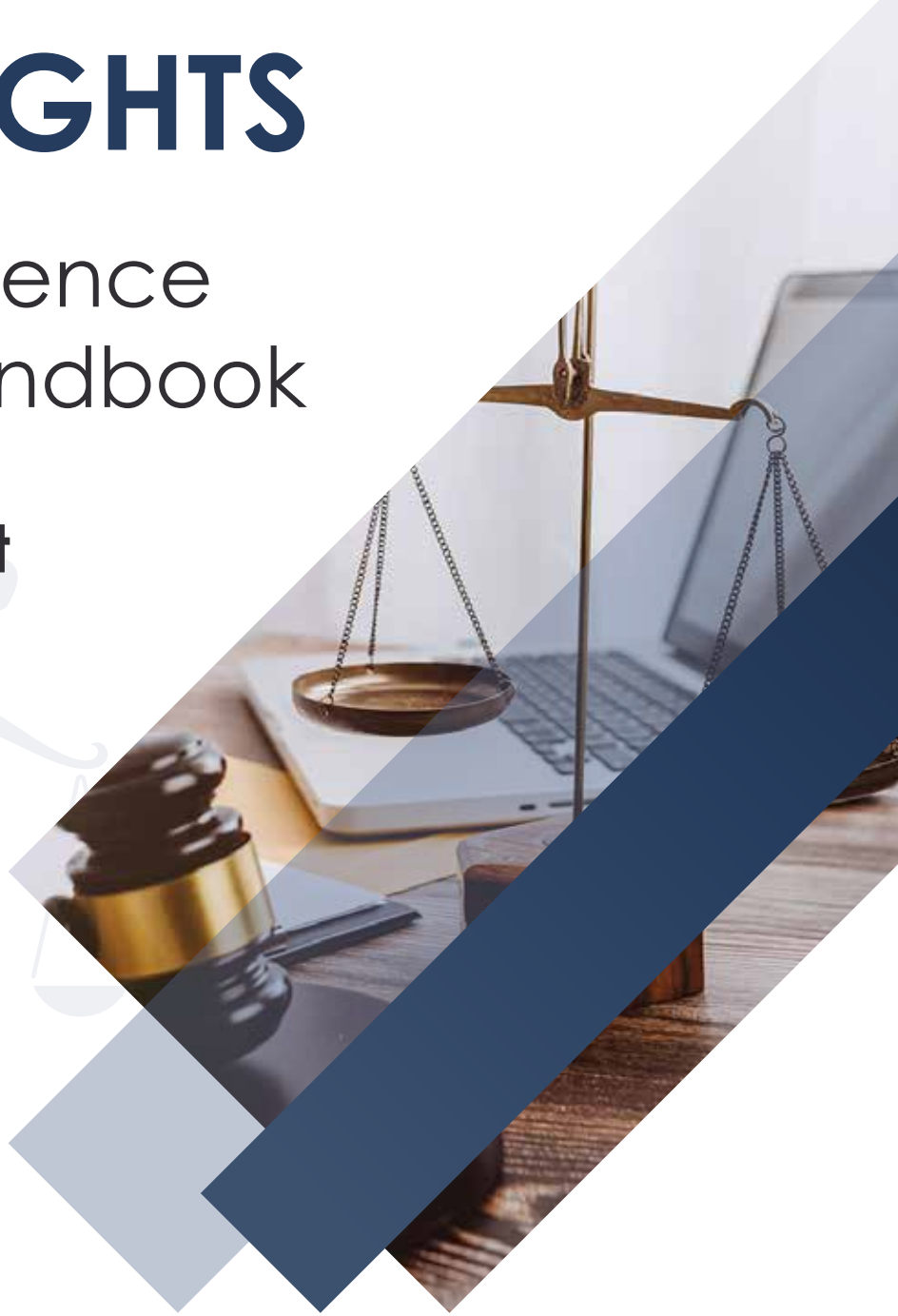


VESTA
Social Innovation
Technologies

YOUR RIGHTS

A Sexual Violence Survivor's Handbook

Chapter 8: Court Proceedings



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Police & Court Procedures

The criminal justice process begins when an offense is committed. If and when the crime is reported, the police usually handle the investigation up to the laying of charges. Once a suspect is apprehended, an information is laid (charges are laid) and the prosecution of the accused may be undertaken by the Crown.

What Is a Statement?

A statement is a written record of your complaint and includes everything that you can remember about the assault. This report will be used by officers conducting the investigation and may be used at a later time during court proceedings.

You may want to record the name and badge number or get the business card of the officer who took your statement so that you can contact them if you remember anything else of significance about the crime.

In most cases, you will be asked to give a brief description of (or sometimes ask to write down) what happened to you to a police officer, or you may ask to speak with someone from the sexual assault division if they have one in your area. The police will take notes and may videotape your conversation. This is your statement. Prior to your statement the police may caution you that you could be charged if you are lying or making a false statement. *This is not because they don't trust you, but because you may be questioned about your statement in court at a later time, and to protect the public from false accusation.*

You must be sure about everything in your statement. **Do not guess about anything - if you don't remember, say so. You can always add later to your statement when you remember.**

Sample Questions

- Your name, address, and contact number.
- The exact time and location where the crime took place.
- Names and addresses of the people involved if you know them.
- A description of each of the people who were involved in the crime - hair color and length, build/weight, height, female or male and race.
- A description of what you saw, witnessed or experienced.
- If a vehicle was involved, the licence plate number, color and type of vehicle and any injuries.

Some questions the police ask may make you feel uncomfortable. You may wonder why they are important but things that do not seem important to you can help police arrest someone.

Completing Your Statement

Police will ask you to read the statement and sign it. Don't sign any statement unless you agree with what is written. Ask for clarification if you are unsure and make changes or add anything that you feel is relevant and missing. You can ask for a copy of your statement to review later. You can also add missing information at a later date when you remember.

A report is then created, and that report or written statement will usually be used to investigate your claim. The goal of the police investigation is to determine if they have enough evidence or proof to be able to lay charges.

Know that if the police decide to lay charges or not is dependent on how much evidence they can gather and doesn't negate what happened to you.

You can set boundaries with your assigned officers on when or how they can contact you. Having a victim services advocate as your liaison between the police and you can be extremely helpful in setting those boundaries and maintaining some control.

Who Sees My Witness Statement?

A copy of the witness statement is usually given only to the Crown attorney and Defence counsel, who can ask questions about your statement at the trial. Defence counsel will likely give a copy of the witness statement to the accused as they prepare for trial.

Some Helpful Resources

- [Sexual Assault: First Steps in the Criminal Process](#)
- [Making a Police Statement - Information for Accused](#)



Restorative Justice

Everyone has different ways of healing; there is no one “right way.” Sometimes we find comfort in those around us, and sometimes we simply find comfort in our own homes. While the obvious solution to seek justice may be to rely on legal institutions such as prisons or courts, that may be difficult for many. Another option you may not be aware of is Restorative Justice.

What Is Restorative Justice?

Restorative justice (RJ) focuses on repairing the harm caused by looking and thinking about crime using a holistic, collaborative, and humanizing approach. It views crime not only as a violation of the law but also of people, relationships, and communities.

RJ can be requested by victims of a crime; however, most programs require the voluntary participation of the offender and that they accept responsibility for their actions. This method of justice holds the offenders responsible for their actions by providing parties affected by the crime an opportunity to address their needs and to seek a resolution that can amend the wrongdoing, preventing further crime, harm, and victimization.

When effectively used, restorative justice can lead to better outcomes for victims and offenders and reduce the number of cases that go to trial.

How Is Restorative Justice Different From Transformative Justice?

Restorative justice is an alternate model of the justice process where victims, communities and offenders affected by an injustice have an opportunity to discuss how they have been impacted and decide what should be done to repair the harm. Within the RJ model, offenders are asked to acknowledge their crime and attempt to atone for it.

While coming from the same background as restorative justice, transformative justice (TJ) seeks to change the larger social structure as well as the personal structure of those involved. Transformative justice wants to inform victims with answers as to why they were victimized, recognizing the wrong that has occurred, providing restitution, and establishing peace.

Both TJ & RJ concepts are essentially reaching for the same goal. Transformative Justice (TJ) is a political framework and approach for responding to violence, harm and abuse. Restorative Justice is an approach focused on repairing harm that's occurred in a community by using techniques that involve all parties; the victim, the offender, their social networks, justice agencies, and the community.



Restorative Justice

Source: VESTA
Resource Library

Is Restorative Justice the Right Choice for You?

As with any decision, it is important to explore which option works for you. Restorative justice can be used with varying programs at multiple stages of the criminal justice process. **Please inform yourself on the options available to you before making a decision, as always it is best to consult a legal professional to fully understand the implications before you make a decision.** Most RJ programs are not equipped to deal with serious cases involving power inequalities, such as domestic violence. Some programs have developed partnerships with appropriate supporting agencies to offer RJ in some of these cases, but that is not the norm.

Many of the programs available through RJ require the voluntary participation of the offender and that they accept responsibility for their actions. Some, but not all programs require the participation of victims. Programs can take place at different stages of the criminal justice process. For example, some programs may require the offender to plead guilty, others may take place after charges have been laid. Some initiatives take place after conviction but before sentencing occurs (pre-sentence programs), while others take place after an offender has been sentenced (post-sentence programs).

The following is a list outlining different types of restorative programs available throughout Canada, as provided by the Correctional Service of Canada Dispute Resolution Unit.

Types of Restorative Justice Programs

Circles

Similar to mediation, but involving community members and/or family in addition to the victim and offender.

Circles of Support and Accountability

Groups of volunteers, often from faith communities, that form a "covenant" with a released high-risk sex offender. The Circle helps provide a healthy environment for the ex-offender by advocating with various systems, dialoging the ex-offender about their attitudes and behaviours, and mediating concerns with the community. The victim's participation is not required.

Community-Assisted Hearings/Releasing Circles

This is available to offenders who are indigenous. This process is similar to a parole hearing in that it occurs within the prison. It differs from a traditional hearing in that all participants, including members of the board, the offender, their parole officer, their support person, aboriginal elders from the community, the hearing assistant and the victims (if they are present), sit in a circle for the purposes of the hearing.

Conferencing

The victim, the offender, their supporters, and community members work toward reparation, facilitated by an independent third party.

Healing Circles

Ceremonies intend to bring conflict to a close. They allow the participants to express their feelings, and indicate that the offender and victim have undergone personal healing.

Peacemaking Circles

Rooted in Aboriginal tradition, this program is based on the belief that the primary responsibility for addressing the problems of crime lies in the community and not just with those directly impacted. These circles focus on trying to uncover underlying problems, and to restore balance.

Sentencing Circles

The victim, offender, family, and community members, meet with a judge, lawyers, police, and others to recommend to the judge what type of sentence an offender should receive. The victim and the community have the opportunity to express themselves, address the offender, and may also take part in developing and implementing a plan relating to the offender's sentence.

Surrogate Victim/Offender Restorative Justice Dialogue

A victim or an offender may choose to meet with someone who committed a similar crime or who was similarly victimized, instead of meeting with the specific offender or victim in his or her case. This has proven beneficial to many victims who want to experience a restorative meeting, but who, for whatever reason, cannot bring themselves to meet the offender in their case.

Victim Offender Mediation Programs (VOMP)

Trained mediators bring victims and offenders together in a safe and structured setting to discuss the crime, its impact, and any agreement to address it. The offender is afforded opportunities to make apologies, provide information and to develop reparative plans and gain insight for personal growth. More indirect variants also exist where there is an exchange of letters or videos between the victim and their offender.

Victim Panels

A group of victims who speak to an offender about the impact that a crime has had on their lives. Victim-offender panels bring together victims with offenders who have committed a similar crime to that which they have experienced.

How to Get Connected to a Restorative Justice Program

Referral to RJ programs in Canada can occur at various entry points within the criminal justice system. These include: **pre-charge** (referral by police), **post-charge** (Crown), **pre-sentence** (courts), **post-sentence** (corrections), or **pre-revocation** (parole).

Accessing Services through the Restorative Opportunities (RO) Program is available to people harmed by the offence requesting to communicate with the offender who caused the harm. Services provided by the RO program are available to registered victims, victim representatives acting on behalf of registered victims, and non-registered victims impacted by the crime.

If you are interested in Restorative Opportunities, you may contact **the Restorative Justice Division** at **1-877-730-9673** or **by email**. You can also call **CSC's Victim Services Division toll-free** at **1-866-806-2275** where the call will be directed to the appropriate Victim Services Officer.

Some Helpful Resources

- [Understanding Transformative Justice and Restorative Justice](#)
- [Restorative Opportunities Program - Correctional Service Canada](#)
- [Getting fair outcomes for victims in Canada's criminal justice system \(PDF\)](#)
- [Restorative Justice - A Worthy Approach](#)
- [Restorative Justice in Canada: What Victims Should Know \(PDF\)](#)

