



MADD Canada's Submissions Regarding the Proposed Canadian Victims Bill of Rights and the Federal Government's Role in Encouraging Uniform Provincial and Territorial Victims' Rights Legislation

Mothers Against Drunk Driving (MADD) Canada is committed to minimizing impaired driving deaths and injuries across Canada, and to assisting the victims of these needless tragedies.

The proposed Victims Bill of Rights affords the federal government an opportunity to lessen the hardships faced by victims of impaired driving and other crimes through improved access to justice and protection from unfair treatment. However, a federal bill of rights alone is not enough. The federal government can and should encourage the provinces and territories to adopt uniform victims' rights legislation—in particular, more generous and inclusive victim compensation schemes. Legislative reforms need to be undertaken at both levels of government to strengthen victims' rights and better address their needs.

Recommendations Regarding the Proposed Canadian Victims Bill of Rights

The following recommendations would strengthen support for victims of impaired driving and should be included in the proposed Canadian Victims Bill of Rights:

1. We agree in principle with the *Canadian Statement of Basic Principles of Justice for Victims of Crime, 2003*. However, the *Statement* and the proposed Canadian Victims Bill of Rights will only have a tangible impact on the lives of victims if their rights are expressed in mandatory, rather than permissive, language. The word “should” needs to be replaced by the word “must.” For example, victims “must be” provided with information.
2. The Canadian Victims Bill of Rights should define the term “victim” to include anyone who suffers physical, emotional, property, or economic losses resulting from conduct forming the basis of a federal criminal offence. Thus, a person may be a “victim” whether or not the offender is apprehended, charged or convicted. The definition should also include spouses, parents, siblings, and children of the primary victim.
3. The Canadian Victims Bill of Rights should require justice personnel to offer victims general information on: the criminal justice system; their role and rights within the system; and the relevant legislation. Victims must also be offered specific information about the case, including: the name of the accused; the status of the investigation; the charges that have been laid; any significant decisions made about the case; the date, place and time of the criminal proceedings; the outcome of the proceedings; and the sentence.
4. Victims should have the right to be informed of the details of the offender's sentence and the dates and times of any parole hearings. They should also be informed of their right to attend parole hearings and to present an updated victim impact statement.
5. Victims must be protected from intimidation and retaliation, and should be provided with courtroom accommodation separate from the accused and his or her witnesses.

6. Employers must be prohibited from dismissing, suspending or otherwise penalizing victims who are absent from work to testify, attend trial or meet with justice personnel involved in the case.
7. Victims must have the right to present an oral victim impact statement prior to the sentencing of the offender. Victims need to be informed of the right to make this statement and should be given time to prepare it, even if an adjournment is required.
8. The *Criminal Code* should require judges to consider the victim impact statement and to refer to it in giving reasons for sentencing.
9. Victims should also have the right to be treated with courtesy and respect. Victims who believe that their rights have been violated by government officials should have the right to seek redress from a federal ombudsman. If the rights of the victim have been breached, the ombudsman should be authorized to censure the responsible officials. If it is found that there is a systemic problem, the ombudsman must be empowered to make recommendations for change.

Recommendations Regarding the Federal Government's Role in Encouraging Uniform Provincial and Territorial Victims' Rights Legislation

The federal government should encourage the provinces and territories to enact uniform victims' rights legislation that incorporates the following principles:

1. Victims should be eligible for provincial or territorial compensation even if no suspect is apprehended or if the accused is acquitted. The victim's losses and injuries warrant compensation regardless of whether the offender is apprehended, charged or convicted.
2. For the purpose of compensation, the provincial and territorial definition of "victim" should parallel the federal definition, and as indicated should include spouses, parents, siblings, and children of the primary victim.
3. Compensation should be provided for physical, emotional, property, or economic losses that are attributable to the offence. Thus, victims should be entitled to compensation for both pecuniary and non-pecuniary losses.
4. Provincial and territorial criminal injury compensation awards should be substantial. In our view, a maximum of \$100,000 per victim and a limit of \$250,000 per incident would be appropriate. The victim compensation fund should have a right to sue the perpetrator in to recover the money that has been paid to the victims.
5. If impaired driving victims are awarded damages in a civil suit, they should be to obtain a court order to have the offender's vehicle seized and sold to satisfy any outstanding monetary award.
6. Currently, virtually all of the provincial and territorial criminal injury compensation acts preclude impaired driving victims from recovering damages. Impaired driving is the single largest criminal cause of death, and one of the leading criminal causes of injury, in Canada. Victims of impaired driving are no less worthy or in need of compensation than victims of other crimes. Consequently, impaired driving victims should have the same right to compensation as other victims.