



INFOGUIDE

February 2009

VICTIM IMPACT STATEMENTS AT THE ONTARIO REVIEW BOARD

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What is a victim impact statement?

- A victim impact statement is a written document prepared by a victim of an offence. It describes the harm or loss suffered by the victim in his or her own words.
- A victim is also permitted to read their statement at a hearing before the Ontario Review Board (the Board) unless it would interfere with the proper administration of justice.
- The Board is required to consider victim impact statements (if submitted) at a hearing when determining the appropriate disposition and conditions for a not criminally responsible accused.
- Victim impact statements are frequently used by the criminal courts when considering the sentence of an accused person.

Has the law recently changed regarding victim impact statements?

- Yes. New provisions of the *Criminal Code* came into effect on January 2, 2006.
- Significant changes to the law include:
 - requiring the Board to notify victims of their right to participate if there is a possibility of a discharge;
 - requiring the Board to consider victim impact statements in making its disposition; allowing victims to read a statement at hearings; and

- the ability of the Board to adjourn hearings to allow victims an opportunity to prepare a statement.
- Previously, victim impact statements were allowed only in limited circumstances before Review Boards.

Who is a victim?

- Generally, any person affected by an offence may prepare a victim impact statement.
- Examples of victims include:
 - *a victim of the offence* – a person who was directly harmed or suffered physical or emotional loss because of the offence;
 - *the spouse/common-law partner or any relative of the victim* – if the victim is sick, incapacitated or deceased, these individuals are considered to be the victim;
 - *a representative of the victim* – a person who is responsible for the care or support of the victim may make a statement; and
 - *any dependant of the victim.*

Is a victim required to make a victim impact statement at my Board hearing?

- A victim is NOT required to make a statement or participate in the Board hearing.
- But, if the victim filed a statement at your criminal trial, a copy is automatically given to the Board.

Is the Board required to notify victims about victim impact statements?

- Yes and no.
- If the victim requests information, the Board must give each victim notice of the hearing, as well as details about the time and location of the hearing. The victim will also receive a copy of the reasons for decision.
- The Board has an obligation to notify victims of their right to participate at a hearing by filing a victim impact statement whenever the Board determines that you may receive either an absolute or conditional discharge.

Does the Board require my consent to release information about my hearing or the reasons for decision to the victim?

- No. The *Criminal Code* specifically authorizes the Board to release this information to the victim.

Am I allowed to see the victim impact statement?

- Yes. The Board is responsible for making sure that the statement is provided to you or your lawyer.

Can I challenge the contents of the victim impact statement?

- This will likely depend upon your personal situation and preferences. Some lawyers believe it is best to challenge the statement, while others think it is wise to minimize its contents. It may be a good idea to get a legal opinion on the strategy that will be most appropriate for your Board hearing based on your personal circumstances.

What happens if a victim was not notified of the right to present a statement at my hearing?

- The Board may adjourn the hearing to notify the victim and to give time to the victim to prepare a statement unless the adjournment would interfere with the proper administration of justice.

Do you have any other questions?

- For additional information, contact the Ontario Review Board at (416) 327-8866 or go to their website at www.orb.on.ca/english/default.htm.
- If you have questions, contact your local Patient Advocate or call the central office of the Psychiatric Patient Advocate Office at 1-800-578-2343.

Questions?

If you have questions contact your local Patient Advocate or Rights Adviser or call the Psychiatric Patient Advocate Office at 1-800-578-2343.