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BUILDING A **SAFE AND RESILIENT CANADA**

Public Safety Canada Portfolio Report: Victim Complaint Resolution Mechanisms

Canadian Victims Bill of Rights

March 2021



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Introduction

This year marks the fifth anniversary since the *Canadian Victims Bill of Rights* (CVBR) was established with the coming into force of the *Victims Bill of Rights Act* in July 2015. The CVBR enshrined into law rights to information, participation, protection and to seek restitution for victims of crime. Also in July 2015, federal complaint resolution mechanisms were established as a remedy to alleged infringements of victims' rights and to take corrective action. Public Safety Canada (PS) and its Portfolio agencies continue to implement the CVBR and improve victims' experience with the criminal justice system through listening, collaborating, responding and making policy and procedural changes to address complaints filed by victims of crime.

Under the CVBR, victims of crime may file a complaint if they are of the opinion that their rights have been infringed or denied by a federal department or agency during their interaction with the Canadian criminal justice system. PS and its Portfolio agencies meet regularly to exchange information aimed at improving internal processes, streamlining cross agency referrals, and developing outreach activities and information products.

This report compiles standardized information and summarizes aggregate data with respect to the numbers, nature and resolution of CVBR-related complaints received by PS and its Portfolio agencies from April 2019 to March 2020. It also provides data from previous fiscal years for comparison purposes and reports on actions taken to address concerns raised by victims.

Section I: Public Safety Portfolio Victim Services

PS provides strategic advice and support to the Minister of Public Safety and Emergency Preparedness on legislation and policies governing federal policing, border security, corrections and conditional release and shares some criminal justice responsibilities with the Minister of Justice, including upholding the rights of victims of crime. Below are the PS unit and Portfolio agencies that provide services for which the CVBR must be considered:

- ❖ **Public Safety Canada's** National Office for Victims (NOV) ¹ acts as a central resource working to improve victims' experience with the federal corrections and conditional release system by coordinating and engaging with partners and stakeholders, applying a 'victims lens' on correctional policy development and developing and disseminating information to help victims better understand and navigate federal corrections and conditional release
- ❖ **Correctional Service of Canada's** (CSC) National Victim Services Program² processes requests from victims of federal offenders to register to receive the information to which they may be entitled, provides registered victims with case-specific information in accordance with the *Corrections and Conditional Release Act* (CCRA), informs victims about the opportunity to participate in a restorative justice program, and invites victims to provide victim statements, should they choose, for consideration in recommendations and decisions that CSC makes throughout the management of an offender's sentence.
- ❖ **Parole Board of Canada**³ (PBC) provides registered victims with information about the offender who harmed them, as defined in the CCRA. Registered victims can also submit a victim statement for consideration by the Board, including requesting special conditions to be placed on an offender's release; request to observe a hearing, including presenting their victim statement at the hearing; request to listen to the audio recording of a parole hearing; and request written decisions from the PBC's Decision Registry⁴.
- ❖ **Royal Canadian Mounted Police** (RCMP) provides referrals⁵ to Victim Services Programs across Canada, who in turn work to:
 - lessen the impact of crime and trauma on victims and their families while assisting them in their recovery;
 - enhance victim safety and help reduce the risk of further victimization;
 - increase victims' participation in the criminal justice system; and

¹ <https://www.publicsafetycanada.gc.ca/nov>

² <https://www.csc-scc.gc.ca/victims/003006-index-en.shtml>

³ <https://www.canada.ca/en/parole-board/services/victims.html>

⁴ Since November 1, 1992, the *Corrections and Conditional Release Act* requires the PBC to maintain a registry of its decisions along with the reasons for those decisions in order to contribute to public understanding of conditional release decision making and to promote openness and accountability.

⁵ <http://www.rcmp-grc.gc.ca/ccaps-spcca/vic-eng.htm>

- prepare victims acting as witnesses for court proceedings.
- ❖ **Canada Border Services Agency (CBSA)** may come into contact with victims of crime while leading criminal investigations into offences under the *Immigration and Refugee Protection Act*, at which point, CBSA must consider victims' rights to information, participation and/or protection, under the CVBR.

Section II: Victim Complaint Resolution Mechanisms

The following information provides an overview of the federal CVBR complaint resolution process⁶.

An Overview of the Public Safety Portfolio Complaints Process under the CVBR

Step 1 Complaint submitted and received

A confirmation of receipt is sent to the complainant.

Step 2 Complaint assessed under the terms of the CVBR

The complaint is considered admissible if it meets the definitions and conditions (or criteria) set out in the CVBR and falls under the organization’s responsibility. The organization may contact the victim to request additional information.

Meets Criteria - Founded	Meets Criteria - Partly Founded	Meets Criteria - Unfounded	Does Not Meet Criteria
Victim’s rights were found to have been infringed or denied.	Some, but not all, issues identified in the complaint were found to infringe or deny a victim’s rights.	The organization followed policy and legislation.	The complaint is inadmissible.

Step 3 Written response

A written response is sent, explaining the results of the complaint, actions taken, and any relevant referrals.	A written response is sent, explaining the results of the complaint, actions taken, and any relevant referrals.	A written response is sent, explaining the results of the complaint and any relevant referrals.	A written response is sent, explaining that the complaint does not meet the criteria and providing related referrals to other organizations or services.
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Step 4 Follow-up

Satisfied – The complaint process is completed and the file is closed.

Not Satisfied - Contact information for the Office of the Federal Ombudsman for Victims of Crime (OFOVC) is provided⁷. The complaint process is completed and the file is closed.

⁶ Each federal department and agency with responsibilities under the CVBR has developed a complaints resolution mechanism. The diagram above was developed as an overall summary and is not intended to reflect the level of detail contained in each department’s/agency’s complaints process.

⁷ If unsatisfied with the outcome of a complaint submitted directly to the RCMP, a victim may contact the [Civilian Review and Complaints Commission for the RCMP](#).

Section III: Profile of Victim Complaints

In the 2019-2020 fiscal year, a total of 43 complaints were received by PS and its Portfolio agencies with CVBR responsibilities. Of the 43 complaints, 21 were admissible and 22 inadmissible (See Table 1).

In addition, efforts are made by PS and its Portfolio agencies to address a number of informal CVBR-related inquiries and concerns without a formal complaint being submitted.

Table 1: Portfolio-Wide CVBR Complaints (April 2019 – March 2020)

PS Dept. or Agency	Admissible	Inadmissible*	Total Received
NOV	-	1	1
CSC	9	6	15
PBC	10	6	16
CBSA ⁸	-	-	-
RCMP	2	9	11
Grand Total	21	22	43

*Inadmissible also includes complaints referred to another department or agency.⁹

Admissible Complaints

Once an admissible complaint is received, the responsible department or agency determines if it is **founded, partly founded, or unfounded**. A founded complaint refers to instances whereby a victim’s right was denied or infringed due to non-compliance with law and/or policy. Partly founded refers to instances where some, but not all, issues identified in the complaint were found to deny or infringe on a victim’s rights. Unfounded complaints refer to instances whereby the department or agency is deemed to have been compliant with policy and legislation.

In 2019-2020, CSC and PBC received the most CVBR complaints deemed to be admissible, 9 and 10 respectively, 4 of which were related to multiple rights for each agency. It should be noted that CSC and PBC have statutory obligations under the CCRA to provide information to victims of federal offenders. In order to exercise their right to information, victims must make a formal request to receive information from CSC or PBC by registering. In order to register, victims

⁸ To date, CBSA has not received any complaints under the CVBR.

⁹ Where a complaint falls outside the scope of a federal department/agency’s mandate, with the victim’s consent, the complaint is forwarded to the appropriate federal department/agency for follow-up.

provide general contact information, designate their representative¹⁰ (optional) and indicate their preferences about what information they wish to receive. In 2019-2020, there were 8,691 victims registered to receive information from the federal corrections and conditional release system. The RCMP received two admissible complaints. Similar to previous years, the NOV received one inadmissible complaint while no complaints were received by CBSA.

Table 2: Portfolio-Wide CVBR Admissible Complaints by type (April 2019 – March 2020)

PS Dept. or Agency	CVBR Rights	Admissible Founded	Admissible Unfounded	Admissible Withdrawn	Total
CSC	Information	1*	1	0	2
	Participation	0	0	0	0
	Protection	1**	1	0	2
	Restitution	0	1	0	1
	Multi-rights	0	4	0	4
PBC	Information	0	0	0	0
	Participation	1	2	0	3
	Protection	0	3	0	3
	Restitution	0	0	0	0
	Multi-rights	0	4	0	4
RCMP	Information	1	0	0	1
	Participation	0	0	0	0
	Protection	0	1	0	1
	Restitution	0	0	0	0
	Multi-rights	0	0	0	0

* CSC –The victim alleged that their right to information and participation were infringed, but CSC concluded that it had only infringed on their right to information.

** CSC – The victim alleged that their right to protection was infringed, but CSC concluded that it had infringed on their right to participation.

¹⁰ A victim representative is an individual who is authorized by the registered victim to receive information about the offender on their behalf.

Figure 1: Percentage of Portfolio-wide Admissible Complaints by CVBR Right (April 2019 – March 2020)

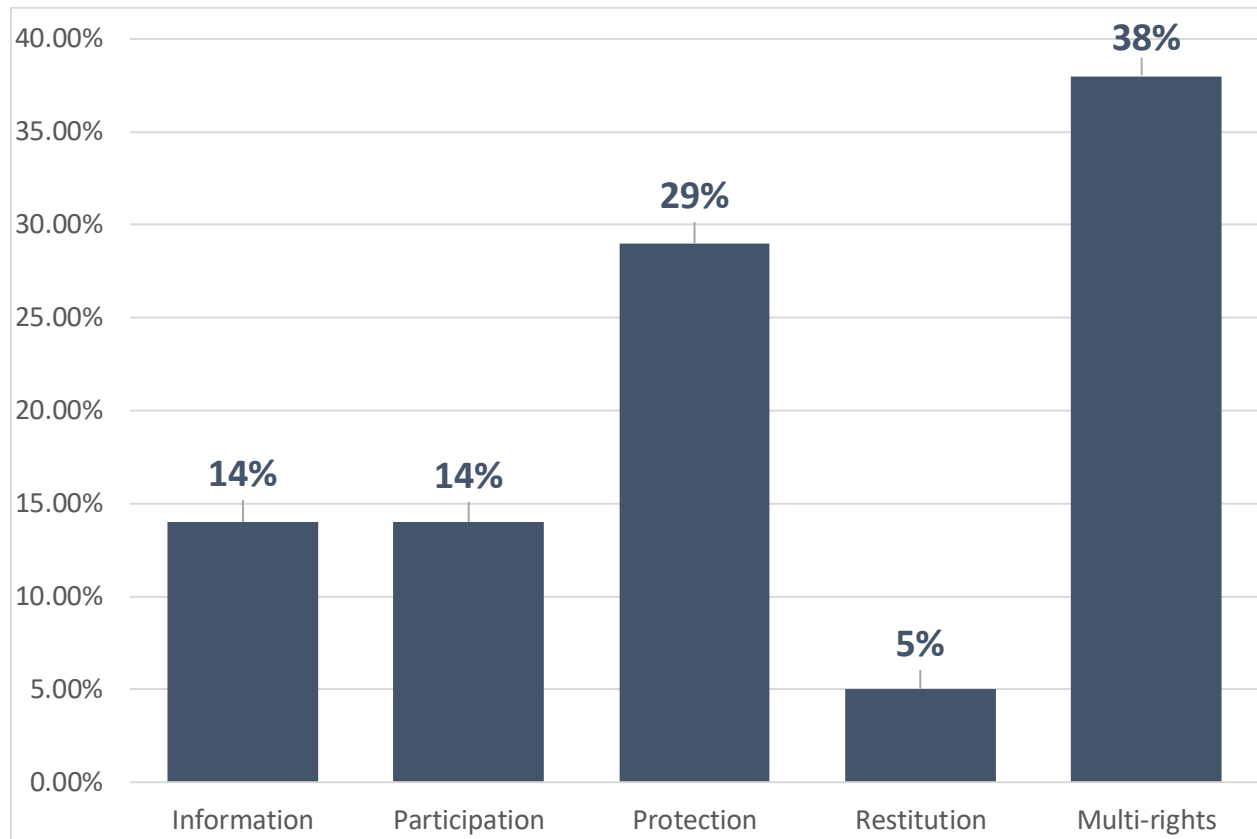
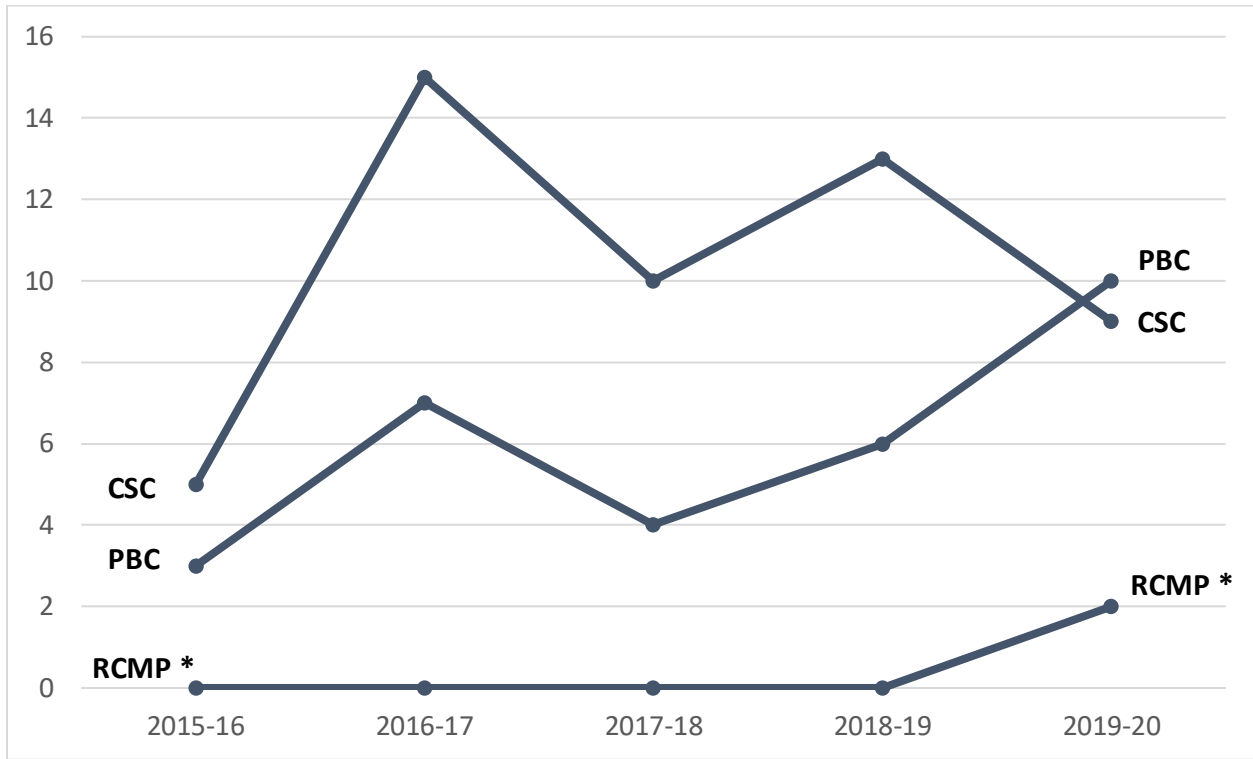


Figure 2: Portfolio-wide Admissible Complaints by Fiscal Year (July 2015 – March 2020)



*No complaints have been recorded in the category of CVBR on the Public Complaints intake form. However, further examination of allegation classifications in 2019/20 revealed a number of CVBR related complaints.

NOV Complaints Overview

Table 3: NOV Complaints by Fiscal Year (July 2015 to March 2020)

Fiscal Year	Inadmissible*	Admissible	Admissible in Part**	Outcome for Admissible
2015-2016	0	0	N/A	-
2016-2017	1	0	N/A	-
2017-2018	2	0	N/A	-
2018-2019	2	0	N/A-	-
2019-2020	1	0	N/A	-

*Inadmissible includes complaints referred to another department/agency.

**NOV does not categorize complaints as admissible in part.

Since NOV's mandate is to act as a central information resource, it deals with complaints concerning general information, victims' requests on the federal corrections and conditional release system and the victims' role. It was determined that the complaint received in 2019-2020 fell outside of NOV's mandate and federal jurisdiction as it was related to a municipal victim services unit within a police service and therefore, was inadmissible.

NOV Complaint Process Developments

No changes were made to the NOV's CVBR complaints resolution process¹¹.

¹¹ <https://www.publicsafety.gc.ca/ent/cntrng-crm/crrctns/ntnl-ffc-vctms-mk-cmplnt-en.aspx>

CSC Complaints Overview

Table 4: CSC Complaints by Fiscal Year (July 2015 to March 2020)

Fiscal Year	Inadmissible	Admissible	Admissible in Part*	Outcome for Admissible or Admissible in Part
2015-2016**	2	4	1	2 Founded 3 Unfounded
2016-2017	4	15	0	5 Founded 2 Partly Founded 8 Unfounded
2017-2018	7	8	2	5 Founded 4 Unfounded 1 Withdrawn
2018-2019	5	13	0	1 Partly Founded 11 Unfounded 1 Withdrawn
2019-2020	6	8	1	7 unfounded 2 Partly Founded

*Admissible in part includes complaints in which several issues are raised, but only some fall within the jurisdiction of the CSC.

**For 2015-2016, CSC originally reported the following data: 4 inadmissible, 2 admissible, and 1 admissible in part. CSC has since determined that there were actually 2 inadmissible, 4 admissible, and 1 admissible in part that year. The historical table in the present report, above, reflects the adjusted data.

Admissible Complaints

CSC determined that it had complied with law and policy in seven (7) of the admissible complaints, meaning that they were unfounded. In relation to one (1) unfounded admissible complaint, CSC determined that it infringed upon the victim’s right to participation.

CSC also determined that one (1) of the admissible complaints was partly founded since the Case Management Team did not inform the Victim Services Unit about the offender’s temporary absences within the proper timeframe. CSC determined that the error, which was subsequently corrected, did not constitute an infringement of the victim’s right to information.

In the one (1) partially admissible complaint¹², CSC determined that it did not fully comply with law and policy in relation to the services it provided the victim, so the complaint was partly founded. In this case, CSC infringed upon the victim’s right to information.

In response to the two partly founded complaints, staff at two operational sites and at one region’s Victim Services Unit reviewed requirements to provide information to victims in accordance with CSC policy.

¹² CSC forwarded the complaint to the PBC to respond to the issues that fell under their jurisdiction.

Inadmissible Complaints

CSC determined that six (6) of the complaints it received were inadmissible for the following reasons:

- Three (3) complainants did not meet the definition of victim pursuant to the *Canadian Victims Bill of Rights*.
- Three (3) complaints did not involve an issue for which CSC had jurisdiction: two (2) related to an issue under provincial responsibility and one (1) to the jurisdiction of the PBC.

CSC Complaint Process Developments

While no formal changes were made to CSC's CVBR complaints resolution process over the review period, efforts were made to take a more trauma-informed lens to the agency's responses to victims. These efforts included making greater use of plain-language, taking a more compassionate approach to the responses, and better coordinating with the PBC to simplify the complaint process from a victim's perspective.

PBC Complaints Overview

Table 5: PBC Complaints to date by Fiscal Year (July 2015 – March 2020)

Fiscal Year	Inadmissible*	Admissible	Admissible in Part**	Outcome for Admissible
2015-2016	1	3	-	3 Unfounded
2016-2017	4	7	-	4 Partly Founded*** 3 Unfounded
2017-2018	2	4	-	1 Founded 1 Partly Founded 2 Unfounded
2018-2019	1	6	-	1 Founded 1 Partly Founded 3 Unfounded 1 Withdrawn
2019-2020	6	10	-	1 Founded 9 Unfounded

*Inadmissible also includes complaints referred to another department/agency.

**PBC does not categorize complaints as admissible in part.

***Partly founded refers to cases where not all issues identified in the complaint are considered founded.

Admissible Complaints

PBC determined that it had complied with law and policy in nine (9) of the admissible complaints, meaning that they were unfounded. However, one (1) admissible complaint was founded where PBC determined that the victim’s right to participation had been infringed upon due to the fact that the offender’s hearing took place one month ahead of schedule and the victims were not notified of the change. As a result, their statements were not considered in the Board members’ decision-making in that case. The PBC apologized to the victims and explained that the established operational processes were not followed in this case. The PBC stated that a review of operational processes was being undertaken to build additional system checks and to augment staff training. The victims were also advised that their statements were added to the file for future reviews.

The nine (9) unfounded complaints related to the following:

- three (3) were about concerns related to geographical restrictions on offender release decisions;
- one (1) was about an offender’s request for an Elder-Assisted Hearing;
- one (1) was about presenting statements at a parole hearing and imposing special conditions on the offender’s release;
- one (1) was about vetting information from a victim statement, exclusion of facts and electronic monitoring;
- one (1) was about a victim who learned about an offender being granted an Escorted Temporary Absence through the media; and

- two (2) were related to COVID-19 restrictions where victims could not attend parole hearings in person or via videoconferencing technology.

In all cases, the PBC followed legislative requirements and provided a rationale for decisions made.

Inadmissible Complaints

PBC determined that six (6) of the complaints it received were inadmissible for the following reasons:

- offender withdrew their application for both day and full parole;
- complainant was not a registered victim;
- two (2) complaints fell outside the scope of the CVBR;
- complaint fell outside of the PBC's mandate;
- offender was serving a provincial sentence.

PBC Complaint Process Developments

There were no changes implemented to the PBC's victim complaints resolution mechanism over the review period. The PBC did, however, develop a new Communications Tool to assist its Regional Communications Officers in applying trauma-informed practices in their interactions with victims. This new tool will also be applied in situations where a victim contacts the PBC with a concern/complaint, with a view to resolving these informally at the earliest stage.

RCMP Complaints Overview

Table 6: RCMP Complaints by Fiscal Year (April 2019 to March 2020)¹³

Fiscal Year	Inadmissible*	Admissible	Admissible in Part**	Outcome for Admissible
2019-2020	9	2	-	1 Unfounded 1 Partly Founded

*Inadmissible includes complaints referred to another department/agency.

**RCMP does not categorize complaints as admissible in part.

Over the last five years the RCMP received an average of 2,286 public complaints per year, with 85 to 90% lodged before the Civilian Review Complaints Commission¹⁴ while the remaining ones are lodged directly with the RCMP¹⁵. Complaints lodged directly with the RCMP must be recorded on the Public Complaint intake form. For fiscal years 2015 to 2019, data would indicate that no CVBR complaints have been lodged. However, further examination of allegations contained within the public complaints in 2019/20 revealed several could have potentially infringed or denied rights under the CVBR, thus required closer review.

The information provided pertains to the concluded public complaints lodged with the RCMP between April 1st, 2019, and March 31st, 2020, and that would indicate a possible rights violation under the CVBR. Eleven (11) allegations of CVBR infringements associated with four (4) files were investigated and are described below:

File 1 contained two (2) allegations falling under the Right to Protection, specifically, improper use of a firearm & neglect of duty. In this case, an investigation revealed that the person listed in the file was arrested under a provincial statute and taken to a medical facility for a mental health assessment. The file was deemed inadmissible.

File 2 contained five (5) allegations related to the Rights of Protection and Information, including neglect of duty and three (3) for improper attitude, two (2) of which were against multiple members. The investigation revealed that the person listed in the file was charged with a criminal offence¹⁶. Subsequently, a peace bond under section 810 CCC was issued. The file was deemed inadmissible.

File 3 contained two (2) allegations also related to the rights of Protection and Information. Both were for neglect of duty specifically, the delay in providing timely medical assistance to

¹³ This is the first time that the RCMP is able to submit reliable data as a result of an improved methodology.

¹⁴ The CRCC 2019-2020 annual report is available at <https://www.crcc-ccetp.gc.ca/en/annual-report-2019-2020>

¹⁵ It should be noted that the established standard to complete a public complaint investigation by the RCMP including the notification to the complainant is 120 days (90 days for the investigation & 30 days for the notification). However, this standard may be exceeded for a wide range of reasons such as the complexity of the investigation, superseding interests such as internal investigations, independent review/investigations or statutory investigations. A file may contain multiple allegations and/or involve multiple members.

¹⁶ Under section 4 of the CVBR, an individual is not a victim in relation to an offence, or entitled to exercise a victim's rights under this Act, if the individual is charged with the offence or found guilty of the offence.

the victim while in custody & incomplete investigation in the victim's sudden death. The file was deemed admissible and one allegation was partly founded. The investigation revealed that the first allegation, (the delay in providing timely medical assistance) was unfounded after a provincial investigation by the Independent Investigation Office in British Columbia concluded that the RCMP's delay in providing medical care did not contribute to the victim's death. However, the second allegation was partly founded and criminal proceedings are currently ongoing. It was determined that the complainant was not updated in a timely manner on the progress of the investigation, leading to a belief that the investigation was not advancing. As a result, the following remedial actions were taken:

- The investigating member provided additional information to the complainant about the progress of the investigation and, on the nature of the charges being laid against the individual.
- The investigating member and the supervisor committed to providing regular updates and respond to any questions that the complainant may have after the criminal trial.

File 4: Two (2) allegations of improper attitude & neglect of duty under the Right to Protection were investigated. The investigation revealed that the person listed in the file was charged with a criminal offence; therefore, the file was deemed inadmissible.

RCMP Complaint Process Developments

The RCMP CVBR process has been refined to capture complaints from victims about police officer conduct related to the right to information, protection, and participation.

Section IV: Looking Ahead – Policy / Process Considerations

In fiscal year 2019-2020, there was a total of 21 admissible and 22 inadmissible complaints filed under the CVBR. Approximately 38% of admissible complaints involved multiple rights, 29% pertained exclusively to the Right to Protection, 14% to the Right to Information, another 14% to the Right to Participation, and 5% in relation to the Right to seek Restitution. Each concern raised by victims was carefully reviewed in light of current policy and legislation and, where possible, policy and related internal processes were changed to better service victims of crime while striving to implement a victim-centered and trauma-informed approach.

Moving forward, PS will continue to work with its Portfolio partners to examine CVBR complaints received from victims of crime to learn from and improve their experience with the criminal justice system and ensure compliance with the CVBR.

Appendix A

Victims of crime have the:

Right to Information

- General information about the criminal justice system and the role of victims within it;
- Information about available victim services/programs, including restorative justice;
- Request information about the status and outcome of the investigation into the offence, the location and timing of proceedings and on the progress and outcome of their case (including information related to the investigation, prosecution and sentencing of the person who harmed them);
- Request information with respect to the offender's conditional release (including the timing and conditions thereof); and
- Request information with regard to hearings held for the purposes of dispositions rendered with respect to persons found unfit to stand trial or not criminally responsible (NCR) on account of mental disorder.

Right to Protection

- Have both their security and their privacy considered at all stages of the criminal justice process;
- Have reasonable and necessary measures taken to protect them from intimidation and/or retaliation;
- Request that their identity be protected from public disclosure where they are either a victim or a witness in proceedings related to an offence; and
- Request testimonial aids when appearing as witnesses in proceedings related to an offence.

Right to Participation

- Convey their views concerning decisions to be made by criminal justice professionals and to have these views considered at various stages across the criminal justice process;
- Present victim impact statements for consideration during sentencing and at hearings where the accused has been deemed unfit or NCR; and
- Present victim statements for consideration by correctional and paroling authorities for the purposes of conditional release hearings.

Right to Seek Restitution

- Have the court consider making a restitution order against the offender for all offences for which there are financial losses; and
- Have the orders entered as enforceable civil court judgements against the offender, for those who have not been paid.

All victims of crime may exercise their rights under the CVBR while they are in Canada. Canadian citizens or permanent residents may exercise these rights even if they are outside of Canada, as long as the crime took place in Canada.

Glossary

Public Safety Canada (PS) – was created in 2003 to ensure coordination across all federal departments and agencies responsible for national security and the safety of Canadians.

Canada Border Services Agency (CBSA) – ensures Canada’s security and prosperity by facilitating and overseeing international travel and trade across Canada’s border.

Corrections and Conditional Release Act (CCRA) – the legislation that governs the corrections and parole system in Canada. The CCRA outlines the responsibilities and authorities of the Correctional Service of Canada, the Parole Board of Canada and the Office of the Correctional Investigator.

Correctional Service of Canada (CSC) - is the federal government agency responsible for administering sentences of a custodial term of two years or more, as imposed by the courts. CSC is responsible for managing institutions of various security levels and supervising offenders under conditional release in the community.

National Office for Victims (NOV) – a central resource, located at PS, working to improve victims’ experience with the federal corrections and conditional release system by coordinating and engaging with partners and stakeholders, providing a ‘victims lens’ on correctional policy development and developing and disseminating information to help victims better understand and navigate federal corrections and conditional release.

Parole Board of Canada (PBC) – is an independent administrative tribunal that, as part of the Canadian criminal justice system, makes quality conditional release, pardon and record suspension decisions, can order expungement of a conviction and makes clemency recommendations.

Royal Canadian Mounted Police (RCMP) – is the Canadian national police service.

Victim of crime - an individual who has suffered physical or emotional harm, property damage or economic loss as the result of the commission of an offence.