

VICTIM IMPACT STATEMENT – NOT CRIMINALLY RESPONSIBLE (NCR)

GUIDELINES

Revised May 31, 2018

Preparation of a Victim Impact Statement (NCR) is completely voluntary.

When submitted by a victim, the Statement is to be written in their own words.

In the case of a verdict of not criminally responsible on account of mental disorder, Section 672.5 of the *Criminal Code* requires the Court or Criminal Code Review Board, to consider any Victim Impact Statement (NCR) that has been filed with the court or Review Board.

A Victim Impact Statement (NCR) gives you the chance, at the time of the accused's disposition hearing, to tell the Court or Review Board about how the criminal offence has affected your life. If a Victim Impact Statement (NCR) is filed with the Court or Review Board, it is one of the factors which will be considered by the Judge or Chairperson in deciding on the disposition. Your comments should be directed to the Judge or Chairperson, not the offender. Information about admissible and inadmissible content is included on the form.

The Victim Impact Statement (NCR) should only include information about the harm done to you, or the loss suffered by you as a victim of the criminal offence(s). The Victim Impact Statement (NCR) should not include facts about the case, comments/criticisms about the accused's character or expressions of vengeance. Opinions on the disposition to be given should not be provided, except with the Court's approval. If the statement contains information other than the impact of the crime on a victim writing the statement, some or all of the statement may not be considered by the Court or Review Board. Inadmissible parts of the statement, as determined by the Judge or Chairperson, may be removed and not read into the hearing's record.

The person completing the Victim Impact Statement (NCR) may be called upon to testify in Court or Review Board and be asked questions about the statement. If the Victim Impact Statement (NCR) is written before the accused has been found not criminally responsible, the statement and any notes made in writing it, may be asked for as evidence in the Court proceedings.

Your Victim Impact Statement is not confidential. The offender and/or their lawyer will receive a copy of the statement. Once the Victim Impact Statement has been given to the Court or Review Board, it becomes a public document. The Court or Review Board may give a copy to the general public upon request. If victims wish to have their identity and identifying information contained in their Victim Impact Statement restricted from publication, they can contact the Crown Attorney or a Victim Services Officer to assist with the application process for a Publication Ban. It is important to remember that the Judge or Chairperson may or may not grant this restriction. The Victim Impact Statement (NCR) may be used by the Review Board at Disposition hearings in the future.

The *Criminal Code* in Section 2 provides the following definition of victim, in relation to Victim Impact Statements:

2. "victim" means a person against whom an offence has been committed, or is alleged to have been committed, who has suffered, or is alleged to have suffered, physical or emotional harm, property damage or economic loss as the result of the commission or alleged commission of the offence and includes, for the purposes of sections 672.5, 722 and 745.63, a person who has suffered physical or emotional harm, property damage or economic loss as the result of the commission of an offence against any other person.

2.2 (1) For the purposes of sections 606, 672.5, 722, 737.1 and 745.63, any of the following individuals may act on the victim's behalf if the victim is dead or incapable of acting on their own behalf: (a) the victim's spouse, or if the victim is dead, their spouse at the time of death; (b) the victim's common-law partner, or if the victim is dead, their common-law partner at the time of death; (c) a relative or dependant of the victim; (d) an individual who has in law or fact custody, or is responsible for the care or support, of the victim; and (e) an individual who has in law or fact custody, or is responsible for the care or support, of a dependant of the victim.

2.2 (2) An individual is not entitled to act on a victim's behalf if the individual is an accused in relation to the offence or alleged offence that resulted in the victim suffering harm or loss or is an individual who is found guilty of that offence or who is found not criminally responsible on account of mental disorder or unfit to stand trial in respect of that offence.

If you write your statement on the general Victim Impact Statement form before the accused person is found not criminally responsible, the Review Board will accept the general form and it will not be necessary for you to resubmit on the Victim Impact Statement (NCR) form. Otherwise, statements for Not Criminally Responsible cases must be written on the Victim Impact Statement (NCR) form and returned to your local Victim Services office. It must be signed and dated. If you are writing and signing the form on the behalf of a victim, then your first and last name and your relationship to the victim and/or crime should be printed clearly in the space provided on the form and it must be signed and dated twice. The Victim Services office will file the statement with the Court or Review Board. Once it has been filed with the Court or Review Board, it cannot be taken back. If there is a long period between filing the Victim Impact Statement (NCR) with the Court or Review Board and the accused's disposition hearing, please consult with the Victim Services office if you want to ask about updating your statement. Upon request, a victim will be permitted to read the statement in Court or at a Review Board hearing. If you would like to read your statement, you should check the box on the form indicating "I would like to present this statement in court".