

# CHAPTER FOUR: VICTIMS

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# CHAPTER FOUR: VICTIMS

## I. INTRODUCTION

Victims of crime require a wide variety of assistance depending on their needs. This chapter will outline the avenues a client can take to address being a victim of crime.

### A. *Governing Legislation, Regulations, Policy Guidelines, and Resources*

#### 1. Legislation and Regulations

Victims of Crime Act, RSBC 1996, c. 478

Website: [www.qp.gov.bc.ca/statreg/Stat/V/96478\\_01.htm](http://www.qp.gov.bc.ca/statreg/Stat/V/96478_01.htm)

Crime Victim Assistance Act, S.B.C. 2001, c. 38.

Website: [www.qp.gov.bc.ca/statreg/stat/C/01038\\_01.htm](http://www.qp.gov.bc.ca/statreg/stat/C/01038_01.htm)

Crime Victim Assistance (General) Regulation, B.C. Reg. 161/2002.

Website: [www.qp.gov.bc.ca/statreg/reg/C/161\\_2002.htm](http://www.qp.gov.bc.ca/statreg/reg/C/161_2002.htm)

Crime Victim Assistance (Income Support and Vocational Services and Expenses) Regulation  
B.C. Reg. 162/2002

Website: [www.qp.gov.bc.ca/statreg/reg/c/162\\_2002.htm](http://www.qp.gov.bc.ca/statreg/reg/c/162_2002.htm)

Criminal Code, R.S.C. 1985, c. C-46.

Adult Guardianship Act, R.S.B.C. 1996, c. 6.

#### 2. Policy Guidelines

Ministries of Attorney General, Public Safety & Solicitor General, and Children & Family Development, Violence Against Women in Relationships Policy (British Columbia, December 2010).

#### 3. Resources

##### **Crime Victim Assistance Program**

P.O. Box 5550 Stn. Terminal

Vancouver, B.C. V6B 1H1

E-mail: [cvap@gov.bc.ca](mailto:cvap@gov.bc.ca)

Website: [www.pssg.gov.bc.ca/victimservices/financial/index.htm](http://www.pssg.gov.bc.ca/victimservices/financial/index.htm)

Telephone: (604) 660-3888

Toll-Free: 1-866-660-3888

- Provides financial assistance and benefits to victims of violent crimes, their immediate family members and some witnesses to offset the costs of the victimization and to promote their recovery from the physical and psychological effects of the offence.

##### **Victim Services and Crime Prevention Division**

Ministry of Justice

302 - 815 Hornby Street

Vancouver, B.C. V6Z 2E6

E-mail: [crimeprevention@gov.bc.ca](mailto:crimeprevention@gov.bc.ca)

Website: [www.Pssg.gov.bc.ca/victimservices/index.htm](http://www.Pssg.gov.bc.ca/victimservices/index.htm)

Telephone: (604) 660-2605

Fax: (604) 775-2674

Toll-Free : 1-866-668-2137

- The Division develops legislation, policies and programs as the provincial centre of responsibility for victims' issues, provides training and delivers and funds over 160 victim service programs throughout B.C. that support victims and their families; provides a restorative justice response to crime, violence and victimization, and enhances public safety and local crime prevention efforts.

**VictimLINK**

Toll-Free: 1-800-563-0808  
TTY: (604) 875-0885

- VictimLINK is available 24 hours, seven days a week and has information about and referrals to a number of support systems that are available to victims of crime.

**Public Guardian and Trustee of British Columbia**

700 - 808 West Hastings Street  
Vancouver, B.C. V6C 3L3  
E-mail: mail@trustee.bc.ca  
Website: www.trustee.bc.ca

Telephone: (604) 660-4444  
Fax: (604) 660-0374

- Provides assistance to adults who need support for financial and personal decision-making and administers estates of deceased persons if there is no one else to do it. They may also administer trust funds on behalf of minors. Service is available in 130 different languages.

## II. REFERRALS AND FOLLOW-UP

If you refer the client to a lawyer, social service agency, or health professional, remember to follow up to ensure that the client is looked after. A simple phone call to the client should suffice. Should you need to consult with a professional (for instance, a psychiatrist) about a client's ongoing case, you need to have the client sign a written release form authorizing you to collect information about them, or on their behalf. The referrals below are for more specific types of victims than the referrals at the beginning of the chapter:

**Ministry of Child and Family Development  
The Helpline for Children**

Telephone: 310-1234 (no area code needed)

- To report suspected cases of child abuse or neglect

**Ministry of Child and Family Development  
After Hours Services**

Vancouver, North Shore, and Richmond: (604) 660-4927  
Burnaby, Delta, Maple Ridge and Langley: (604) 660-8180  
Elsewhere in B.C.: 1-800-663-9122

- Refers those in crisis situations to food and emergency housing resources (after office hours and weekends).

**General Ministry Inquiries**

Telephone: 1-877-387-7027  
Email: MCF.CorrespondenceManagement@gov.bc.ca

**Provincial Government Referral Service**

Victoria: (250) 387-6121 Metro Vancouver: (604) 660-2421

**British Columbia Centre for Elder Advocacy Support (BCCEAS)**

E-mail: info@bcceas.ca  
Website: www.bcceas.ca

Telephone: (604) 437-1940  
Toll-Free: 1-866-437-1940

- Province-wide service with an advocacy help line, information and referrals

**Battered Women’s Support Services**

Victim Services Email: intake@bwss.org  
 Support Groups Email: supportgroups@bwss.org  
 Legal Advocacy: legaladvocacy@bwss.org  
 Website: www.bwss.org

Telephone (Business): (604) 687-1868  
 Telephone (Counselling): (604) 687-1867  
 Toll-Free: 1-855-687-1868

- Information and referral, counselling, and support groups.

**UBC Life & Career Centre (Formerly the UBC Women’s Resources Centre)**

UBC Robson Square, 800 Robson Street, Plaza Level, Room 1.400  
 Vancouver, B.C. V6Z 3B7

Telephone: (604) 822-8585

- Information and referral, counselling support groups for women, stress management, depression. Abusers may also be referred here.

**WAVAW - Women Against Violence Against Women**

Mailing Address:  
 PO Box 29084  
 1535 West Broadway  
 Vancouver, BC, V6J 5C2  
 Victim Services Program Email: vsp@wavaw.ca  
 General Inquiries Email: admin@wavaw.ca  
 Inquiries about Counselling Programs Email: stv@wavaw.ca  
 Website: www.wavaw.ca

Telephone (Office): (604) 255-6228  
 24-Hour Crisis Line: (604) 255 6344  
 Toll-Free 24-Hour Crisis Line: 1-877-392-7583

- Offers numerous services – including counselling, support groups, and a 24-hour crisis telephone line – for women who face or have faced violence. Abusers may also be referred to the UBC Life & Career Centre (formerly Women’s Resource Centre).

**III. AVENUES TO ADDRESS CRIME**

**A. Pursuing the Matter Through the Criminal System**

Apart from the initial report to police, the victim is not responsible for the prosecution of the offender. The burden to conduct the case is on the Crown. The crime is also against the community, and the victim is a witness to this crime. Whether the victim wants to proceed, drop charges, or testify has little bearing on the case.

The Attorney General’s Policy dictates that there must be an *arrest* if there are probable grounds for the police to believe that an offence has taken place. If the Crown believes that there is a reasonable likelihood of conviction, a *charge* must then be laid. However, if the police decide not to recommend charges and if the explanation is unsatisfactory, the client may want to discuss the situation with a superior officer. In B.C., the police are not responsible for laying charges; they are responsible for completing an incident report or a Report to Crown if they are recommending charges, but it is up to Crown to determine whether charges will be laid. If Crown has not approved charges and the explanation is not satisfactory, the client may wish to discuss the matter with a more senior Crown Counsel. If still not satisfied, the client may write to Regional Crown Counsel. Finally, it may be appropriate to write to the B.C. Attorney General in Victoria.

For a client in a situation they believe is dangerous, but which does not constitute assault, sexual assault or another of the more common violent offences, there are various sections of the Criminal Code that

may be relevant. If a client is a victim of one of these offences, it is within their rights to contact the police and ask that charges be laid. The following is a list of some related offences:

- s. 264.1: Uttering Threats; s. 346: Extortion; s. 372(1): False Messages; s. 372(2): Indecent Phone Calls; s. 372(3): Harassing Phone Calls; s. 423: Intimidation; s. 425: Offences by employers (threats and intimidation); s. 430: Mischief (damage to property); and s. 810: Breaching a Peace Bond.

If the accused is convicted of an offence, the victim may submit an application for an order that the accused pay an amount by way of satisfaction or compensation for loss or damage to property suffered by the applicant as a result of the commission of an offence. This is known as a restitution order and can be found under s 738 of the *Criminal Code*. The application must be made early enough for the judge to render a decision at the time of sentencing. After sentencing, the judge has no jurisdiction to order restitution. If the accused does not pay, the applicant can, by filing the order, enter a judgment in Supreme Court. The judgment is rendered against the accused in civil proceedings. Often restitution is part of a probation order, which is a good way of securing compliance. Compensation may also be ordered to a *bona fide* purchaser of property that is restored to its rightful owner.

## ***B. Crime Victim Assistance Program***

The Crime Victim Assistance Act [CVAA] governs the Crime Victim Assistance Program (CVAP).

Although the CVAA and the Criminal Injury Compensation Act are both in force, it is expected that the Criminal Injury Compensation Act will ultimately be repealed. The transitional provisions of the CVAA allow previously adjudicated claims under the old Act to be transferred to the new Act for ongoing administration and for any further reviews. It is important to remember that, unlike under the old Act, a person cannot be awarded damages for pain, suffering, mental trauma, etc. under the CVAA – although a person can be awarded a variety of benefits, such as counselling, medical expenses, and other services or expenses. The CVAP replaces the Criminal Injury Compensation Program. The Victim Services and Crime Prevention Division of the Ministry of Justice administers this program.

The CVAP has been developed in response to the changing needs of victims and others impacted by violent crime. Benefits are available to victims of crime, and their immediate family members and those who meet the legislation's definition of witness. One should note that the Program is **not** based on a compensation model, but rather is based on a financial assistance model. This provides eligible claimants with financial support as well as additional services and assistance to aid in their recovery from the physical and psychological effects of their victimization and to offset the costs of the victimization.

Under the CVAA, a victim can still:

- initiate civil proceedings on his or her own; and/or
- make a claim under the Act.

If a client wishes to initiate civil proceedings after making an application under the CVAA, the CVAP Director must receive a copy of the notice of civil claim within 10 days of service on the defendant (CVAA, s. 15(1)). Keep in mind that after paying fees and disbursements, any money awarded to the victim in the civil proceedings must go toward paying back the money they received under the CVAA.

The fact that an accused has not been criminally charged or has been acquitted of criminal charges is not a bar to commencing civil proceedings since the legal issues and the standard of proof are different. The difficulty with recovering anything directly from the accused is that there is seldom anything to be collected.

Moreover, the procedure for making an application for assistance under the CVAA is less complicated than initiating a civil action.

## 1. The CVAA Does Not Apply To All Offences

The CVAA applies to offences involving violence, as opposed to property related offences. The list of offences for which the CVAA applies is set out in the Schedule of Offences that can be found in Schedule 1 of the Crime Victim Assistance (General) Regulations. The CVAA does not apply where the injury or death of the victim occurred:

- in relation to an offence that occurred on or before July 1, 1972 (this is when the Criminal Injury Compensation Act came into effect);
- as the result of a motor vehicle offence, other than an assault using the motor vehicle;
- out of, and in the course of their employment; for which compensation is payable through workers' compensation; or
- outside of British Columbia.

The CVAA does not apply when the applicant is a party to the prescribed offence.

## 2. Who is Eligible and What They May Receive

### a) *Victims*

“Victim” means a person who is injured or killed as a direct result of either a prescribed offence or when acting as a “good Samaritan” while:

- (i) lawfully arresting or attempting to arrest a person, or assisting or attempting to assist a peace officer to arrest a person, in respect of a criminal offence; or
- (ii) lawfully preventing or attempting to prevent an offence or a suspected offence under the Criminal Code or assisting or attempting to assist a peace officer to do so.

Victims may be eligible for the following benefits:

- medical or dental services or expenses;
- disability aids;
- vocational services or expenses;
- repair or replacement of damaged or destroyed personal property (glasses, disability aids or clothing only - not stolen property);
- vehicle modification or acquisition for disabled victims;
- maintenance for a child born as a result of the prescribed offence;
- lost earning capacity (in relation to long term injuries);
- prescription drug expenses;
- counselling services or expenses;
- protective measures, services or expenses for high risk victims;
- home modification, maintenance or moving expenses;
- income support;
- transportation and related expenses; and/or
- crime scene cleaning.

### b) *Immediate Family Members*

“Immediate Family Members” include:

1. a spouse, child, sibling, step sibling, half sibling or parent of the victim, and, for this purpose,
  - (i) “spouse” means a person who:
    - is married to the victim;
    - is living and cohabiting with the victim in a marriage-like relationship; or
    - is a former spouse who is eligible for maintenance or alimony under another enactment.
  - (ii) “child” includes:
    - a child to whom the victim stands in the place of a parent;
    - a child who is eligible for child support under another enactment;
    - a child of the victim born after the death of the victim; or
    - an adult to whom the victim stood in the place of a parent when the adult was a child, and
  - (iii) “parent” includes:
    - a person who stands in the place of a parent to the victim; or
    - a person who stood in the place of a parent to the victim when the victim was a child.
2. if dependent in whole or in part on the victim for financial support, a grandparent or grandchild of the victim.

Immediate family members may be eligible for the following benefits:

- counselling services or expenses;
- vocational services or expenses;
- income support for dependent family members of a deceased victim;
- prescription drug expenses (related to psychological trauma);
- funeral expenses;
- transportation and related expenses;
- earnings loss due to bereavement leave;
- homemaker and child care expenses; and/or
- crime scene cleaning.

**c) *Witnesses***

“Witness” is a person who, although not necessarily related to a victim, has a strong emotional attachment to the victim and who:

- (i) witnesses in close proximity:
  - a prescribed offence that causes a life-threatening injury to, or the death of, the victim; or
  - the immediate aftermath of a prescribed offence that causes the death of the victim, in circumstances that are sufficient to alarm, shock, and frighten a reasonable person with that emotional attachment to the victim, and
- (ii) suffers psychological harm that:



- is diagnosed by a registered psychologist or a medical or nurse practitioner as a recognized psychological or psychiatric condition; and
- in the opinion of the person who makes the diagnosis, is the result of the circumstances in subparagraph (i).

Witnesses may be eligible for counselling, and related prescription drug expenses, transportation expenses to attend counselling and crime scene cleaning expenses.

### 3. Application for Benefits

The application forms are available from the Crime Victim Assistance Program (contact information is at the beginning of the chapter under **Resources**) or from any police department, victim service program, and many community agencies. They are also available on the Victim Services page of the Ministry of Justice website.

[www.pssg.gov.bc.ca/victimservices/financial/index.htm](http://www.pssg.gov.bc.ca/victimservices/financial/index.htm)

The Crime Victim Assistance Program staff will then obtain a police report of the incident (if the matter was reported to the police) and other supporting documents. When describing what happened on the application form, an applicant should give a general but clear statement of the event, and then make reference to the police report for additional details. She or he should include on the application:

- the date the report was made to the police as well as the police report number if a police report has been made (although a police report is highly advisable it is not mandatory);
- if a police report was not made, information should be provided as to why the incident was not reported and if possible, names of any witnesses, persons to whom a disclosure was made or to whom the incident was reported should be provided;
- information about what occurred;
- information about any physical or psychological injuries he or she may have received;
- names of any doctors, counsellors, or anyone else that has been seen as a result of the injuries, and
- original receipts for expenses incurred as a result of the injuries. If the applicant has access to funding from other sources in relation to these expenses (e.g. extended health coverage, personal disability insurance, etc.) the original receipts should be sent to this funding source first and then CVAP will consider paying any remaining outstanding balance.

Minors can submit an application on their own and do **not** require a parent or guardian to apply on their behalf, though applications for minors can also be submitted by their parent or guardian. A parent or guardian is not required because some parents or guardians may be supportive of the offender or feel that there is a stigma associated with the victimization. In addition, some children do not want to have their parents know of the offence. In cases where the offender is the client's parent, the Ministry of Children and Family Development may have apprehended the client. In this case, a representative of the Ministry can make an application on behalf of the child.

Depending on the case, the applicant may be interviewed by the adjudicator, and in rare circumstances may be examined by the Program's consulting medical practitioner if there are questions about the long term nature of the physical injuries sustained.

The Program will gather additional supporting information from a variety of sources such as medical, hospital, dental, employer reports and information from CPP, Ministry of Social Development or other sources relevant to the particular claim.

The decision regarding eligibility and entitlement to benefits involves a two step process in which the adjudicator first determines whether the person is an eligible applicant and then

determines what benefits, if any, will be provided. The decision will be made in writing and will set out the factors considered in making the determination.

#### **4. Limitation Period**

Generally, an application must be made within one year of the date of the offence or event. There are exceptions to the one year time limit, as follows:

- If the offence involves a sexual offence, there is no time limit for making an application (other than that the offence must have occurred on or after July 1, 1972); or
- If the applicant is a minor, they have one year from the date they turn 19 to make an application. There is no time limit if the offence is a sexual offence. However, a minor does not have to wait until they are 19 to make a claim. A minor can submit an application on their own and a parent or guardian to apply on their behalf is not required, though applications for minors can also be submitted by their parent or guardian.

Also, the Director also has discretion to extend the one year time limit if satisfied that the application could not reasonably have been made within one year from the date of the offence or one year from the date the applicant turned 19.

#### **5. Denials or Reductions in Benefits:**

Benefits can be denied if:

- The victim does not meet the eligibility criteria;
- The victim was a party to the offence that caused their injury or death; and/or
- They fail to cooperate with law enforcement authorities.

Benefits can be denied or reduced if:

- The benefits are available from another source for a same or similar purpose; and/or
- The applicant contributed to the circumstances giving rise to the injury or death.

#### **6. Payment of Benefits**

Payments can be provided directly to the service provider, such as a counsellor, or as reimbursement to the applicant for expenses that were incurred prior to the decision being completed. Some applicants are eligible for income support or lost earning capacity benefits that are provided on a monthly basis.

#### **7. Does the Alleged Offender Have to Be Charged or Convicted?**

A police report is **not** required and it is not necessary for an offender to be identified, charged or convicted in order for an applicant to be eligible for benefits. Where the victim has not reported the offence to the police, information from a witness or someone the applicant disclosed the incident to, or a report from a health care professional, counsellor, social worker or other agency may be accepted as supporting evidence of the offence.

Since the Program is part of the criminal justice system, and is a publicly funded program, there is an expectation that the victim will cooperate with the police and crown counsel in order to hold offenders accountable. There are some exceptions in relation to issues of non-cooperation, but in general, benefits will be denied if the applicant has no reasonable basis for failing to cooperate with law enforcement.

#### **8. Prior Claims With the Criminal Injury Compensation Program (CICP)**

Applications received prior to June 30, 2002 will have been adjudicated under the Criminal Injury Compensation Act, R.S.B.C. 1996, c. 85 [CICA] by the CICIP. Once a final determination was made under the CICA, ongoing administration of the claim transfers to the Crime Victim Assistance Program and any further reviews for reassessment or reconsideration will be conducted in accordance with the Crime Victim Assistance Act [CVAA].

If a person was receiving a pension from the CICIP, they will remain eligible for an ongoing pension, subject to the same conditions and limitations, except where there is a change in circumstance such that their injury improves or worsens. In cases where there is a change in their condition, their claim will be reviewed under the provisions of the CVAA.

## 9. Types of Reviews

Once an original adjudication is completed, there are two types of reviews available. Under s. 12 of the CVAA, if there is new information available or there has been a change of circumstance that could affect the applicant's eligibility for benefits, a **reassessment** decision can be completed.

Under s. 13 of the CVAA an applicant or their legal representative may request the Director to reconsider a decision. This request must be made in writing, identifying the error made in the decision to be **reconsidered** and be delivered to the Director **within 60 days** from the date the decision was made.

The Director may extend the time limit for making the request for reconsideration if satisfied that a request for reconsideration could not reasonably have been **delivered** within the limitation period. Note that since the legislation restricts consideration to whether or not the request could have been "delivered" within the requisite time period, there are limited grounds for an extension (e.g. interruption of mail service, applicant moved and the decision was returned to the program for re-direction, etc.).

A reconsideration decision is considered final and conclusive and is not subject to further review except by way of a judicial review. The legislation provides that an application for **judicial review** on a question of law or excess of jurisdiction must be brought not later than **60 days** after the decision is made.

## 10. Criminal Injuries Outside British Columbia

### National Office for Victims

Website: [www.publicsafety.gc.ca/prg/cor/nov/nov-bnv-eng.aspx](http://www.publicsafety.gc.ca/prg/cor/nov/nov-bnv-eng.aspx)

Telephone: 1-866-525-0554

- Provides general information for victims and the public, referrals to the Correctional Service of Canada (CSC) and the National Parole Board (NPB) for specific enquiries, and works to incorporate a victim's perspective in national policy development.

### Federal Ombudsman for Victims of Crime

Website: [www.victimfirst.gc.ca/index.html](http://www.victimfirst.gc.ca/index.html)

### Directory of International Crime Victim Compensation Programs

Website: [www.ncjrs.gov/ovc\\_archives/reports/intdir2005/canada.html](http://www.ncjrs.gov/ovc_archives/reports/intdir2005/canada.html)

The following is a list of criminal injury compensation legislation and program contact information for all Canadian provinces. A person who was the victim of a crime of violence that occurred in another province can contact the relevant program to determine whether he or she qualifies for any form of compensation.

**Alberta:** Victims of Crime Act, R.S.A. 2000, c. V-3.

Website: [www.canlii.org/en/ab/laws/stat/rsa-2000-c-v-3/latest/rsa-2000-c-v-3.html](http://www.canlii.org/en/ab/laws/stat/rsa-2000-c-v-3/latest/rsa-2000-c-v-3.html)

**Victims of Crime Financial Benefits Program**

Alberta Solicitor General and Ministry of Public Security  
9<sup>th</sup> Floor, John E. Brownlee Building

Telephone: (780) 427-3441  
Toll-free in Alberta: 310-0000  
Outside Alberta: (780) 427-2711

10365 – 97 Street  
Edmonton, AB T5J 3W7  
[www.solgps.alberta.ca/programs\\_and\\_services/victim\\_services/help\\_for\\_victims/Pages/default.aspx#benefits](http://www.solgps.alberta.ca/programs_and_services/victim_services/help_for_victims/Pages/default.aspx#benefits)

- Alberta does not offer victim compensation, but financial benefits and assistance for victims are available.

**Manitoba:** Victims' Bill of Rights, C.C.S.M. c. V55.

Website: [web2.gov.mb.ca/laws/statutes/ccsm/v055e.php](http://web2.gov.mb.ca/laws/statutes/ccsm/v055e.php)

**Compensation for Victims of Crime Program**

1410-405 Broadway  
Winnipeg, MB R3C 3L6

Telephone: (204) 945-0899  
Toll-Free: 1-800-262-9344

Website: <http://www.gov.mb.ca/justice/victims/services/compensation.html>

**New Brunswick:** Victims Services Act, S.N.B. 1987, c. V-2.1.

Website: [www.canlii.org/en/nb/laws/stat/snb-1987-c-v-2.1/latest/snb-1987-c-v-2.1.html](http://www.canlii.org/en/nb/laws/stat/snb-1987-c-v-2.1/latest/snb-1987-c-v-2.1.html)

**Victim Services Program**

Argyle Place  
P.O. Box 6000  
Fredericton, NB E3B 5H1

Telephone: (506) 453-3992

Website:  
[http://www2.gnb.ca/content/gnb/en/departments/public\\_safety/safety\\_protection/content/victim\\_services.html](http://www2.gnb.ca/content/gnb/en/departments/public_safety/safety_protection/content/victim_services.html)  
Email: [DPS-MSP.Information@gnb.ca](mailto:DPS-MSP.Information@gnb.ca)

**Newfoundland:** Victims of Crime Services Act, R.S.N.L. 1990, c. V-5.

Website: [www.assembly.nl.ca/Legislation/sr/statutes/v05.htm](http://www.assembly.nl.ca/Legislation/sr/statutes/v05.htm)

- Newfoundland does not offer compensation, but victim assistance is available.

**Victim Services Program, Provincial Headquarters**

Department of Justice  
Victim Services Program  
4<sup>th</sup> Floor, East Block  
Confederation Building  
P.O. Box 8700  
St. John's, NL A1B 4J6

Telephone: (709) 729-7970

Website: [www.justice.gov.nl.ca/just/victim\\_services/victim\\_services\\_program.html](http://www.justice.gov.nl.ca/just/victim_services/victim_services_program.html)  
Email: [victimservices@gov.nl.ca](mailto:victimservices@gov.nl.ca)

**Northwest Territories:** Victims of Crime Act, R.S.N.W.T. 1988, c. 9.

Website:  
[www.justice.gov.nt.ca/Legislation/..%5CPDF%5CACTS%5CVictims\\_of\\_Crime.pdf](http://www.justice.gov.nt.ca/Legislation/..%5CPDF%5CACTS%5CVictims_of_Crime.pdf)

**Government of the Northwest Territories**

Department of Justice

Telephone: (867) 873-7500

c/o Public Trustee Office  
P.O. Box 1320  
Yellowknife, NWT X1A 2L9  
Website: [www.gov.nt.ca](http://www.gov.nt.ca)

- The Northwest Territories government does not offer compensation, but victim assistance is available.

**Nova Scotia:** Victims' Rights and Services Act, S.N.S. 1989, c. 14.  
Website: [nslegislature.ca/legc/statutes/victims.htm](http://nslegislature.ca/legc/statutes/victims.htm)

**Criminal Injuries Compensation Board**

Victim Services Division  
5151 Terminal Road, 3<sup>rd</sup> Floor  
P.O. Box 7  
Halifax, NS B3J 2L6  
Email: [justweb@gov.ns.ca](mailto:justweb@gov.ns.ca)

Telephone: (902) 424-4030

**Ontario:** Victims' Bill of Rights, S.O. 1995, c. 6.  
Website: [www.e-laws.gov.on.ca/html/statutes/english/elaws\\_statutes\\_95v06\\_e.htm](http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_95v06_e.htm)

**The Criminal Injuries Compensation Board**

4th Floor, 439 University Avenue  
Toronto, ON M5G 1Y8  
Website: [www.cicb.gov.on.ca/en/index.htm](http://www.cicb.gov.on.ca/en/index.htm)  
Email: [info.cicb@ontario.ca](mailto:info.cicb@ontario.ca)

Telephone: (416) 326-2900  
Toll-Free: 1-800-372-7463  
Fax: (416) 326-2883

**Victim Notification System (VNS), Ontario Ministry of the Attorney General**

Telephone: (416) 314-2447  
Toll-Free: 1-888-579-2888

- Victims can register with the VNS to be informed about the status and scheduled release date of provincially incarcerated offenders in Ontario.

**Prince Edward Island:** Victims of Crime Act, R.S.P.E.I. 1988, c. V-3.1.  
Website: [www.gov.pe.ca/law/statutes/pdf/v-03\\_1.pdf](http://www.gov.pe.ca/law/statutes/pdf/v-03_1.pdf)

**Victim Services**

Legal Services Section – Victim Services  
1 Harbourside Access Road, P.O. Box 2000  
Charlottetown, PEI C1A 7N8  
Website : <http://www.gov.pe.ca/jps/index.php3?number=1000822&lang=E>

Telephone: (902) 368-4582  
Fax: (902) 368-4514

- Prince Edward Island does not offer compensation but victim assistance is available.

**Quebec:** Crime Victims Compensation Act, L.R.Q. c. I-6.  
Website: [www.canlii.org/en/qc/laws/stat/rsq-c-i-6/latest/rsq-c-i-6.html](http://www.canlii.org/en/qc/laws/stat/rsq-c-i-6/latest/rsq-c-i-6.html)

**Commission de la sante et de la sécurité du travail,  
Dir. l'indemnisation des Victimes d'actes criminels**

1199, Rue Bleury  
C.P. 6056, succursale Centre-ville  
Montreal, QC H3C 4E1  
Website: [www.ivac.qc.ca](http://www.ivac.qc.ca)  
Email: [ivac@csst.qc.ca](mailto:ivac@csst.qc.ca)

Telephone: (514) 906-3019  
Toll-Free: 1-800- 561-4822  
Fax: (514) 906-3029

**Saskatchewan:** Victims of Crime Act, S.S. 1995, c. V-6.011.

Website: [www.qp.gov.sk.ca/documents/English/Statutes/Statutes/V6-011.pdf](http://www.qp.gov.sk.ca/documents/English/Statutes/Statutes/V6-011.pdf)

**Victim Services**

610 - 1874 Scarth Street

Regina, SK, S4P 4B3

Website: [www.justice.gov.sk.ca/victimservices](http://www.justice.gov.sk.ca/victimservices)

Telephone: (306) 787-3500

Toll-Free: 1-888-286-6664

Fax: (306) 787-0081

**Yukon:** Crime Prevention and Victim Services Trust Act, R.S.Y. 2002, c. 49.

Website: [www.gov.yk.ca/legislation/acts/cpvst.pdf](http://www.gov.yk.ca/legislation/acts/cpvst.pdf)

**Victim Services**

Victim Services, J-7

Department of Justice

Government of Yukon

301 Jarvis St.

Whitehorse, Yukon Y1A 2C6

Website: [www.justice.gov.yk.ca/prog/cor/vs/index.html](http://www.justice.gov.yk.ca/prog/cor/vs/index.html)

Telephone: (867) 667-8500

Toll-Free: 1-800-661-0408

Fax: (867) 393-6240

**C. Pursuing the Matter in a Civil (Tort) Action**

Criminal court determines whether or not the accused is guilty, and if so, what would be appropriate punishment. However, the criminal court will do little in the way of providing compensation for the victim, other than possibly making a restitution order. Receiving financial compensation from the offender for the damages caused is one of the reasons why survivors of violence sue in civil court.

Examples of applicable torts: assault; battery; trespass to the person; breach of privacy; intentional or negligent infliction of nervous shock or emotional distress; false imprisonment; trespass to land; intimidation (usually a business tort, but applicable in some cases), and defamation.

*MacKay v. Buelow* (1995), 11 R.F.L. (4th) 403 provides a helpful illustration of the applicability of tort law in this area. The defendant (the plaintiff's ex-husband) harassed and intimidated the plaintiff by continuously calling her, leaving notes at her home, threatening to kidnap their daughter, throwing things at the plaintiff, hanging a used condom in her home, stalking her, directly and indirectly threatening to kill her, videotaping her through her bathroom window, advising third parties about nude movies of the plaintiff, and continuously harassing her friends and colleagues. The court held that the conduct of the defendant was exceptionally outrageous and awarded the plaintiff damages based on the torts of trespass to the person, breach of privacy, and intentional infliction of emotional distress. Pursuing the matter through the criminal justice system is best done before any civil action is taken, given that:

- in a criminal case, the investigation is conducted by the police who are public servants, which saves the victim both time and expense in gathering witnesses and other evidence;
- a criminal conviction is convincing evidence in itself; and
- in a civil suit, the other side has more access to the victim's personal history. If the civil suit is pursued concurrently or before the criminal trial, the information brought up in the former may leak into the latter. Furthermore, the accused could try to argue that the victim is pursuing the criminal trial only because they want to gain as much as possible in the civil action.

The burden of proof in a civil trial is lower than in a criminal trial, but the evidence must still be clear and convincing. As a plaintiff in a civil action, a survivor of physical or sexual assault must prove on a **balance of probabilities** that the assault was perpetrated by the defendant named in the action, and that this assault resulted in damages. This is a less stringent test than that placed upon the Crown in criminal proceedings, where the case must be established beyond a reasonable doubt. Thus, it is possible for a victim to win a civil suit even in the event there has been a previous acquittal in criminal proceedings.

A civil suit may also give the victim access to compensation from third parties and institutional defendants (e.g. government institutions, foster homes, and residential schools) upon whom liability may be imposed. This is beneficial where the individual perpetrator has few assets or none at all.

Pursuant to the Limitation Act, R.S.B.C., c. 266, in most cases, there is a **two year limitation** on initiating a claim in tort (section 6). However, there are **exceptions** to this rule. In B.C., there is an exemption to the two year time limit for cases of sexual assault (section 3(1)(j)). The Limitations Act was also recently amended to also allow for an exemption for physical assault claims for minors and for adults who were living in a personal or dependent relationship with their abuser (section 3(1)(k)). The rationale for these exemptions are that those victims may not be expected to recognize the wrongness of what has happened to them and have the ability to bring a claim within a limitation period.

Bringing a civil action may be a long process and the plaintiff should consider the personal toll it may impose on them. Some victims who go through this process feel as though their life is on hold, and are unable to get on with other parts of their life. Remember, however, that in many cases the parties will settle, although the outcomes of negotiations are extremely difficult to predict. Some people may benefit from counselling while pursuing a civil action.

**Students should refer the victim to a lawyer who is experienced with this area of law.** There may be issues and circumstances in each particular case that make it difficult to assess the probability of success. It is very important that students not jump to conclusions as to whether or not it is “worth it” to take this route. Some lawyers may be willing to take on a case on a contingency fee basis, which means that they will get a certain percentage of any damages, if they are awarded.

**NOTE:** Students must not take control of the client’s decisions. Clients, especially those who have been victimized, may want clinicians to direct their decision-making. A client should be informed of his or her options and the potential consequences of each course of action in order to allow him or her to give informed instructions to counsel.

## IV. VICTIMS OF VIOLENCE IN RELATIONSHIPS

### A. *BC Government Policy*

The BC Government has developed a policy for police, crown, corrections and other service providers who deal with people experiencing violence in relationships. All LSLAP students should read and understand the Violence Against Women in Relationships Policy (*See section I.A.2*). Be aware that, although the Policy is in place, it is not followed uniformly in all communities or by all individuals. The Policy can be accessed online at:

<http://www.pssg.gov.bc.ca/victimservices/legislation/index.htm>

#### 1. **Arrest and Charge**

All calls to the police relating to violence within a relationship and “spousal assaults” are to be given priority, especially if there has been a breach of a No Contact Order, Peace Bond, or civil protection order. This is to protect a victim who may be at risk. If the officer has grounds to believe that an offence has occurred, especially if there is a possibility that the offence may reoccur, the officer is to arrest the alleged offender. If the alleged offender left the scene before the police arrived, they must find out if he/she is likely to return. If it is likely, the police are required to locate the alleged offender, make an arrest, or make an immediate request to Crown Counsel for an arrest warrant. They are also to take steps to ensure the victim’s safety.

Police will assess the risk of violence the alleged offender presents and determine whether to release the alleged offender immediately, under conditions, or to hold the alleged offender in custody in order to have a bail hearing. At a minimum, some conditions are usually imposed on the alleged offender.

If the alleged offender is arrested and subsequently released from custody, the police should make every effort to notify the victim of the alleged offender's release.

Where there is evidence that an offence occurred, the police should submit a Report to Crown Counsel recommending a charge even if no injury has occurred and regardless of the victim's desire or unwillingness to testify. It is Crown Counsel's and the police's responsibility to pursue criminal charges, not the victim's. The victim need not provide a written statement immediately, though he or she should be encouraged to do so when the officer follows up.

If the officer exercises his or her discretion and does not recommend a charge, the decision should be documented on the case file and affirmed by the supervisor.

Police are also supposed to refer victims to victim services and arrange safe transportation to transition homes or safe shelters.

## 2. Requirements of Offender Diversion

The court is aware that the accused may exert influence upon the victim that affects the court process. For example, charges are not to be stayed before trial where there are threats that may affect the victim's willingness to testify, there is a history of violence, or where the victim refused to meet with Crown Counsel, making it impossible to assess the situation. Similarly, diversion in cases of violence in relationships is generally considered inappropriate. In exceptional circumstances, diversion may be considered, but only if there is no significant physical injury, there is no history of spousal violence, and there is no reason to conclude that there is a significant risk of further offences. The use of alternative measures must not be inconsistent with the protection of society.

## *B. Court Orders*

There are various orders available to protect a victim of violence in a relationship.

### 1. Criminal Court Order

A peace bond, which is available under s. 810 of the Criminal Code, is an order made by a judge that requires the defendant to keep the peace. This is a limited remedy that protects a victim for a period of up to 12 months. A client seeking a peace bond should go to the Justice of the Peace at the Provincial Court Office with the police report (or at least, the report number) and lay an Information. The client can go without a police report, but the Justice of the Peace will most likely ask for one. The client need not show that they have been injured, only that they have a reasonable fear of injury at the hands of the defendant. Previous threats or assaults should be brought up.

**A client should be advised to ask for a no-contact order as a condition of the peace bond.** The Justice of the Peace should also be informed if the defendant possesses or has access to firearms. Note that the police, and anyone else concerned, may also apply for a peace bond.

If the Information is accepted, a hearing date is set, usually about two weeks later. The client will probably be subpoenaed as a witness for the Crown. Failure to appear is an offence. If the client does not want to proceed with the peace bond but Crown Counsel does, they may have to show up to explain their decision to the judge.



A breach of the peace bond is a punishable crime, with a maximum penalty of \$5,000 and/or six months in jail on summary conviction, or incarceration for two years on indictment. The actual peace bond, however, is not considered a criminal charge.

## **2. Civil or Family Court Orders**

A number of orders are available pursuant to the Family Law Act, SBC 2011, c. 25 (FLA). A client or his or her representative can bring an application in Provincial (Family) Court or in the British Columbia Supreme Court. Orders involving property such as exclusive use of family home can only be obtained in Supreme Court.

### ***a) Protection Orders (FLA Part 9):***

A protection order limits contact and communication between family members where there is a safety risk. It is designed to protect “at-risk family members,” defined as people whose safety and security is or is likely at risk from family violence carried out by a family member. An application for a protection order may be made by a person claiming to be an at-risk family member, by a person on behalf of an at-risk family member, or on the court’s own initiative. A protection order may restrain a family member from contacting or communicating with an at-risk family member and from attending at or entering a place regularly attended by the at-risk family member (FLA, s.183). An application for a protection order may be made without notice, but in this case the court may set aside the order or change it in some respect on application by the party against whom the order is made (FLA, s.186). Unless otherwise stated, a protection order expires one year after the date it is made. Breach of a protection order under the FLA is a criminal offence.

### ***b) Temporary Orders Respecting Family Residence (FLA s. 90):***

This order is only available from the B.C. Supreme Court. It gives the client the legal right to occupy the home exclusive of the other party, or to possess and use specified personal property stored at the family residence, including to the exclusion of the other party. The client and the other party must be spouses, meaning they must be married or have been living in a marriage-like relationship and have done so for a continuous period of at least two years, or have a child together. This order lasts as long as they **both** have a legal right to be on the property. A court does not have jurisdiction to grant this order where the family home is situated on an Indian reserve.

## ***C. Victim Notification and Safety Planning***

### **1. Victim Link BC**

Victim Link BC provides assistance in connecting to a victim service worker in any area of BC. The service is toll free, confidential and anonymous.

#### **Victim Link BC**

Toll Free: 1-800-563-0808

### **2. Victim Safety Unit (VSU)**

Victims, civil protected parties, and victim service workers (on behalf of their clients) may call the Victim Safety Unit to request specific information including B.C. Corrections

custody status, court updates, and copies of protection orders. These parties may also register with VSU to receive updates automatically. If the offender is under federal jurisdiction (under the supervision of the Correctional Service of Canada or the National Parole Board), the VSU will, upon request, forward the registration form to CSC/NPB. The CSC/NPB will provide victim notification to registered victims directly.

**Victim Safety Unit**

Telephone: (604) 660-0316

Toll-Free: 1-877-315-8822

Website: [www.victiminfo.ca/en/services/victim-safety-unit](http://www.victiminfo.ca/en/services/victim-safety-unit)

**3. Crime Victim Assistance Program (CVAP)**

The Crime Victim Assistance Program offers a variety of benefits to assist victims in dealing with the aftermath of violence in relationships. In situations where the offender represents an ongoing significant risk to the victim's safety, protective measures such as home alarm systems, security devices and equipment and other safety measures may be available. In cases involving high risk victims, the victim and his or her family may be eligible for relocation expenses where all other safety measures are considered insufficient to address the victim's safety needs. For a complete list of benefits available, see the CVAP website, below.

**Crime Victim Assistance Program**

Telephone: (604) 660-3888

Toll-Free: 1-866-660-3888

Website: [www.pssg.gov.bc.ca/victimservices/financial/index.htm](http://www.pssg.gov.bc.ca/victimservices/financial/index.htm)

***D. Finding Funding for Counselling***

**1. Crime Victim Assistance Program funding for counselling**

The Crime Victim Assistance Act establishes counselling services or expenses as a benefit which may be available to victims, immediate family members of injured or deceased victims and some witnesses. The Crime Victim Assistance (General) Regulation sets out the conditions or limitations for providing counselling benefits and also establishes the approved fee rate for reimbursement of counselling services. The Counselling Guidelines provide further information and clarification regarding expectations for the provision of counselling services, reporting requirements and limitations applicable to service providers requesting reimbursement for counselling services on accepted claims with the Crime Victim Assistance Program. For detailed information see 'Counselling Guidelines' on the CVAP website at [www.pssg.gov.bc.ca/victimservices/financial/index.htm](http://www.pssg.gov.bc.ca/victimservices/financial/index.htm).

**2. Children's Counselling Services (formerly Children's Sexual Abuse Intervention Program)**

This service helps children deal with the effects of trauma at each developmental level. Parents and professionals can call the Ministry of Child and Family Development at 1-877-387-7027 to request referrals to the program, which is free and confidential.

**Children's Counselling Service**

Sunshine Coast Community Services Society

Telephone: (604) 885-5881 ext. 228

**3. Stopping the Violence Counselling (Ministry of Public Safety and Solicitor General)**

There are a number of community-based counselling programs for women who have experienced sexual assault, relationship violence, or childhood abuse.

A list outlining the available programs is available at the following website:

[www.pssg.gov.bc.ca/victimservices/directory/index.htm](http://www.pssg.gov.bc.ca/victimservices/directory/index.htm)

**4. Children Who Witness Abuse Programs (Ministry of Public Safety and Solicitor General)**

This community based program provides individual and group counselling services for children who witness abuse of a parent, most often a mother. Designed to help break the intergenerational cycle of violence against women, this program helps children cope with, and heal from, the trauma of living in an abusive situation. Support is also provided to the parent (often the mother) who has been abused by her partner. For a detailed, area specific contact list, see:

[www.pssg.gov.bc.ca/victimservices/directory/index.htm](http://www.pssg.gov.bc.ca/victimservices/directory/index.htm)

**5. Ministry of Social Development and Responsible for Multiculturalism**

Psychiatrists are usually covered by B.C. Medical; however it is often difficult to see a psychiatrist because they have long waiting lists. It is possible to find psychologists who are available, but they cost between \$105 and \$150 for one hour of consultations, as per the B.C. Psychological Association guidelines. Clinical counsellors are a cheaper alternative, with one hour sessions costing between \$45 for group sessions and \$100 for individual sessions, as per the B.C. Association of Clinical Counsellors fee guidelines.

The client should collect documentation from a doctor and/or therapist. The doctor's letter should outline why counselling is necessary to alleviate problems stemming from child sexual abuse or other sexual abuse, as well as state that the counselling must be through a person trained and experienced in this area. The therapist's letter should support the claim for counselling, and indicate the therapist's rates, the frequency of counselling, and the qualifications of the therapist.

The claim for funding will be much stronger if it can be shown that serious efforts have been made to obtain adequate counselling elsewhere. The Mental Health Service, and Family Services (check phone book for locations throughout Greater Vancouver and the Fraser Valley), may help or provide referrals. The client should inquire about counselling from a source that does not charge.

If the client is on income assistance, the client can then request funding from the financial aid worker, and will need to provide all letters supporting the request and documentation of all attempts to receive counselling elsewhere. The client has to be able to establish that the financial assistance they are currently receiving is insufficient to pay a therapist.

If the request for funding is denied, an applicant can ask the financial aid worker for an appeal kit. Workers are required under the former GAIN Act and the Ministry of Social Development and Responsible for Multiculturalism policies to provide an appeal kit on request. The appeal kit must be returned to the worker within 30 days of the decision. It may be preferable to have an advocate assist with its completion.

The form, which contains the results of the Administrative Review, includes a request for a tribunal in the event that the Review is denied. An income assistance advocacy agency can

provide a “nominee” to represent the client, and this nominee and the Ministry nominee will decide on the third member of the tribunal. An advocate to assist or represent the client may be beneficial at this level.

Also refer to **Chapter 21: Welfare Law** and [www.povnet.org](http://www.povnet.org).

## 6. Residential Historical Abuse Program

This option is available to the client if he or she was abused or assaulted while in foster care or in a provincially funded institution. The client can acquire the forms from the Ministry of Health, Victim Assistance, Mental Health Centres, or by calling the toll-free VictimLINK information line at 1-800-563-0808.

The Residential Historical Abuse Program provides professional counselling services (a counsellor who meets provincial standards, with whom the client will develop a personal treatment plan that may include individual, group, or family counselling) for B.C. residents who were abused while under the age of 19 and while living in a home or residential program operated or funded by the province.

The client does not have to prove that she or he was sexually, physically, or mentally abused to receive counselling services, nor does she or he have to name the person(s) who abused her or him. The Ministry will simply verify that he or she was in that particular residential program at the time of the offence(s). No police complaint is necessary, but there is a legal obligation to report abuses to appropriate authorities if children are still at risk of being sexually abused. The government or the police may contact the client for information. The contents of the application are otherwise confidential.

The application process is simple and generally does not impede any legal action or application to the CVAP – although if the applicant is eligible for funding from another source for a same or similar purpose, the CVAP must deduct that funding (or those counselling sessions) when considering the application.

## 7. A Note on Services That May Be Harmful to Victims’ Interests

Not all services that claim to be helpful or protective of victims’ interests really are. For example, the Battered Women’s Support Group has found that some services are not healthy for battered women. Marriage counselling, couples therapy, and mediation promote reconciliation, but may not address underlying issues such as power imbalance and disrespect towards women. Programs for batterers that do not have support for battered women and anger management counselling groups for abusers tend not to challenge the man’s beliefs and attitudes towards women. Family Court Counsellors often give legal advice, although they are not supposed to. Their motivation may lean towards reconciliation, or quick resolution.

**The client should also be advised that with regard to Compulsory Family Mediation, they can apply to not participate.** The client should be advised to consult a lawyer.

# V. SEXUAL HARASSMENT IN THE WORKPLACE

Sexual harassment is considered a form of sex discrimination under human rights legislation. Canadian human rights law imposes a statutory duty on employers to provide a safe and healthy work environment. Corporate employers are also liable for sexual harassment.

For more information, consult **Chapter 6: Human Rights**; and **Chapter 9: Employment Law**.

## VI. ABUSE AND NEGLECT OF SENIORS AND OTHERS WITH DISABILITIES

Abuse and neglect of seniors and adults with disabilities occurs when a caregiver or other person financially, physically, or emotionally abuses or neglects such an individual. It includes stealing money or possessions, withholding pension cheques, insulting, assaulting, or failing to provide food or proper care. Such abuse can occur because a caregiver cannot deal with the stress of caring for the disabled or older person, because of alcohol or substance abuse or for more complex psychosocial reasons. Further, individuals who have suffered years of spousal abuse may also be susceptible to further neglect and abuse, such as financial abuse, by others.

Abuse or neglect of seniors and adults with disabilities is often hidden behind inquiries about benefits, services, and wills and estates. For instance, such an individual may inquire about housing benefits available to them. A little probing may uncover that the reason for wanting housing benefits is to escape an abusive relative who has taken control of their house. LSLAP clinicians should watch for subtle indications of abuse and neglect.

### A. *Ending the Abuse or Neglect*

Upon discovering a case of abuse or neglect of a senior or individual with disabilities, clinicians should not act unless instructed by the client. No matter how seemingly distraught or helpless the client may seem, this person is an adult. Only they can decide what is best for them. Regardless of personal opinions and feelings about what is right and wrong, clinicians should not overstep their role as counsel. Clinicians should discuss the situation with the client, assess the situation, present possible courses of action, and assist only as directed.

Under Part 3 of the Adult Guardianship Act, R.S.B.C. 1996, c. 6 an individual is presumed to be capable of making her or his own decisions. However, if it is suspected that the individual is being abused or neglected and is unable to seek support and assistance because of a physical restraint, illness, disease or other condition, this can be reported (although reporting such suspicion is not mandatory). Once reported, the Adult Guardianship Act makes it mandatory for designated agencies to investigate and determine if support and assistance are necessary.

Clinicians should consider several factors when acting for an abused or neglected adult client. Remember that the client may depend on his or her abuser for financial or physical assistance. If the client wants to make a report that may lead to the laying of information, move to a transition house, or get a restraining order (see **Section VI.B.3: Restraining Order**, below), he or she may be deprived of financial or physical support the abuser may have been providing. Before acting, ensure that the client will be able to survive without the abuser. Some of the financial and social services available to the client are listed below. Clinicians should consider the consequences of any actions, remembering that the client is possibly on a fixed income, and may have health concerns.

### B. *Legal Remedies*

#### 1. **Criminal Charges**

No B.C. legislation specifically addresses abuse of elders and adults with disabilities but the following Criminal Code sections may apply:

- s. 265: assault;
- s. 215(1)(c): duty of persons to provide necessities to a person under his or her charge;

Financial abuse offences:

- s. 322: theft;
- s. 331: theft by person holding power of attorney; and
- s. 332: misappropriation of money held under direction.

Remember that a client may be reluctant to make a report that may lead to the laying of an Information against a family member and when they do, police and Crown Counsel are often reluctant to prosecute. In assault cases, the Crown is more likely to prosecute if the police have been involved in some way. When pressing any criminal charges, or getting a peace bond or protection order, it is always a good idea to phone the police and have them write a report detailing the incidents of abuse and/or neglect.

## **2. Peace Bond**

Pursuant to s. 810 – 811 of the Criminal Code, a peace bond requires that the abusive person “keep the peace” for up to 12 months or face a possible prison sentence.

## **3. Protection Order**

A protection order (similar to a restraining order) restricting contact between the abused and abuser is available pursuant to s. 183 of the Family Law Act, but only if the abused is a spouse or family member that lives with the abuser. The Family Law Act defines “spouse” as someone who is married to another person or has lived with another person in a marriage-like relationship and has done so for a continuous period of two years or has children with another person. The Act defines a “family member,” with respect to a person, as that person’s spouse or former spouse; a person with whom the person is living, or has lived, in a marriage-like relationship; a parent or guardian of the person’s child; a person who lives with and is related to the person; or the person’s child.

A restraining order can also be obtained under s. 56(3)(c) of the Adult Guardianship Act. It is necessary to note the defendant’s date of birth when applying for the restraining order so that it is not placed against the wrong individual. Applicants should remember to include a Police Enforcement Clause so that the police are required to act on breaches. Once the order is in place, it is registered with Protection Order Registry, which is accessible by police.

## **4. Conditional Release or Probation**

Another way to protect the client is to contact the Crown if the abuser has been charged and, on a finding of guilt, to get conditions placed on the abuser’s release or probation order restricting contact between the abuser and the client. Keep in mind that the burden of proof is higher in criminal matters than civil matters, including when proving a breach of conditions.

### ***C. Other Remedies***

There is presently no community or government agency in B.C. with a comprehensive plan to deal with abuse of seniors. The following list represents some non-legal solutions that may assist the abused person.

#### **1. General Support and Intervention Strategies**

The client’s nearest health unit (see the telephone book’s blue pages for contact information) is probably the best place to start. A trained nurse or social worker will investigate the situation, present options to the client, and place them in contact with necessary assistance.

Some other useful resources may be:

Website: [www.pssg.gov.bc.ca/victimservices/directory/docs/stopping-the-violence-counselling.pdf](http://www.pssg.gov.bc.ca/victimservices/directory/docs/stopping-the-violence-counselling.pdf)

- This website provides a comprehensive list of available “Stopping the Violence” Counselling Programs throughout British Columbia

**BC Association of Community Response Networks**

Sherry Baker, Executive Director  
Telephone: (604) 660-4482

**B.C. Centre for Elder Advocacy and Support (BCCEAS)**

Martha Jane Lewis, Executive Director  
Telephone: (604) 437-1940  
Website: www.bcceas.ca

**B.C. Coalition of People with Disabilities**

Mailing Address: Telephone: (604) 875-0188  
#204-456 West Broadway Toll-Free: 1-800-663-1278  
Vancouver, BC V5Y1R3 TTY Line (hearing impaired only): (604) 875-8835  
Website: www.bccpd.bc.ca/contacts.htm (for more contact information)  
Email: feedback@bccpd.bc.ca

**2. Shelter**

If the abuser cannot be removed from the home, the client may need temporary shelter. There are no local shelters expressly for elder abuse victims, but older women will be admitted to women's transition houses if space is available. Some transition houses are not very pleasant places, but they can provide temporary shelter for those in need. See **Chapter 22: Referrals** for transition house phone numbers. Try to refer to those houses that do not have a one-week maximum stay. Battered Women's Support Services (telephone: (604) 687-1867) can sometimes locate alternative shelter when the transition houses are full. After Hours Services (see **Chapter 22: Referrals**) can refer elderly men to temporary housing.

**3. Home Support**

The client may depend on the abuser for help in the home and may be reluctant to act because he or she fears being placed in a nursing home. In fact, the client may only need a little extra help to live alone. Phone the B.C. Ministry of Health Services Long-Term Care Program to determine whether the client is eligible to receive home support services (cleaning, handyman services, etc.). Moreover, home support services may also have the benefit of relieving the stress a caregiver/abuser may experience, stress that sometimes causes the abuse.

Also phone Meals-On-Wheels, if necessary:

Vancouver, Richmond	(604) 732-7638 or (604) 292-7200 (Cantonese)
Burnaby	(604) 299-5754 ext. 23
Chilliwack	(604) 793-7242
Langley	(604) 533-1679
New Westminster	(604) 520-6621
North Shore, West Vancouver	(604) 922-3414
Surrey	(604) 588-6325
White Rock	(604) 536-3866
Port Coquitlam	(604) 942-7506

**4. Seniors' Benefits**

The client may not be receiving all of the financial benefits he or she is entitled to. These benefits (Old Age Security Pension, Guaranteed Income Supplement, CPP, Shelter Aid for Elderly Renters, and others) may give the client more freedom to change his or her situation. Phone a local seniors' centre for more information.

**5. Emotional Support, Counselling**

Vancouver Health Department, Local Health Units (see telephone book for the nearest one) will investigate situations, present options to the abused person and place him or her in contact with local agencies and assistance. Health Department nurses will not forcibly intervene to

remove a disabled or senior individual from an abusive situation. They will act only as instructed by the older person.

Under the Public Guardian and Trustee Act, R.S.B.S. 1996, c. 383, the Public Guardian and Trustee of B.C. has the ability to access information and investigate suspected abuse and neglect (see contact information at **Section I.A.3: Resources**).

## **6. Links to the Community**

The client may feel isolated and lonely. Refer him or her to community organisations such as a social or volunteer organisation that can give them a sense of belonging and self-esteem. Do not refer unless the client wants such a referral, and not until the client feels secure and relatively stable.