



Justice

Victim Impact Statement Program

GUIDELINES MANUAL

**For criminal justice system
personnel in Saskatchewan**

Victims Services Branch
June 2002

Saskatchewan

This Victim Impact Statement Program Guidelines Manual has been prepared in consultation with representatives of all sectors of justice services in Saskatchewan.

The manual is intended to provide clear guidelines regarding the responsibilities of justice personnel. The intent is to ensure that victims of crime receive the information and assistance they require to make informed decisions about their participation in the Victim Impact Statement (VIS) program.

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**Saskatchewan Justice
Victims Services Program**

**Victim Impact Statement
PROGRAM GUIDELINES MANUAL**

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A. The Victim Impact Statement Program

1. WHAT IS A VICTIM IMPACT STATEMENT (VIS)?

A Victim Impact Statement (VIS) is one of the most effective means to communicate the “voice of the victim” in the criminal justice system. It is to be prepared in writing, on the Saskatchewan Justice VIS brochure/form, in accordance with the program approved by the Lieutenant Governor in Council.

A VIS provides victims with an opportunity to let the sentencing court know how the crime has affected their lives. The effects may include physical, emotional and/or financial impacts. By working together, justice personnel will ensure the success of the program, thereby enhancing services to victims.

2. HISTORY

Victim Impact Statements are not new to Saskatchewan. They have been presented in courtrooms in the past in a number of different formats, both formal and informal. Section 722 of the *Criminal Code* has historically provided that a VIS could be prepared and filed with the sentencing court. Saskatchewan viewed that as a permissive and not a mandatory section.

In the late 1980s, a Victim Impact Statement pilot project was set up in four sites across the country which included Toronto, Winnipeg, Calgary and Battlefords. The results showed that only about 30% of victims were actually completing a VIS.

Based on the findings of that study, combined with the previously mentioned permissive interpretation of Section 722, Saskatchewan had not set up a formal VIS Program. That changed in 1999.

B. Victim Impact Statement brochure/form

1. COMPLETING THE VIS BROCHURE/FORM

1. A Victim Impact Statement is to be completed by the person who has been identified by justice personnel as the victim of the crime.

For the purposes of the administration of the Saskatchewan Victim Impact Statement Program the following operational definition of “victim” has been adopted:

“Any person who the police, a prosecutor or Victims Services personnel identify as harmed or suffering physical, emotional or financial loss as a result of a reported crime.”

This definition is intended to assist justice personnel in identifying persons to whom the VIS Program would apply.

2. Victim Impact Statements of adults must be completed on the Saskatchewan Justice Victim Impact Statement brochure/form.
3. Victim Impact Statements of children under 13 may be completed on the Saskatchewan Justice form called "Victim Impact Statement for Child Victims."
4. Victims older than 13 may complete their Victim Impact Statement on either the adult VIS brochure/form or the form called "Victim Impact Statement for Child Victims," depending on the developmental stage of the victim.
5. Assistance in completing the brochure/form may be provided. However, the VIS must be completed in the victim's own words, describing the harm done or the loss suffered as a result of the crime before the court.

6. The Victim Impact Statement brochure/form is to be signed by the victim.
7. Once the Victim Impact Statement brochure/form is completed by a victim, it is called a Victim Impact Statement (VIS).

2. ADMINISTRATIVE TASKS RE VIS BROCHURES/FORMS

1. Both the Victim Impact Statement brochures/forms for adults and the VIS for Child Victims are provided by Saskatchewan Justice and can be ordered as follows:
 - a. **RCMP** – through “F” Division Stores; available to RCMP in pad form or in brochure form.
 - b. **Municipal police services** – through Queen’s Printer; available to police in pad form or in brochure form.
 - c. **Victims Services funded agencies and First Nations Caseworkers** – through Saskatchewan Justice Victims Services head office by using the Publications Request Form.
 - d. **Crown Prosecutors** – through Queen's Printer.
 - e. **Corrections** – through Queen's Printer.
2. All VIS brochures/forms should be stamped with the name, address and phone number of the referring agency in the designated space on the front of the brochure/form.

(continued)

3. To ensure that a completed VIS can be placed on the correct file, all available identifying information should be recorded on the front of the VIS brochure/form in the space indicated, before giving the VIS brochure/form to a victim.

Identifying information includes:

- a. The date and location of the offence;
 - b. The investigating police service;
 - c. The information number and police file number (if known);
 - d. Any other available identifying information (for example, name of the assigned prosecutor).
4. The VIS brochure/form should NOT be put on display in public areas. It should only be given directly to victims of crime as above.

After broad consultation, the Federal Standing Committee on Justice and Human Rights identified important needs for victims. As a result, in their report entitled "Victims Rights, A Voice, Not a Veto," a number of recommended amendments to the *Criminal Code* were proposed.

The Federal Government responded by introducing Bill C-79, "The Victims Bill." Bill C-79 (Chapter Statutes of Canada, 1999) received Royal Assent June 17, 1999. The Federal Government proclaimed the bill into law on December 1, 1999. Saskatchewan's Minister of Justice, the Honourable Chris Axworthy, announced the new VIS Program on December 1, 1999.

Subsequent Amendments to the *Criminal Code* through Bill C-79 included:

- Amendments to the arrest and release provision requiring that a victim's and/or witness' security be considered in determining the timing of an accused or offender's release;
- Expanding the publication ban provision during trial and preliminary applications before the court;
- Victims surcharge provisions related to federal offences will be automatic and mandatory in all cases, regardless of the sentence imposed, unless waived by the court;
- Ensuring that the safety and security of victims/witnesses is considered when making decisions about pretrial detention;
- Ensuring victims know in advance that a person receiving a life sentence can apply for a reduction in the period of parole ineligibility (the faint hope hearing process);
- Expanding the use of victim impact information. All sentencing judges are required to inquire as to whether the victim has been advised of the Victim Impact Statement Program and the process for completing the statement. The judge can adjourn court for this purpose.

Criminal Code amendments specifically pertaining to the VIS Program include:

- 722.2(1) “. . . The court shall inquire of the prosecutor or a victim of the offence . . . whether the victim or victims have been advised of the opportunity to prepare a statement . . . ”
- 722.2(2) “. . . the court may adjourn the proceedings to permit the victim to prepare a statement . . . ”

The intent of this legislation is to allow victims to have input in the sentencing process.

When the court is determining the sentence, or in discharging an offender, it is required by law to consider a statement (VIS) completed by the victim which describes the harm done to, and experienced by them as a result of the crime. Section 20(8) of the Young Offenders Act of Canada also allows for the filing of a VIS.

3. SASKATCHEWAN PROVINCIAL VIS PROGRAM

a. Legislative authority

In accordance with Section 722 of the *Criminal Code*, an Order in Council provides Saskatchewan Justice the authority and outlines the procedures for the Victim Impact Statement Program.

b. Goals

The intent of Saskatchewan's provincial Victim Impact Statement Program is to ensure that:

- Victims of crime wishing to, should be given a real opportunity to complete a VIS.
- Victims of crime should be made aware of the potential consequences of their choice.
- Victims of crime should be able to receive assistance in preparing their VIS, if required.

c. Definition of a Victim

During development of the Victim Impact Statement Program, much discussion by many people took place in the process of coming to an agreement about the definition of who is considered a "victim" entitled to make a Victim Impact Statement.

For the purposes of the administration of the Saskatchewan Victim Impact Statement Program the following operational definition of "victim" has been adopted:

"Any person who the police, a prosecutor or Victims Services personnel identify as harmed or suffering physical, emotional or financial loss as a result of a reported crime."

This definition is intended to assist justice personnel in identifying persons to whom the VIS Program would apply.

d. Development of Saskatchewan's new VIS Program

• VIS Working Group

Saskatchewan Justice identified and coordinated a VIS Working Group for the development of the program. The process was collaborative. Representatives from many areas of the criminal justice system were involved.

The representatives that worked on the project were from:

- a. The three major urban police forces;
- b. The RCMP;
- c. Front line Victims Services;
- d. Social Services;
- e. Saskatchewan Justice – Law Enforcement Services; Policy Planning and Evaluation; Victims Services Branch; Public Prosecutions; Court Services; Corrections.

The VIS Working Group worked for several months on developing a VIS Program that would:

- Meet the needs of victims,
- Reduce the risk of further court delays relating to VIS, and
- Be relatively simple to administer.

- **VIS Implementation Team**

To ensure that those who would be involved in delivering the VIS Program were provided the necessary information and resources, a VIS Implementation Team was formed. The four implementation team members were seconded from community-based Victims Services funded agencies. During the first seven months that the VIS Program was in place, the VIS Implementation Team worked with communities to:

- Deliver training on the VIS Program;
- Answer questions;
- Provide expertise;
- Address issues as they arose.

- **Modelling the intent of the VIS Program**

The cooperative process of developing the VIS Program reflects the shared commitment of Saskatchewan Justice and community agencies that victims have a voice in the criminal justice system.

The remainder of this Victim Impact Statement Program Guidelines Manual outlines the procedures used to ensure that victims are informed and assisted as appropriate if they wish to provide a VIS.

C. General Justice personnel guidelines (General guidelines for Police, Victims Services, Prosecutions, Corrections)

1. PROVINCIAL POLICY

In accordance with the requirements of the *Criminal Code*, all victims of crime will be told that they may prepare and file a Victim Impact Statement (VIS).

2. GENERAL

1. Section 722(2) of the *Criminal Code* requires a sentencing judge to ask whether the victim has been told that he or she may prepare and file a VIS. For purposes of the administration of the Saskatchewan Victim Impact Statement Program the following operational definition of “victim” has been adopted:

“Any person who the police, a prosecutor or Victims Services personnel identify as harmed or suffering physical, emotional or financial loss as a result of a reported crime.”

This definition is intended to assist justice personnel in identifying persons to whom the VIS would apply.

2. The definition of “victim” found in section 722(4) of the *Criminal Code* continues to govern the admissibility of VIS.

3. PROCEDURE

1. All justice personnel will ask victims that they work with whether the victims have been told that they can prepare a VIS. If a victim has not been told, a VIS brochure/form will be given to the victim together with information as to where to return the completed VIS.

2. To ensure that a completed VIS can be placed on the correct file, all available identifying information should be recorded on the front of the brochure/form in the space indicated, before giving the VIS brochure/form to a victim. Identifying information includes:
 - a. The date and location of the offence,
 - b. The investigating police service,
 - c. The information number and police file number (if known),
 - d. Any other available identifying information (i.e. name of the assigned prosecutor).
3. Where assistance is requested, justice personnel will provide that assistance or refer the victim to an accessible resource for assistance. When helping the victim, justice personnel will refer to the attached VIS Information Guide (Section J of this manual).
4. Justice personnel who provide information or assistance to victims about the VIS Program will promptly tell the police or crown prosecutor (as appropriate in the circumstances):
 - a. The name of the person they worked with;
 - b. When they talked to the victim;
 - c. What assistance was given; and
 - d. Whether the victim indicated any intention to prepare a VIS.
5. It is expected that a completed VIS will generally be returned to the investigating police service or affiliated victims services program. However, in some cases they will be returned to other justice personnel.

Upon receipt of a completed VIS, all justice personnel have an obligation to attempt to determine where it should properly be and forward it to that place.

Consequently, upon receiving a completed VIS, justice personnel will:

- a. Record the date and place that the VIS was received.
- b. Update the identifying information.
- c. Forward the original VIS, with appropriate transmittal information, to the appropriate police service or crown prosecutor's office for filing.

6. If justice personnel are unable to identify the right police or Crown file, the original VIS, with accompanying transmittal information, will be forwarded to:

Saskatchewan Justice Victims Services
6th Floor, 1874 Scarth Street
REGINA SASKATCHEWAN
S4P 3V7
Phone (306) 787-3500

7. If a victim indicates a VIS was prepared and sent in but it can not be located, justice personnel can request that Saskatchewan Justice Victims Services search their records to see if the missing VIS was sent to them.

D. Police guidelines

1. PROVINCIAL POLICY

In accordance with the requirements of the *Criminal Code*, all victims of crime will be told that they may prepare and file a Victim Impact Statement (VIS).

2. GENERAL

1. Section 722.2 of the *Criminal Code* requires a sentencing judge to ask whether the victim has been told that he or she may prepare and file a VIS. Police are generally the first, and may be the only contact a victim has with the criminal justice system. Whenever possible, the police should give the victim this information.

3. PROCEDURES

a. Direct Contact

1. When police have direct contact with victims, police will:
 - a. Tell the victims they may prepare and file a VIS.
 - b. Write the police file number, the date and location of the offence, and the investigating police service in the appropriate space on a VIS brochure/form.
 - c. Give the victim that VIS brochure/form.
2. In order that prosecutors can quickly access this information for court purposes, police will record on the front page of the police report, or in an equally conspicuous place:
 - a. The name of the person who was advised.
 - b. The date the advice was given.
 - c. If a VIS brochure/form was given to the victim.
 - d. Whether the victim indicated an intention to complete a VIS.

3. When the victim is experiencing extreme emotional and/or physical trauma, (such as in cases of serious sexual assault, child abuse or homicide) and where the case may not be dealt with by the court for a lengthy period of time, it may not be appropriate for police to tell a victim about the VIS Program at the time of first contact.

Where the police determine it is not appropriate to give information on the VIS Program at first contact, they will ensure that the advice is given at a later date.

In deciding when and how to do so, they may wish to consult with local victims services agencies and/or the prosecutor.

4. When a victim requires assistance in completing a VIS:
 - a. Where a victims services program or another appropriate community resource is available, police will refer the victim to that program,
 - b. Where no resources are available, police may be required to provide additional information or assistance. When providing assistance police will refer to the attached VIS Information Guide (See Section J of this manual).

b. Telephone Contact

1. Where the complaint is phoned in and there will be no face to face contact with the victim, the report taker will tell the caller:
 - a. That the victim may prepare and file a VIS.
 - b. Where the victim may obtain a VIS brochure/form.
 - c. Where the victim may obtain further information and assistance in completing the VIS brochure/form.
2. The report taker will record on the front page of the police report, or in an equally conspicuous place:
 - a. The date and the name of the person who was advised.
 - b. Whether the victim indicated an intention to complete a VIS.

c. Return, retention and forwarding of Victim Impact Statements

1. Police will document the date they receive the completed VIS.
2. Police will identify the corresponding police file and place the original VIS in it.
3. If police are unable to identify the corresponding police file, the VIS will be forwarded to:

Saskatchewan Justice Victims Services
6th Floor, 1874 Scarth Street
REGINA SASKATCHEWAN
S4P 3V7
(306) 787-3500

4. Once a charge has been laid, police will forward the original VIS to the prosecutor.
5. Where a charge has already been laid at the time the VIS is received, police will immediately forward the original VIS with accompanying follow-up report directly to the prosecutor.
6. Police will document the date they forwarded the original VIS to the prosecutor or Victims Services.
7. When they become aware of the same, police inform the Prosecutor of any special arrangements needed for the victim to be able to present the VIS to the court, i.e. translation services, audio-visual equipment, etc.
8. Police may wish to make a copy of the VIS for retention in the police file.

d. Disclosure of a VIS

1. A VIS is subject to disclosure. The VIS will be disclosed by the Prosecutor, or where appropriate, by the prosecuting police service.

e. Filing a VIS

1. The prosecutor, or where appropriate, the prosecuting police service, will file the VIS with the court only after a finding of guilt is made.

E. Victims Services guidelines

1. PROVINCIAL POLICY

1. In accordance with the requirements of the *Criminal Code*, all victims will be told that they may prepare and file a Victim Impact Statement (VIS).

2. PROCEDURE

1. Victims services personnel will ask victims they contact whether the victims have been told that they may provide a VIS to the court.
2. If the victim requires a VIS brochure/form, victims services personnel will provide one and write the following information on the appropriate space on the brochure/form:
 - a. The police file number;
 - b. The date and location of the offence;
 - c. The investigating police service;
 - d. Any other available identifying information (e.g., assigned prosecutor).
3. Victims services personnel will record on the front page of the client file, or in an equally conspicuous place:
 - a. The date and name of the victim who was told about the VIS;
 - b. Whether a VIS brochure/form was given to the victim;
 - c. Whether the victim indicated an intention to complete a VIS.
4. When providing assistance to a victim in completing a VIS, victims services personnel will refer to the attached VIS Information Guide (see Section J of this manual).
5. Victims services personnel will identify complex or sensitive cases and provide support as necessary.

6. Upon receiving a completed VIS, victims services personnel will;
 - a. Review the identifying information on the VIS and add any other identifying information;
 - b. Determine which police service investigated the crime;
 - c. Forward the VIS to that police service;
 - d. Document the date the VIS was received by victims services and forwarded to the police.

7. When they become aware of same, victims services personnel will inform the prosecutor of any special arrangements needed for the victim to be able to present the VIS to the court (e.g., translation services, audio-visual equipment, etc.).

8. Victims services personnel will assist the prosecutor in contacting the victim to determine if the victim intends to complete a VIS.

9. If victims services personnel are unable to identify the corresponding police file, the VIS will be forwarded to:

Saskatchewan Justice Victims Services
6th Floor, 1874 Scarth Street
REGINA SASKATCHEWAN
S4P 3V7
(306) 787-3500

F. Crown Prosecutors guidelines

1. PROVINCIAL POLICY

1. In accordance with the requirements of the *Criminal Code*, all victims will be told that they may prepare and file a Victim Impact Statement (VIS).

2. GENERAL

1. Section 722.2 of the *Criminal Code* requires a sentencing judge to ask whether the victim has been told that he or she may prepare and file a VIS. If the victim has not, the court can adjourn the matter to allow a VIS to be prepared. Crown Prosecutors must be in a position to answer the court's questions.

3. PROCEDURES

1. The Prosecutor will be responsible for determining whether the victim has been advised that he or she may prepare and file a VIS. Generally that information will be on the court file.
2. The Prosecutor may consult with police and local victims services, as appropriate, to determine whether the victim has been advised of the VIS Program and whether the victim intends to complete the VIS.
3. The Prosecutor will ask victims they contact whether or not they have been told that they may provide a VIS to the court. If they have not, the Prosecutor will provide the victim with a VIS brochure/form.

4. When victims request assistance in completing a VIS they will be referred to the local victims services program or to another appropriate community resource. Prosecutors will refer to the attached VIS Information Guide (see Section J of this manual) when providing assistance to victims.
5. The Prosecutor, or when appropriate the prosecuting police service, will ensure that the appropriate disclosure of the VIS is made.

A VIS will only be filed with the court by the Prosecutor or prosecuting police service after a finding of guilt has been made.
6. Subsection 722(2.1) states that a victim who asks to read her or his written and filed VIS in court will be permitted to do so. If the victim wishes to read his or her VIS, steps will be taken to ensure the victim is present at sentencing.
7. The Prosecutor will advise Court Services as soon as possible if special arrangements are required to introduce the VIS to the court (for example, translation services or audio/video equipment, etc.).

G. Clerk of the Court guidelines

1. PROVINCIAL POLICY

1. In accordance with the requirements of the *Criminal Code*, all victims will be told that they may prepare and file a Victim Impact Statement (VIS).

2. PROCEDURES

1. The Prosecutor will file a VIS after a finding of guilt has been made.
2. If someone other than the Prosecutor seeks to file a VIS, the clerk will refuse to accept the VIS for filing and will direct that person to the local Crown Prosecutor's office.
3. The VIS will be filed with the court clerk at the time of sentencing.

H. Community Corrections and Young Offenders Services Staff guidelines

1. PROVINCIAL POLICY

1. In accordance with the requirements of the *Criminal Code*, all victims will be told that they may prepare and file a Victim Impact Statement (VIS).

2. GENERAL

1. Where staff have a copy of a VIS that has been filed with the court, staff will consider the VIS in making case management decisions.
2. Staff will consider any VIS when preparing reports for the court.

3. PROCEDURES

1. Community corrections/young offenders services staff will develop a protocol or agreement with Court Services for the provision of copies of any VIS that has been considered by a sentencing court.
2. When preparing a PSR/PDR the author of the report will contact the assigned prosecutor to determine if a VIS will be filed with the court. Where a VIS is to be filed, a copy of the report should be obtained. The existence of a VIS does not preclude reference in the PSR/PDR to victim impact information.
3. Where appropriate, the author of a PSR/PDR will tell victims they contact that victims may prepare and file a VIS.
4. If the victim indicates that he or she wishes to provide a VIS, that information will be communicated to the prosecutor and the victim referred to the prosecutor for further information. The victim will be told to give the completed VIS to the prosecutor.

I. Institutional Correctional and Young Offenders Services Staff guidelines

1. PROVINCIAL POLICY

1. In accordance with the requirements of the *Criminal Code*, all victims will be told that they may prepare and file a Victim Impact Statement (VIS).

2. GENERAL

1. Where staff have a copy of a VIS that has been filed with the court, staff will consider the VIS in making case management decisions.

3. PROCEDURES

1. Institutional correctional/young offenders services staff will develop a protocol or agreement with Court Services for the provision of copies of any VIS that has been considered by a sentencing court.

J. Information Guide

1. INFORMATION THAT MUST BE PROVIDED TO VICTIMS

1. Only a victim can decide whether or not to complete a Victim Impact Statement (VIS).
2. The judge will consider the VIS at the time of sentencing.
3. The judge may not allow certain parts of a VIS to be used in court.
4. Victims should be aware of the following regarding the VIS:
 - a. A copy will be given to the accused and the defence lawyer. This is called disclosure and is required by law.
 - b. The VIS will only be filed with the court after a finding of guilt is made.
 - c. Once a VIS is filed with the court it becomes a public document.
 - d. The VIS will be seen by many persons responsible for the administration of justice. For example it may be referred to by:
 - i. The prosecutor when preparing for bail hearings,
 - ii. Probation staff when supervising probation orders,
 - iii. Corrections staff when making decisions about the release of an offender from jail,
 - e. Victims who testify at a preliminary hearing, trial, or sentencing hearing may be asked questions about their VIS.
5. The victim may update a VIS at any time prior to sentencing, by contacting the police or prosecutor.
6. Victims may read their VIS in court, or present the VIS in any other manner that the court approves of. Victims who wish to read their VIS in court must tell the prosecutor.

7. A victim who wishes to give a VIS but who can not provide a written statement in English or French should discuss this with the police, victims services, or prosecutor. In some cases it may be possible for the statement to be recorded and presented in a different way.

2. HOW TO COMPLETE A VIS

1. A Victim Impact Statement (VIS) is about the victim, not the accused and should describe how the crime has affected the victim.
2. A VIS must be completed in the victim's own words describing the emotional, physical and financial harm done, or loss suffered as a result of the crime.
3. The victims should identify, in their VIS, their relationship to the offence and/or to other victim(s) of the offence.
4. Vengeful comments should be avoided.
5. Suggestions about the sentence should not be included in a VIS, because it is up to the judge to make sentencing decisions.
6. A VIS may contain concerns about probation conditions. For example it may be important to state whether the victim does or does not want contact with the accused.
7. Information regarding the facts of the offence should have been included in the Witness Statement, and should not be repeated in the VIS.
8. A VIS should not contain complaints about the justice system and how the case was handled.
9. A VIS must be legible (readable).