

ACTCS

Victim Involvement with decisions of the Sentence Administration Board

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Various legislation in the ACT aims to acknowledge, protect and promote the interests of victims in the administration of justice. The *Victims of Crimes Act 1994* outlines the principles that apply to victims in the administration of justice. A victim who is known to have expressed concern about the need for protection from an offender convicted of an offence against them should be told about the offender's impending release from custody.

The Sentence Administration Board (the Board) is an independent body that determines whether an offender is suitable for release to parole. It also provides recommendations to the Attorney-General about the release of offenders on licence. The Board also decides the consequences of sentenced offenders failing to comply with parole orders, intensive correction orders and licences. The Board has the power to reinstate an intensive correction order if it has been cancelled.

Victims are given the opportunity to provide a written submission to the Board about an offender's possible release on parole or licence. A victim's submission can be kept confidential to the Board i.e. not disclosed to the offender ("secured").

The Board usually provides the offender with an opportunity to attend a hearing to give oral evidence and to answer questions of the Board. Hearings before the Board are usually closed to members of the public. Before the Board determines an offender's suitability for release to parole or on licence, the Board must take all reasonable steps to seek the views of any registered victims about the possible release of the offender. Registered victims, are invited to make a written submission to the Board about any relevant concerns or issues, for example, any concerns they or their family have about the need for protections from the offender. The Board must consider any submission by a victim when determining whether an offender should, or should not, be released and, if released then the nature of parole conditions that the offender should be subject to.

It is important to note that the Board cannot change the sentence imposed by a court or conduct a re-trial of the offender. It cannot hear new evidence in relation to the crime committed, nor can it refuse an offender's release for the reasons that there is a perception that the sentence imposed was lenient. The Board is also unable to make orders for financial restitution to victims.

A victim submission is a statement written by or on behalf of the victim about any concern or issue relevant to the decision to be made. Its purpose is to inform the Board of the victim's views, to provide information that the victim wishes to provide, for example about any concerns they, or their family, have

about the need to be protected from violence or harassment should the offender be released. Note, any victim impact statements provided during the court proceedings that resulted in conviction of the offender are usually available to the Board.

A victim submission to the Board is one element of the information and documents that the Board considers in its decision making. There are other elements that are considered when making decisions. Factors taken into consideration by the Board include, the offender's criminal history and court sentencing remarks, his or her previous behaviour in custody and history of response to supervision in the community, offence specific programs and rehabilitation undertaken while in custody, their post release plans and any reports, assessments and recommendations made by professionals such as psychiatrists, psychologists, custodial officers and case managers, regarding the offenders release.

Providing a victims submission to the Board is voluntary. The Board will not allow an offender access to a submission in certain circumstances. For example, a victim's submission can be secured if the Board considers that, in giving it to the offender it could pose substantial risk to a victim or another person's safety. The process by which a submission is protected in this way is called 'securing'. If a victim does not wish to have the offender see their submission, they should request that the submission be secured. A judicial member of the Board will then decide whether the submission should, or should not, be secured. In the event that the judicial member decides not to secure the submission, the victim will be given the opportunity to withdraw the submission.

A victim's submission is usually in the form of a written submission. An application to give oral evidence before the Board will be considered and receiving oral evidence from a victim is at the discretion of the Board. Proceedings before the Board are usually closed to the public. A victim and/or their support person/s must seek permission from the Board to attend any of its hearings, and to give oral evidence. The Victim Liaison Officer, ACT Corrective Services can assist registered victims with this process. Currently oral evidence provided by a victim to the Board may not be able to be secured in the same manner as written submissions, so victims who wish to have their evidence secured must do so in writing.

To be provided with an opportunity to make a submission to the Board, a victim must have suffered harm as a result of a criminal act committed by an offender who is serving a term of imprisonment with a non-parole period, or in the case of licence applications, a term of life imprisonment. A victim that has suffered harm includes the primary victim of the offence, or if the primary victim dies as a direct result of the criminal act committed against them, the financial or psychological dependants of that victim.

It is strongly recommended that any victim consider registering on the ACT Victims Register if they wish to be kept informed about matters relevant to an offender that come before the Board for decision. Although efforts are made to contact and provide all eligible registered victims with an opportunity to make a written submission to the Board, this is not always possible for example up to date contact details for victims may not be known.

Victims can register by contacting the Victims Liaison Officer as follows:

Telephone: (02) 6207 0836

Email: victims.register@act.gov.au

Postal address: GPO Box 158, Canberra ACT 2601