

# VICTIMS' RIGHTS IN CANADA

## NO-CONTACT ORDERS

### What are No-Contact Orders?

No-contact orders are orders the Court or the police make that limit or prevent the accused person from contacting the victim, the victim's spouse, the victim's children, or other identified person.

Various laws under the Criminal Code dictate when to place no-contact conditions on an accused and what those conditions may be.

### When can No-Contact Orders be put in place?

No-contact orders can be put in place at all stages of the criminal justice process, from the time charges are laid until the accused has served his or her complete sentence.

If the police choose to release the accused instead of asking for a bail hearing, the police may impose release conditions on the accused. These may include a condition to not contact the victim.

If the Court chooses to release an accused after a bail hearing and before trial, the terms of release often include a no-contact condition.

A no-contact condition usually remains in place until the accused is sentenced or found not guilty at trial. When an accused is detained in custody following a bail hearing or sentencing, the Court may also make a no-contact order forbidding the accused to contact certain people while in custody.

If an accused receives a community-based sentence, such as a probation order or a conditional sentence (house arrest), a no-contact condition is often included. This condition usually remains in place for the full term of the sentence. Since September 2014, no-contact conditions have been required for all probation orders and conditional sentences unless:

- the Court finds there are exceptional circumstances; or
- the victim agrees to the contact.

### Who Can Ask for a No-Contact Order?

If the police release an accused instead of asking for a bail hearing, the police will include a no-contact condition in the terms of release.

If there is a bail hearing, the Court decides whether or not to release the accused pending the trial and what conditions to include in the terms of release. At the bail hearing, the defence lawyer and the prosecutor tell the Court why they think the accused should or should not be released and what conditions are needed if the accused is to be released. The Court will decide the release conditions. This may include a no-contact condition.

Sometimes, the prosecutor and defence lawyer will both recommend to the Court that the accused be released at a bail hearing with certain release conditions. The Court must also agree to this release and these conditions, including the no-contact order.



RIGHT TO INFORMATION



RIGHT TO PROTECTION



RIGHT TO PARTICIPATION



RIGHT TO SEEK RESTITUTION



RIGHT TO MAKE A COMPLAINT



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## What about the Victim's Concerns?

A victim who has concerns or wants to have input into the release conditions, should contact Victim Services. Victim Services will let the prosecutor know about the victim's concerns.

If the victim needs some contact with the accused, such as to make arrangements related to the custody and access of a child or to paying bills, they should tell Victim Services as soon as possible. Victim Services will relay the victim's concerns to the prosecutor, who can ask for some contact either through a third party or with the written permission of a bail supervisor or probation officer.

The accused's release conditions can only be changed or removed by the Court.

## Under What Circumstances is a No-Contact Order made?

An accused will be placed under a no-contact order when:

- the victim is likely to be a witness against the accused at trial;
- the accused is charged with an offence involving violence or threats against the victim; or
- the victim expresses a concern based on reasonable grounds about being contacted by the accused.

The prosecutor or the Court also takes many other factors into account, depending on the accused and the charges. Usually, the seriousness of the offence is an important factor in deciding whether to grant a no-contact order. For example, a no-contact condition would likely be ordered when an accused is charged with assault or uttering threats against a victim.

## Possible Conditions of a No-Contact Order

The following are common conditions of a no-contact order:

- No contact, direct or indirect, with the victim:
  - This is the most common wording of a no-contact condition. Contact often includes texting, emailing, writing notes, having another person do any of these things or asking another person to contact the victim.
- No contact with the victim when consuming alcohol or prohibited substances:
  - This is a common condition, and usually applies when consumption of alcohol or illegal drugs were part of the offence. This condition is more frequently a condition of a sentence rather than a release condition.
- No contact with the victim, except through a third party to make arrangements related to the custody and access of a child:
  - This condition is common when the victim and accused have children and contact is needed to make arrangements related to the custody and access of a child. If this type of contact between the parties is needed, Victim Services should be told, who can then tell the prosecutor.
- No contact with the victim, except with the written permission of a bail supervisor or probation officer:
  - This condition applies to everyone who takes part in the Domestic Violence Treatment Options Court. It is a regular release condition for anyone charged with intra-relationship violence. This condition gives the bail supervisor the discretion to decide whether to permit contact between the accused and victim.
- Do not go to the residence or workplace of the victim:
  - This condition refers to specific locations where the victim is most of the time. For example, if the accused cannot go to the victim's home or workplace, he or she has fewer opportunities to contact the victim.

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## Where is more information available?

If you or someone you know has been a victim of crime, there is help. All provinces and territories offer services for victims of crime. They can help you if you need information or other assistance. The Victim Services Directory can help you to find victim services near you:

<http://www.justice.gc.ca/eng/cj-jp/victims-victimes/vsd-rsv/index.html>

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