

CHV2O Unit 2: Rights and Responsibilities

Activity 6: Protection of Rights

Overview

In this Activity, students are asked to examine the rights of an accused person and the rights of a victim.

Lesson

We often hear people complain that there is no justice because accused people have more rights than the public does. This balancing of the rights of society with the rights of the accused is one of the most difficult tasks for our justice system. Our courts have to ensure that society is protected while at the same time ensuring that an accused person receives a fair trial.

To gain a better understanding of the difficulties experienced by our justice system, you will examine two areas - the rights of the accused and the rights of the victim. When you have finished your examination, you will be in a better position to decide whether or not our legal system has balanced the scales of justice.

To learn more about the rights of the accused, read the section below:

Rights of the Accused

With the passing of the Charter of Rights and Freedoms in 1982, the rights of an accused person have been guaranteed in Sections 8 to 14.

Some of these important rights include:

Search or seizure

8. For the most part, the police need to obtain a warrant before they are able to search your home.

Detention or imprisonment

9. You cannot just be arrested - there must be a reason.

Arrest or detention

10. When you have been arrested, you have the following rights:

- a) to be told immediately why you are being arrested;
- b) to be able to talk to a lawyer; and
- c) to be released if the detention is not lawful.

Proceedings in criminal and penal matters

11. If you have been charged with an offence, you have the following rights:

- a) to be told what offence you have been charged with;
- b) to be tried in court within a reasonable time;
- c) not to have to testify;

- d) to be presumed innocent until proven guilty in a fair and public trial by an independent and impartial tribunal;
- e) not to be denied reasonable bail;
- f) to have a trial by a jury if the maximum punishment for the offence is imprisonment for five years or more;
- g) if found not guilty of the offence, you cannot be tried for it again, and if found guilty and punished for the offence, you cannot be tried or punished for it again.

Treatment or punishment

12. You have the right not to receive any cruel and unusual treatment or punishment.

Interpreter

14. If you do not speak English or French, you have the right to have an interpreter present. If you are deaf, you also have the right to an interpreter.

Rights of Victims

With the passing of the *Charter* in 1982, there was a focus on the rights of the accused. But what about the rights of the victims of crime - those people who have suffered because of the crimes committed against them or their loved ones?

To give victims a voice in criminal proceedings, Victim Impact Statements were created by the *Criminal Code* in 1995. At first, victims would write a statement about the effect of the crime on their lives and it would be given to a judge to read before he or she decided on punishment. After 2000, victims were allowed to come to court to speak directly to the judge. The rights of victims are found in a variety of pieces of legislation. As a result, it is sometimes difficult to determine exactly what they are at the different stages of proceedings. To help, the Department of Justice has published a booklet entitled, "A Crime Victim's Guide to the Criminal Justice System."

In Ontario, a law called *An Act Respecting Victims of Crime - Victims' Bill of Rights*, was passed on June 11, 1996. The Act supports and recognizes the needs and rights of victims of crime in both the criminal and civil justice system.

Assignment

1. Which three rights do you consider to be the most important? Explain your choices.
2. If there is a conflict between the rights of the accused and the rights of the victim, whose rights should be more important? Why?
3. If you were a victim of a crime, why might you wish to make a statement to the judge? What message would you want to get across to the judge? Why?