

# VICTIMS' RIGHTS IN CANADA

## TESTIFYING WITH A PSEUDONYM

Witnesses, including victims of crime, play a critical role in the criminal justice system and contribute to the proper administration of justice. This role is undermined when witnesses are intimidated. Intimidation of witnesses may prevent or alter their testimony. Fear of intimidation can also prevent witnesses from coming forward in the first place to assist police. Victims and witnesses may also be reluctant to come forward for fear of their safety, even if there are not any specific instances of intimidation directed at them.

### Non-Disclosure of a Witness' Identity

Section 486.31 of the *Criminal Code* was enacted in 2015 and authorizes the Court to make an order preventing the disclosure of any information that could identify a witness, if the Court is of the opinion that the order is in the interest of the proper administration of justice. In such cases, a witness will typically be identified through the use of a pseudonym.

Cases where the Court may order that a witness testify using a pseudonym will often involve situations where a witness may face threats to their safety if their true identity is revealed. In determining whether to make an order, the Court must take into consideration the following factors:

- the right to a fair and public hearing;
- the nature of the offence;
- whether the witness needs the order for their security or to protect them from intimidation or retaliation;

- whether the order is needed to protect the security of anyone known to the witness;
- whether the order is needed to protect the identity of an undercover peace officer;
- encouraging the reporting of offences and the participation of victims and witnesses in the criminal justice process;
- the importance of the witness' testimony to the case;
- whether effective alternatives to the order are available;
- the positive and negative effects of the proposed order;
- whether the order is needed to protect the identity of a witness with responsibilities related to national security or intelligence; and
- any other fact that the Court considers relevant.

### Who can apply for such an order?

Any witness can apply for an order to have their identity protected from disclosure. An application must be made setting out the reasons for which the order is sought. The Court may hold a hearing to consider the application and that hearing can be, in appropriate cases, closed to the public.



RIGHT TO INFORMATION



RIGHT TO PROTECTION



RIGHT TO PARTICIPATION



RIGHT TO SEEK RESTITUTION



RIGHT TO MAKE A COMPLAINT



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## Where can you get more information?

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>