

**Victims' Rights Education Project**  
***Victims' Rights Handbook***

**A**  
**Component of the**  
**Victims' Rights Education Project**

***Prepared by:***  
**National Victims' Constitutional Amendment Network**

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**The National Victim Constitutional Amendment Network (NVCAN) is a non-profit organization comprised of leaders in the victim rights movement from across the nation. NVCAN is dedicated to advancing and supporting the rights of crime victims at all levels.**

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Crime Victims' Handbook. Published in 1995 by the American Probation and Parole Association, Lexington, KY.

Criminal Justice Guide. Published in 1998 by the Alaska Judicial Council, Anchorage, AK.

“Dynamics of the Criminal Justice System,” Chapter 2, Section 2, of the National Victim Assistance Academy Text. Written by Anne K. Seymour, Mario Gaboury and Christine Edmunds. Published in 2000 by the Office for Victims of Crime, U.S. Department of Justice, Washington, DC.

“Guide to Victims’ Rights.” Published in 1992 by the Wisconsin Department of Justice Office of Crime Victim Services, Madison, WI.

“Probation and Parole Frequently Asked Questions.” Published on the Virginia Department of Corrections web site: [www.vadoc.state.va.us/offenders/community/faqs.html](http://www.vadoc.state.va.us/offenders/community/faqs.html).

“Time in Prison.” Published (no date) by the New Hampshire Department of Corrections, Concord, NH.

Victim/Witness Handbook. “The Role of Victims and Witnesses Within the Criminal Justice System.” Published (no date) by the Wyoming Office of the Attorney General, Cheyenne, WY.

Victim Services in Corrections. Written by Anne K. Seymour in 1999, and published by the Office for Victims of Crime, U.S. Department of Justice, Washington, D.C.

“You Are Not Alone: An Informational Guide for Victims and Survivors of Crime in Vermont.” Published by the Vermont Center for Crime Victim Services (no date), Waterbury, CT.

## Introduction

### The Victim's Rights Education Project

Since the inception of the victim assistance field in 1972, over 32,000 statutes have been passed in states that define and protect the rights of crime victims. For many victims, these victims' rights laws become their "guide" to understand and navigate the criminal justice system, and give them a sense of control over their destiny after they have been harmed by crime. Victims' rights statutes are essential to our nation's ultimate goal of "justice for all."

The Victims' Rights Education Project, sponsored by the National Victims' Constitutional Amendment Network has developed the Victims' Rights Education Project Toolkit to help victims, witnesses and the American public better understand victims' rights and how to exercise them. This Toolkit was designed with input from professionals and volunteers who include victims/survivors, victim assistance professionals, criminal justice professionals, and legal counsel. The Project conducted a series of group field interviews with crime victims/survivors, service providers, justice and other allied professionals in 12 states. The data resulting from this vital input from the field were collected and analyzed. In addition, a wide range of existing resources about victims' rights – including laws, brochures, handbooks, and web sites – were reviewed to contribute to the development of the Toolkit. The Tools include this *Victims' Rights Handbook* and:

- The *Creating a Victims' Rights Public Education Strategy Guidebook* that helps victim service providers, and organizations and agencies that assist victims of crime, develop a strategy to educate crime victims and survivors, criminal justice officials and the rest of society about victims' rights, what they mean, and why they are important.
- An *Introduction and Overview* that provides a complete description of the Project and its products and deliverables. It describes the target audiences; addresses the potential for "mixing and matching Tools"; and suggests considerations for funding and marketing the products customized by victim service providers, and organizations and agencies that assist victims of crime.
- A *Crime Victims' Rights Miranda Card* that includes the core rights of victims in a brief format that can be contained on a pocket-size "Miranda style" card to be handed to crime victims at the first point of contact with law enforcement.
- A *Victims' Rights Brochure Kit* that provides prototypes for victim service providers, and organizations and agencies that assist victims of crime to customize for their jurisdictions.
- A *Frequently Asked Questions (FAQ) Kit* that includes a model for victim service providers, and organizations and agencies that assist victims of crime, to

customize a FAQ List of commonly asked questions and issues of concern to crime victims in their state and/or jurisdictions.

- A *Talking Points Kit* for victim service providers, and organizations and agencies that assist victims of crime, to enhance training, educational materials and presentations that address the need for and value of victims' rights.
- *Promising Practices in the Compliance and Enforcement of Victims' Rights Kit*, which provides guidance for victims to exercise their rights.

## Goal and Objectives

The *Victims' Rights Handbook* was written to fulfill three goals:

1. To provide a broad overview of the criminal justice system, and the rights and roles of crime victims within the justice process.
2. To provide victims with information they need to know in order to ask informed questions about their rights, available services, and the criminal justice system.
3. To provide victim service providers, criminal justice professionals, and allied professionals with a foundation document that can be easily adapted to reflect the laws and practices of their jurisdictions and agencies.

## How to Utilize This Handbook

This *Handbook* offers a basic, general overview of the criminal justice system and crime victims' rights and services. It includes simple descriptions of justice processes, victims' rights, and victim assistance services, including important information for victims to consider at the various points of the justice process. It is written in language and terms that are easy-to-understand.

To make the model most useful to you and the victims you seek to educate, you will need to adapt the model to reflect the actual laws in your jurisdiction and create your own customized Handbook. NVCAN asks that handbook drafters add the following attribution to NVCAN on the last page of each brochure, "*The prototype for the development of this Handbook was created by NVCAN, a non-profit organization comprised of leaders in the victim rights movement from across the nation.*"

The components of this *Handbook* are relevant to most jurisdictions. In any case where there may be variations in law or practice, the information is *italicized* to stand out, and to receive further consideration for adaptation. By looking for the *italicized sections* of this *Handbook*, you can easily identify issues and topics that require personalization to your jurisdiction or agency.

In addition, the "Overview of the Criminal Justice System" is divided into the seven agencies that comprise the system. Each section can be adapted and/or enhanced to create a "mini-handbook" that is specific to a criminal justice agency.



## **Incorporating the *Victims' Rights Handbook* Into an Overall Public Education Strategy**

There are a variety of innovative approaches that can incorporate the *Victims' Rights Handbook* into effective victim and public outreach strategies, and ensure that this important information about victims' rights reaches the widest audience possible. To facilitate this process, it is important to review the *Creating a Victims' Rights Public Education Strategy Guide* Tool that offers useful tips to:

- Create a public education strategy team.
- Create strategy goals and objectives.
- Determine target audiences for the Victims' Rights Handbook.
- Adapt the Victims' Rights Handbook to a specific jurisdiction.
- Effectively reach diverse populations.
- Utilize the contents of the Victims' Rights Handbook to enhance public policy and agency policy development.
- Disseminate the Victims' Rights Handbook through paper-based, electronic, and training and public education venues.
- Utilize the components of the Victims' Rights Handbook for news media outreach and interviews.

## An Overview of Victims' Rights

### Definition of Victims' Rights

The term "rights" has many different definitions. The Webster's Dictionary definition is that a right is "the power or privilege to which one is justly entitled." The more practical definition of a right, when being used to describe a "victim's right," is that a right is "the power granted by law that entitles a victim to require another person, usually a criminal justice official (i.e., police, prosecutor, judge, probation or parole officer, or corrections official), to perform a specific act or refrain from performing a specific act."

For example, a victim's right to notification of a parole hearing entitles the victim to require the paroling authority to inform him or her of the time, date, and location of such a hearing. Similarly, the victim's right to attend that same parole hearing entitles the victim to prevent the paroling authority from excluding them from the hearing.

Although victims of crime as a general matter have many rights, which cover a wide variety of subjects, they have eight core rights throughout the criminal justice process:

- Victim notification.
- Victim protection.
- Victim impact statements.
- Victim participation/attendance.
- Victim restitution.
- Victim information and referrals.
- Victim compensation (in cases of violent crime).
- Victim right to information about compliance.

These core rights are referred to throughout this *Handbook* when they are relevant and applicable to a specific component of the criminal justice system. In addition, some states have laws that address "compliance with victims' rights", i.e., the range of actions that can happen when a justice official willfully denies a crime victim a rights that is defined by law. The "*Promising Practices in the Compliance and Enforcement of Victims' Rights Kit*," has been developed that highlights proactive measures that victims can take to know, understand and exercise their rights, as well as "promising practices" in victims' rights compliance.

Detailed information about crime victims' core rights is included in the "*Victims' Rights Brochure Kit*." The following provides a brief overview of these rights.

## **Right to Notification**

Victim notification is essential to help victims understand and become informed about criminal justice processes and supportive services available to help them. In general, victims are notified about the status of their case, the status and location of the alleged or convicted offender, and services that can help them rebuild their lives in the aftermath of crime.

## **Right to Reasonable Protection**

Victims of crime may have important concerns about their personal safety, and that of their family and loved ones. Often, victims' concerns about safety arise from the trauma of victimization; from real or implied threats made by the alleged or convicted offender and his or her colleagues; or from not knowing or understanding their rights to protection as defined under law, and the range of services available to identify and address their safety concerns. When victims have concerns about their safety, and identify these concerns to criminal justice and victim assistance officials, a variety of approaches can be developed that promote safety for the victim within the criminal justice system, as well as at home and in the community.

## **Right to Be Heard**

Victims have the right to be heard at various stages of the criminal justice process, including at the time of sentencing and at any parole release hearing. The victim impact statement is the victim's opportunity to describe how the crime affected him or her — emotionally, physically, financially, and spiritually. The "voice of the victim" is clearly heard through the victim impact statement process, and provides valuable information to the court to determine a just and effective *sentence*, or to the paroling authority to determine decisions relevant to an inmate's possible release. For many victims, it is also a useful process to personally reflect on how the crime has affected them, their family, and friends.

## **Right to Restitution**

Victim restitution is the payment of crime-related expenses to a victim from an offender who is convicted of a crime. It is designed to help crime victims recover the out-of-pocket expenses that result from the crime, such as medical treatment for physical injuries; the costs of mental health counseling; and the loss of or damage to property. It generally does not cover some costs, such as those resulting from "pain and suffering." When an offender is found guilty, the court can order that he or she pay restitution to the victim based on the financial losses resulting from the crime.

## **Right to Victim Information and Referral**

Often, victims of crime may have needs, issues, and concerns about how they feel, what is going to happen, their role as a victim or witness, and what services are available to help them. There is a wide range of services to help victims cope in the

aftermath of a crime, and to help them make informed decisions about their lives. Many services are available to *all* victims of crime, while some victims' rights and services require that a victim reports the crime and cooperates with the investigation and prosecution of a criminal case. In addition, some specialized services are available to help victims of specific types of crime.

Victim information and referrals can be provided by criminal justice agencies and professionals, and also by community-based victim service organizations.

### **Right to Apply for Victim Compensation**

State victim compensation programs provide financial assistance to victims of nearly every type of violent crime including rape, robbery, assault, sexual abuse, drunk driving, domestic violence, and survivors of homicide. The programs pay for expenses such as medical care, mental health counseling, lost wages, and — in cases of homicide — funerals and loss of support. These expenses or costs cannot be covered by insurance or some other readily available “collateral source.”

Each state has eligibility requirements that victims must meet to qualify for compensation benefits. While eligibility requirements vary from state to state, virtually all programs require victims to:

- Report the crime promptly to law enforcement. Seventy-two hours is the general standard, although many programs have longer periods and a few have shorter periods. Nearly all states have “good cause” exceptions applied liberally to children, incapacitated victims, and others with special circumstances. The apprehension or conviction of a perpetrator is not a prerequisite to applying for or receiving compensation benefits.
- Cooperate with police and prosecutors in the investigation and prosecution of the case.
- Submit a timely application to the compensation program, generally within one or two years from the date of the crime. A few states have shorter or longer deadlines, and most have the ability to waive these deadlines for exceptional circumstances. Children are generally exempted from timely filing requirements.

### **Guidelines for Knowing and Implementing Your Rights as a Victim of Crime**

These guidelines can help ensure that you are aware of your rights as a crime victim, who can help you understand your rights, who is responsible for implementation, and any possible limitations to the implementation of these rights. They are designed to help you actively exert your rights, and to respectfully inform or remind justice officials of any obligations they may have under law to enforce your rights as a victim of crime.

- Create a file folder to help manage *all* information related to your rights as a victim of crime. You should:

- Place materials in your file so you can track the information by date.
- Include written information available from justice agencies about your rights as a crime victim for easy reference.
- Include a paper on the inside cover of the file where you can record questions or issues that arise as your case proceeds. (This “easy access” will help you better organize your questions and concerns.)
- Create a “telephone log” document to help you keep record of all phone conversations you have relevant to your rights. Include the date, time of the call, to whom you spoke, any actions you must take, and any outcomes. A *“Crime Victims’ Rights Record Keeping Log”* is included at the end of this Handbook for your convenience.
- Carefully document any interactions you may have with justice officials, victim service providers, attorneys, and others (including copies of written correspondence, e-mails, telephone calls, and other communications) using the *“Crime Victims’ Rights Record Keeping Log.”*
- Obtain a written copy of your rights as a victim of crime. These may include:
  - Your state’s “Victims’ Bill of Rights.”
  - Your state’s constitutional amendment for victims of crime (applicable in 32 states).
  - Specific statutes (i.e., state laws) that describe crime victims’ rights and, in many cases, who is responsible for implementing them.
- Know for a fact what your rights as a crime victim are:
  - Ask any justice official or victim advocate for written information about your statutory or constitutional rights as a victim of crime. (This may include handbooks, brochures, or information featured on criminal justice and/or victim assistance agency web sites.)
  - Ask if there is any specific language that addresses “compliance” with your rights (such as who is responsible for implementation and whether or not anything will happen if your rights under law are *not* exercised).
- Determine who can help you better understand and implement your rights:
  - Criminal or juvenile justice officials.
  - Community- or system-based victim service provider or victim advocate.
  - Legal professionals.
  - Others.
- Ask specific questions about your rights, such as:
  - “What does this right mean to me, and to my case?”

- “Who do I need to inform about my current contact information so I can receive notices and other information about the case?”
  - “*What* will happen, and *when* will it happen?”
  - “Who can help make sure that my right is exercised?”
  - “What is my role (if any) in making sure this right is exercised?”
  - “What can I do if I believe my victims’ rights under law have been violated?”
- Ask whom within the criminal or juvenile justice system is responsible for implementing your right(s) as a victim of crime:
    - If the law does not clearly state who is responsible, ask for clarification.
    - Ask if there are any agency policies, or inter-agency policies, that clarify who is responsible for implementing your right(s) as a victim of crime.
  - In cases involving a prosecution, identify the prosecutor who will be handling your case:
    - As soon as a prosecution is initiated, you should contact the prosecutor assigned to your case.
    - Have a meaningful dialogue about your basic rights, and the anticipated timetable of the case. (The timing of key events and hearings may fluctuate, based upon a variety of issues, such as the court’s schedule, availability of witnesses, etc.)
    - In addition to seeking information about your basic rights, you can ask the prosecutor about other services that can help you cope with the physical, emotional, and financial impact of the crime on you and your family.

### **Communicating with Justice Officials**

While it is important to be aware of your rights and how to exercise them, and to carefully document all information you receive and give relevant to your case and rights, it is also very important to have *respectful communications* with justice officials and others who may have full or partial responsibility for victims’ rights implementation.

Even though a criminal justice official may have a specific duty to implement a right to which you are entitled, the law generally allows such officials considerable latitude with regard to the way in which they carry out their responsibility. As such, officials can choose to do the minimum required by the letter of the law, or they can go beyond their “call of duty” and be very helpful. The approach they adopt may depend upon how they view the victim’s attitude and reasonableness.

Often, such officials have large caseloads and are extremely busy, which can affect the timeliness of their responses to your questions and concerns. Sometimes, there are

other professionals — such as system- or community-based victim service providers, or legal aid attorneys — who can also help you better understand your rights.

It is helpful to have a meaningful and respectful dialogue in your initial interactions with justice officials — in person, in writing, or over the telephone — about *why* it is important to you to exercise your rights. By “personalizing” your case, you put a “human face” on a case file filled with paper, and help justice officials better understand your feelings and concerns.

Once you’ve identified your rights, and who can help you implement them, these tips can help facilitate two-way communications that are most helpful to you, to your case, and to the justice officials with whom you are working:

- Identify the name, title, agency, and all relevant contact information for the officials (i.e., mailing address, agency telephone number, direct telephone number [if applicable], e-mail address, and agency web site [if applicable]).
- Initiate a respectful discussion about your *expectations* as a crime victim. This can help the justice official tell you if these expectations are *realistic* in terms of your legal rights, and also give him or her the opportunity to provide you with relevant information about and referrals to services that can further assist you.
- Utilize the “Guidelines” above to frame your questions and concerns (and if you have other issues to address, make sure you bring them up).
- Respectfully let them know that you are aware of how busy they are, and try to identify the best time to reach them if you have questions or concerns (for example, evenings or early mornings, or a designated day when they don’t have hearings or other activities, may be best).
- Let them also know that you are fully aware of your rights, and have an expectation that they will help you implement them, in accordance with the law.
- Determine if there is another staff person or liaison (often a victim assistance professional within the agency) who can help you if they are busy, or unable to immediately answer your questions.
- As mentioned in the “Guidelines,” carefully document all interactions in your personal case file. Record keeping is very important to make sure you track key issues and activities related to your case and your rights as a victim of crime.

### **If You Think Your Rights Have Been Violated**

Once you have become educated about your rights, and have had a meaningful dialogue with any justice officials who are responsible for their implementation, you have laid a strong foundation to enhance implementing your rights.

There may, however, be times when you feel one or more of your rights have not been exercised in accordance with the law. It is important to first directly communicate with the specific justice official whom you believe did not effectively exercise your right(s).

It is also helpful to find out if there are venues available from state or local associations that represent justice officials (i.e., law enforcement, prosecutors, judges, probation, parole and/or institutional corrections) that review complaints or seek to enforce compliance with the highest ethical standards of practice. A system- or community-based victim advocate can help you identify any such processes if they exist.

The following suggestions can help you initiate efforts to determine if your rights were, indeed, violated, and what (if anything) you can do to remedy the situation.

- Talk directly to the justice official whom you believe has responsibility for implementing a right that was not exercised. Be very clear about your concerns, and respectful in all communications.
- Inform the justice official that you will also be documenting your concern in writing. Do so, and retain a copy of any documentation and/or correspondence.
- Listen to what he/she has to say. Ask questions, obtain more information, and document the response you receive.
- If you are not satisfied with the response to a perceived violation of your right(s), respectfully inform the official that you will speak to his/her supervisor about your concerns, and about their response.
  - Follow-up with a letter or e-mail that thanks the official for taking time to speak with you, and documents your continued concerns, as well as your plans to seek further remedies.
- Identify the justice official's supervisor:
  - Contact him/her by telephone, in writing, or schedule an appointment to visit in person.
  - Provide documentation of all relevant information you have obtained to date, including a copy of your rights as a victim, any correspondence or information related to telephone contacts about your concerns, and other relevant information.
  - Make sure the supervisor knows that you have *first* communicated directly with the official who you believe did not exercise your rights in accordance with the law, and that you are not satisfied with his or her response to your concerns.
- Ask specifically about any remedies you may have in accordance with:
  - State law.
  - Justice agency policies.



- Other sources (such as ethics or official complaint venues sometimes provided through state and local associations that represent justice officials).
- Carefully document any remedies that are offered, and pursue them with vigor.

# An Overview of the Criminal Justice System

## Introduction

In the United States, the criminal justice system is our society's method of dealing with crime and promoting individual and public safety. It is designed to prevent and respond to crime; identify, apprehend, and prosecute persons charged with crime; and incarcerate and supervise convicted offenders with efforts to rehabilitate them, and hold them accountable for their criminal actions. The criminal justice system is a sequential process that includes at least seven key agencies:

1. Law enforcement.
2. Prosecution.
3. Defense counsel.
4. Judiciary.
5. Probation.
6. Institutional corrections.
7. Parole.

While these agencies have specific roles and responsibilities in promoting public and victim safety, often these roles are shared, and require ongoing cooperation among agencies to ensure effective operations.

The people involved in the criminal justice process have relationships with and responsibilities to alleged and convicted offenders, victims and witnesses of crime, and communities that are concerned about individual and public safety. They are responsible for ensuring individual rights, and for implementing justice processes that are fair and equitable to all parties involved.

This "Overview of the Criminal Justice System" is designed to:

- Describe the justice processes that occur within the law enforcement, court, and corrections processes of the criminal justice system.
- Highlight core rights and services for victims of crime within the criminal justice system.
- Offer considerations for victims of crime as they proceed through criminal justice processes.

## Law Enforcement

Law enforcement agencies operate at many levels, which can include:

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- Local (city, village, and other municipal police agencies).
- County (County Police Department or Sheriff's Office, which includes the county jail).
- State (highway patrol and state police).
- Higher education (police forces on college and university campuses).

Law enforcement agencies work to prevent and respond to crimes, and to protect individuals and property. They are the "first responders" when a crime is reported by a victim, witness, or a third party with knowledge that a crime occurred.

### **Law Enforcement and Victim Assistance Services**

*In (jurisdiction/law enforcement agency), there is a Victim Assistance Program to help victims in the immediate aftermath of the crime. Services available from the Program include:*

- Providing crisis intervention at crime scenes.
- Informing victims of their rights and ensuring that they understand them.
- Providing information about the law enforcement and criminal justice processes.
- Providing information about the status of the case and any arrest that is made.
- Providing violent crime victims with information about the Crime Victim Compensation Program, and assistance in completing an application to cover any out-of-pocket financial losses directly resulting from the crime.
- Intervene on behalf of victims with creditors and employers, if needed.
- Facilitate the prompt return of property that may have been taken for evidence.
- Providing information about and referrals to additional victim services in the criminal justice system and the community.

### **The Investigation**

Many criminal cases begin with the police investigation of a reported crime. The police may determine and secure a crime scene; interview victims, witnesses and suspects; seek immediate medical or mental health assistance for them, if needed; and identify and document evidence at the scene of the crime.

If a suspect is identified, law enforcement can check to see if he/she has a criminal record, and identify evidence that may link the suspect to the crime (such evidence may include interviews with and/or personal property of the victim). If there is no particular suspect, the police can review reports of similar crimes to identify a possible suspect or pattern of criminal activity.

Sometimes in the law enforcement or investigation phase of the case, a law enforcement officer may ask you questions that appear to be judgmental, or even

appear to blame you. That is not the intent of this type of questioning. The intent is to identify critical facts related to the case and evidence that may identify a perpetrator and/or build a strong criminal case.

In some cases, the investigation can take a long time. Throughout this process, a victim of crime may deal with, and possibly be interviewed by, the original responding officer(s), detectives, and investigators assigned to the case. (*In some jurisdictions*), law enforcement personnel have specialized training and work within specialized units to deal with specific types of crime, such as homicide, sexual assault, domestic violence, and child abuse.

In some investigations, property belonging to the victims or witnesses may be held as evidence. If the investigation results in an arrest and trial, the victim has the right to prompt return of his/her property unless there is a compelling reason for law enforcement to retain the property.

### **The Arrest**

An arrest happens when a law enforcement officer takes a person who is suspected of committing a crime into custody. An arrest can occur:

- If the officer actually witnesses a crime being committed.
- With a warrant from a court that tells police to find the accused person and bring him/her before the court.
- Without a warrant, if there is probable cause (reasonable grounds) to believe that the person committed a crime.

As a victim of crime, you have the right to be notified of the arrest of an alleged offender, as well as his/her status — i.e., whether he/she is held in jail, or released back to the community.

### **Booking**

After an arrest has been made, the law enforcement officer can take the defendant to a police station or jail for booking. The defendant will be fingerprinted and photographed, and the charges against him/her will be written down. The defendant has the right to call an attorney.

In some cases — depending upon the nature of the crime — the alleged offender may be eligible to receive a citation to appear in court, and will not be detained in custody.

The defendant can seek to be released on bail or bond at a hearing that determines whether he/she will be released from custody, and what amount (if any) the defendant must pay as a bond to assure his/her presence at future proceedings, such as hearings and a trial. This may also include specific conditions of bail, such as “no contact with the victim.”

*As a victim of crime, you have the right to be notified if the defendant is released on bail, and to have input into conditions of bail that address any safety concerns you may have.*

### **Complaint or Information**

When the law enforcement agency submits written reports about the crime to the prosecutor, a “criminal complaint” or “information” is filed with the court that details the charge(s) against the defendant. This will include specific “counts” that are separate offenses for which the defendant is being charged. Some felony cases are prosecuted with an indictment by a grand jury.

It is not up to a victim to press or drop charges. This is the role of the prosecutor. Your role is to provide any information you have that can help build a case. The prosecutor can go forward with a case even if you don't want to. Only a judge or prosecutor can dismiss the charge(s) against a criminal defendant.

### **Law Enforcement and Victims' Rights**

Within the law enforcement segment of the criminal justice system, the range of rights for crime victims includes:

- Notification of your rights as a victim of crime.
- Providing the name(s) and contact information for the law enforcement official(s) assigned to your case.
- Notification of the status of the case and alleged offender (such as the arrest of a defendant, bail hearing, a defendant's release on bail, etc.).
- Providing information about protective measures, such as protective or stay-away orders that prevent the defendant from contacting you, and how to obtain such an order.
- Helping victims whose property is taken as evidence to secure prompt return of the property.
- Providing information about and referrals to crime victim services that are available to help you.
- *In cases involving violent crime*, providing information about the Crime Victim Compensation Program, and professionals who can help you complete an application to cover your out-of-pocket financial losses directly resulting from the crime.

## Law Enforcement and Victim Information

As a victim of crime, you may have questions about the law enforcement and investigation processes. Here are some things for you to consider:

- ✓ Document the name and contact information for all law enforcement personnel involved with your case.
- ✓ Identify a specific person you should notify if your contact information (i.e., mailing address, post office box, home or work telephone number, or e-mail address) should change.
- ✓ Ask if there is a specific unit or person within the law enforcement agency that is designated to provide crime victims with information about their rights, assistance, and referrals for additional help.
- ✓ Ask for, and carefully review, your rights as a victim of crime. If you have any questions, ask the law enforcement official for clarification and answers.
- ✓ Ask for information that explains the law enforcement and investigation processes.
- ✓ Ask whether or not your personal contact information is kept confidential from the defendant and/or his/her attorney.
- ✓ Clearly identify any concerns you may have about your safety and security, or that of your family, and ask for information about options for your protection (such as a protective order or no-contact order).
- ✓ If a protective or no-contact order is issued, ask to be notified when it is served to the defendant.
- ✓ Ask the law enforcement agency to conduct a “security check” of your home or workplace to offer recommendations that can enhance your safety.
- ✓ If your property is taken as evidence, ask when and how it will be returned to you.
- ✓ Ask about how and by whom you will be informed of the status of your case.
- ✓ Ask about how and by whom you will be informed about the status and location of the defendant if an arrest is made.
- ✓ Seek medical or mental health services, if needed (including referrals and/or accompaniment from law enforcement).
- ✓ Ask for a referral to a victim assistance professional who can provide help, support, and explanations of the criminal justice system and available victim services.
- ✓ *In cases involving violent crime*, ask for an application for Crime Victim Compensation, and a referral to a victim assistance professional who can help you complete the application.

## The Court Process

### The Trial Process

#### **Arraignment**

This is usually the first hearing where the court identifies the charges against the defendant, as well as his/her rights under law. The defendant can plead “guilty” or “not guilty” or plead “nolo contendere” (also called a “no contest” plea), which means he/she does not contest the charges, but does not admit to them and does not admit civil liability (the “nolo contendere” plea is not an admission of guilt, but carries the same legal consequences as a guilty plea).

*Arraignments are public hearings, which means anybody can attend. As a victim of crime, you have the right to be notified of the date and location of the arraignment hearing. Defendants released from court before the resolution of the case may be given “conditions of release” by the judge. You may request that these conditions include that the defendant has no contact with you, or other provisions that make you feel safer. You can also ask for a copy of the conditions of release.*

#### **Bail Hearing**

This usually happens after the arraignment or first appearance of the defendant. A judge will decide if the defendant can be released from custody before the trial. If the judge decides to release the defendant on bail, he/she can be released on his/her “own recognizance” (“OR”) without posting bail, or by posting a secured bond (which means leaving money or other property with the court to ensure that he/she will appear at future hearings). Secured bonds are usually required in serious felony cases; if there are concerns about the defendant returning to appear in court; or if the defendant poses any threat to victims, witnesses or the community.

If you have any concerns about your personal safety, have been threatened or intimidated by the defendant, or have information that leads you to believe that the defendant will not appear in court, it is crucial that you share these concerns with the prosecutor.

If bail is set, the judge can impose “conditions of release” that address any concerns you may have, such as a request for “no contact” from the defendant, or restrictions on movement, driving, or the use of alcohol or other drugs. You can request a copy of any special conditions of release set by the court. If the defendant does not comply with these conditions of release, the judge can raise the amount of the bond or put the defendant in custody.

## **Preliminary Hearing**

This is a legal proceeding held before a judge to determine if there is sufficient cause to try a suspect on the charges. Arguments, witnesses, and/or evidence are presented by the prosecution and defense counsel at the preliminary hearing.

## **Grand Jury Hearing**

In felony cases, a grand jury examines the evidence supporting charges against the defendant to determine if they are sufficient to warrant a criminal trial.

The grand jury is a panel of citizens who serve for several weeks at a time (or for some other specified period of time). The prosecutor brings evidence of felonies. Each case may take an hour, several days, or even longer. Unlike trial jurors, grand jurors can question the witnesses themselves. If the grand jury decides that the evidence is strong enough for a trial, it indicts the defendant, and the case goes on from there. If the grand jury decides the evidence is weak, it does not return an indictment.

The grand jury meets privately. Defendants, victims, and the public cannot attend unless they are subpoenaed (by a court order requiring a person to appear and give testimony). If the grand jury determines that the evidence supports the charges, it will issue an indictment.

## **The Pre-Trial Process**

After the arraignment, the prosecutor and defense attorney may enter into plea negotiations, where the defendant agrees to plead guilty to the original charge, or a reduced charge (which differs from the original charge). Plea agreements may happen at any time in the court process.

Since most cases do not result in a trial, the plea agreement is the most frequent disposition in criminal cases. The prosecutor considers many factors when deciding whether or not to offer or accept a plea agreement, including:

- Consultation with the victim (which means the victim's input is considered, not that the victim has decision-making authority).
- Ability of a victim or other witness(es) to testify.
- Possible outcome of the case if it went to trial.
- The availability of witnesses (including any from out-of-state or out of the jurisdiction).
- Credibility of potential witnesses.
- Quality of the evidence.
- Whether or not the case can be successfully proven.
- Cost of a trial to the county.



*[State here exactly what rights victims have regarding plea agreements, such as the right to be informed that a plea agreement is being considered, the right to confer with prosecution, the right to attend any plea negotiations hearings, or to have input into conditions of any plea agreement.]*

*In some felony cases, the defense attorney has the opportunity to question all witnesses under oath, including the victim of the crime. This is called a deposition, and it usually takes place at the prosecutor's office and is usually audiotape recorded. You have the right to have your own attorney, at your own expense. The defendant may not be present during the deposition without your agreement, unless the judge orders it. If the court decides that the defendant must be present, you have the right to ask for special protections.*

The prosecutor can also decide to dismiss all the charges against a defendant. This usually occurs when he/she believes there is not enough evidence to convict, or when witnesses are unavailable or unreliable. The victim has the right to be informed if charges against a defendant are dismissed.

## **Trial**

If charges are not dropped, and a plea agreement is not reached, the case will go to trial. Through a process called "voir dire," a group of citizens is brought into the court and questioned by the prosecutor and defense attorney to select a jury. Jurors must be fair and impartial; cannot have any personal knowledge about the crime or the parties involved; and cannot be related to any person involved in the case.

Victims and other witnesses to the crime may be subpoenaed to testify before a judge or jury. A subpoena is a court order requiring a person to appear in court to give testimony, or to produce documents or records. Failure to appear in response to a subpoena constitutes "contempt of court," which is a violation of the law.

## **Prosecution**

When law enforcement has investigated a crime and a suspect has been arrested, the case is then referred to a prosecutor.

The prosecutor is an attorney who works on behalf of the citizens of a state. The prosecutor decides whether police have collected enough evidence against a suspect, and then decides what crime(s) to charge. The prosecutor can negotiate the charges and sentences with the defendant and the defendant's lawyer. Such negotiations may result in a plea agreement. If the case goes to trial, the prosecutor prepares and presents the case. At sentencing, the prosecutor gives the judge information and makes recommendations for the sentence.

The prosecutor represents the interests of the state at all hearings throughout the trial process. While the prosecutor does not directly represent the victim, per se, he/she

should take into consideration the victims' needs and concerns, inform them of their rights under law, and help them to exercise these rights.

### **The Prosecutor's Role in a Trial**

A trial begins with opening statements from the prosecuting attorney, after which the defense attorney may or may not choose to make a statement. Next, the prosecutor will call witnesses and present all of the evidence the state has against the defendant. Any witnesses called to testify may be questioned by the defense attorney (this is called a "cross-examination").

The prosecutor will also cross-examine any of the witnesses who testify on behalf of the defense. After both the prosecution and the defense have called their initial witnesses, there is an opportunity for each to call rebuttal witnesses to testify. When all testimony is completed, both the prosecutor and the defense attorney make a closing argument or statement, which sums up their side of the case.

After the prosecutor and defense counsel are done, the judge gives "jury instructions" to the jury, which explains the law and how to apply it to the facts of the case. The jurors meet privately to deliberate and consider all the evidence. In a criminal trial, they must reach a unanimous verdict of "guilty" or "not guilty" for each crime charged. If they cannot reach a unanimous verdict (a "hung jury"), the jurors are discharged and the prosecutor can try the case again. If a mistake occurs during jury deliberations, the judge can order a mistrial, and the prosecutor can ask for a new trial.

A critical role for the prosecutor is to explain to the victim the trial process and any related rights the victim may have. This is an opportunity for the victim to ask questions, voice any concerns, and learn about his/her specific role (if any) in the trial.

### **Victim/Witness Services**

*The prosecutor has victim/witness staff who are available to assist you. Victim/witness services include:*

- Providing information about your rights as a victim of crime, and answering any questions or concerns you may have.
- Orientation to the criminal justice process.
- Explaining any role you may have in the criminal justice process.
- Providing you with information about the status of your case, and the status and location of the defendant.
- Accompanying you to court, upon request.
- Intervening with employers, creditors, and/or schools upon request.
- Providing childcare services for victims who are called to testify.
- Providing a private and secure waiting area for victims who are called to testify.

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- Providing information about and referrals to victim assistance services in the community.
- Assisting you with transportation and, if needed, parking to participate in the criminal justice process.
- Providing assistance to secure protective measures that enhance your safety at home, work, in the community, and through the criminal justice process.
- Helping facilitate the return of any personal property that was taken as evidence.
- Helping you document your losses for the purposes of seeking restitution from the convicted offender.
- Helping you complete a victim impact statement that is utilized at sentencing.
- For victims of violent crime, helping you complete an application for victim compensation.

### **Prosecution and Victims' Rights**

Within the prosecution segment of the criminal justice system, the range of rights for crime victims includes:

- Notification of your rights as a victim of crime.
- Notification of the status of the case and any related hearings or activities.
- Informing you of any rights you have to attend and/or participate in such hearings as a victim and/or witness.
- Notification of the status and location of the alleged offender (such as detention, release into the community on bail, etc.).
- Providing information about your right to protection, and assisting you with direct help or referrals to obtain protective or stay-away orders that prevent the defendant (or others) from contacting you.
- If any of your personal property has been taken as evidence for the trial, providing you with information about how to get your property returned to you within a reasonable time frame.
- Providing information about and referrals to crime victim services that are available to help you.

If there is a conviction, informing of your right to complete a victim impact statement prior to sentencing that will help the court understand the physical, emotional, financial, and spiritual effects that the crime had on you and your loved ones.

- If there is a conviction, informing you of your right to restitution, and providing you with information about how to document your financial losses resulting from the crime so a request for restitution can be made as a condition of the sentence.

- If there is a conviction, informing you of the agency that will be incarcerating or supervising the convicted offender, and providing contact information for victim notification, restitution and other assistance.
- *In cases involving violent crime*, providing information about the Crime Victim Compensation Program, and professionals who can help you complete an application to cover your out-of-pocket financial losses directly resulting from the crime.

## Prosecution and Victim Information

As a victim of crime, you may have questions about the prosecution and related court processes. Here are some things for you to consider:

- Document the name and contact information for all prosecution personnel involved with your case. (This may include the prosecuting attorney in your case, victim/witness staff, and investigators working for the prosecution.)
- Identify a specific person you should notify if your contact information (i.e., mailing address, post office box, home or work telephone number, or e-mail address) should change.
- Ask if there is a specific unit or person within the prosecutor's office that is designated to provide crime victims with information about their rights, assistance, and referrals for additional help.
- Ask for, and carefully review, your rights as a victim of crime. If you have any questions, ask the prosecutor for answers.
- Ask for information that explains the prosecution and trial processes, and your role and rights within these processes.
- If you are to be called as a witness, ask for information about what this entails, and how you can be a good witness.
- Ask if you will be allowed to present a victim impact statement at the sentencing hearing if there is a *conviction* and in what format will that statement be accepted by the court.
- Ask for a referral to a victim assistance professional who can help you with the victim impact statement format, if you would like assistance.
- Ask about your right to request restitution including what you need to do to document your expenses.
- Ask the prosecutor to request a restitution order for the full amount of your losses, regardless of the offender's ability to pay.
- Talk frankly to the prosecutor about your expectations of the case and the justice process. He/she can make sure your expectations are realistic, in accordance with your rights and the law.
- Ask whether or not your personal contact information is kept confidential from the defendant and/or his/her attorney.
- Clearly identify any concerns you may have about your safety and security, or that of your family, and ask for information about options for your protection (such as a protective order or no-contact order).
- If a protective or no-contact order is issued, ask to be notified when it is served on the defendant.

- Ask about how and by whom you will be informed of the status of your case.
- Ask about how and by whom you will be informed about the status and location of the defendant.
- Ask about the status of any of your personal property that was taken as evidence in the case, and how to facilitate its prompt return.
- If you need help with your employer, creditors, or schools as a result of your victimization and involvement in a criminal case, ask the prosecutor to provide help with intervention.
- Ask for a referral to a victim assistance professional who can provide you with help, support, and explanations of the criminal justice system and available victim services.
- *In cases involving violent crime*, ask for an application for Crime Victim Compensation, and a referral to a victim assistance professional who can help you complete the application.

## **Defense Counsel**

The Sixth Amendment of the U.S. Constitution provides that persons accused of crime have specific rights:

- To a speedy and public trial by an impartial jury.
- To be informed of the nature and cause of the accusation.
- To be confronted with witnesses against him/her.
- To have legal representation.

This means that at all criminal justice proceedings, the defendant can be present and represented by counsel (called the defense attorney). If he/she cannot afford a lawyer, one will be provided by the state.

The defense attorney represents people accused of crime. He/she may be a private attorney hired by the defendant, or a county employee who is appointed by the court to represent the defendant. Defense attorneys protect the legal rights of defendants, and ensure that the court hears their side of the case. They represent defendants at bail hearings, in any plea-bargaining with the prosecutor, through pre-trial motions and hearings about legal and evidence issues, at trial, at sentencing if there is a conviction, and at any appeal. Defense attorneys may use investigators to find witnesses and evidence for the trial.

The defendant also generally has the right to exclude all potential witnesses from the trial. Thus if you or your family is listed as a potential witness, whether or not you will be called to testify, you may be excluded (sequestered) from attending the trial despite your statutory or state constitutional right to attend the trial.

*[If applicable, include information about any victims' rights relevant to being contacted or interviewed by the defense attorney or investigator; and which, if any, personal information or victim input is kept confidential from the defense counsel.]*

## **Judiciary**

In the criminal justice system, judges are responsible for many important activities. Most critical of all, the judge must make fair and unbiased decisions. A judge cannot take sides in a criminal case. He/she cannot have any personal contact with the victim or members of the victim's family while the case is going on. The judge cannot meet with an attorney, victim, witness, defendant, juror, or any other person involved in the case, unless the attorneys for both sides are present.

The judge oversees all hearings throughout the trial process. He/she decides whether or not a defendant can be released on bail; appointment of the defense counsel; motions on legal issues; and what evidence to admit in a case, using the law, rules of evidence, and rules of procedure. The judge also controls the timing of the case by setting deadlines, and making the prosecution and defense meet the deadlines. Victims

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and their families often want their case to finish as soon as possible; however, many things can happen to slow a case.

### **When the Victim Is a Witness**

The victim may be called as a witness to testify at the trial. The following tips can help a victim be an effective witness for a criminal case.



## Tips for Testifying in Court

### ***Before You Testify***

- ✓ Ask the prosecutor any questions you may have about your role as a witness.
- ✓ Ask if you can have a support person — such as a family member, friend, or clergy member — present in the courtroom when you testify.
- ✓ Ask the prosecutor or victim/witness staff to orient you to the courtroom: if you will be allowed in the courtroom prior to testifying; where you will be sitting prior to testifying; where the judge, jury, and defendant and his/her counsel will be sitting; where the witness chair is and how you will reach it; where, how, and by whom you will be sworn in as a witness; whom you should face when you are testifying; and where to go when you are finished testifying.
- ✓ Familiarize yourself with the witness box, chair, and microphone.
- ✓ Ask for suggestions on how to dress. It is helpful to dress simply and conservatively, and avoid bright colors, flashy jewelry or, for women, heels that are difficult to walk in. Your clothes should not distract the judge or jury, or make your testimony less believable.

### ***When You Testify***

- ✓ Be courteous and respectful at all times. Be calm and polite, and do not argue with the questioning attorney, or answer in an angry or hostile manner.
- ✓ Refresh your memory. Picture the scene, the distances between things, what happened and when it happened. If you gave a written statement, ask to review it.
- ✓ Always tell the truth, and never forget that you are under oath.
- ✓ Make sure you understand the question before you try to answer it. If you don't understand a question, ask that it be repeated or explained. If you don't know the answer or can't remember, say so.
- ✓ Never guess the answer to a question.
- ✓ Beware of questions involving time or distance. If you make an estimate, state clearly that you are only estimating.
- ✓ Answer only what is asked. Take your time. Don't volunteer information or stray from the question. If a question can be answered with a "yes" or "no," do so.
- ✓ Speak loudly and clearly. Everything you say is being recorded by the court reporter. Do not nod or shake your head in response to a question, as that cannot be recorded.
- ✓ Keep your hands in your lap and away from your mouth.
- ✓ Avoid joking or wisecracks. A criminal case is a serious matter and joking diminishes your credibility.

- ✓ Stick to the facts. Do not draw conclusions or state opinions unless you are asked.
- ✓ Think before speaking. Take a deep breath. Ask for a glass of water, and take a sip if your throat is dry.
- ✓ If one of the attorneys' objects to a question you are asked, do not answer it until the judge has ruled on the objection.
- ✓ If you make a mistake in your testimony, admit it, and ask for the opportunity to correct it.
- ✓ Be prepared to wait. The courts may be very busy, so your patience may be required.

## **Court Staff**

In the courtroom, a bailiff (who is a sworn law enforcement officer) helps maintain safety and assures that nobody interferes with the jury. A court reporter records the proceedings to create a verbatim transcript of all court proceedings. A court clerk manages the overall court process, and maintains court records (most of which are available to the public through his/her office). *The court clerk also manages the payment of restitution by convicted offenders, and sends restitution checks to victims.*

## **The Sentencing Process**

After a trial that results in a conviction, or after a defendant pleads “guilty” or “no contest” to a felony offense, the judge schedules and presides over a sentencing hearing. Prior to the sentencing hearing, a “pre-sentence investigation” report (PSI) is prepared for the judge that includes a wide range of information about the convicted offender. Important information about the victim — such as the impact of the crime on the victim and his/her family, and any financial losses that can be addressed by a restitution order — is also included in the PSI report. (See “Assessing the Offender: The Pre-sentence Investigation” in the “Probation” section of this Handbook.)

At the sentencing hearing, both the prosecution and the defense can call witnesses to talk about the circumstances of the crime, the effect of the crime on the victim and the community, and the prospects for the offender to be rehabilitated.

Victims have the right to be present at the sentencing hearing, and to provide the court with a victim impact statement that describes the physical, emotional, financial, and spiritual effects of the crime.

The judge will make a decision about sentencing based upon the facts of the case and state law. The victim can ask for a copy of the sentencing order, which includes all conditions of the sentence ordered by the judge.

*[NOTE: If a state has sentencing guidelines or other factors that affect the possible length of an offender’s sentence, they should be explained briefly here.]*

## **The Appeal Process**

Any defendant convicted at a trial has the right to request an appeal. This means that the entire case — from the investigation through the sentencing — can be reviewed by a higher (appellate) court, which can either affirm the conviction or overturn the trial court decision. If the appellate court overturns the conviction, the prosecutor can ask to retry the case. On occasion, the state’s Supreme Court or even the U.S. Supreme Court reviews the case.

Victims have the right to be notified of a convicted offender’s request for an appeal, as well as any decisions made about the appeal.

# Corrections

## Introduction

In the post-sentencing phase of a criminal case, corrections fulfills the function of managing convicted offenders in the community or in institutions. Sometimes county jails are also considered part of corrections, although they are utilized primarily to detain defendants after arrest and during the trial.

There are two different types of correctional agencies:

1. Community corrections, which include probation and parole supervision of offenders in the community, as well as paroling authorities that make decisions about whether or not to allow an incarcerated offender to return to the community.
2. Institutional corrections, which include prisons and, in cases of prison overcrowding, county jails.

The purposes of corrections are to promote public safety through the effective management of offenders; reduce the risk of repeat criminal behavior through incarceration and community supervision; promote positive changes in offenders' behavior; and ensure that victims of offenders under any form of correctional supervision are treated with respect, and provided with rights in accordance with law and services to help them.

## Probation

Probation is the single most often used criminal sanction in the United States today. The probation agency is responsible for protecting the community, maintaining public safety through the supervision of offenders and enforcement functions that uphold the law, and providing guidance and supervision to offenders that can help them become, and remain, law-abiding citizens.

The probation department supervises offenders, and monitors their conduct to make sure they are complying with all conditions of supervision. They may provide or facilitate services to offenders such as job training and placement, education, and alcohol or other drug treatment. If convicted offenders fail to comply with their probation conditions, the probation officer can arrest them with or without a warrant. The probation department is also responsible for maintaining contact with the offender's victim(s), and helping them exercise their rights to notification, protection, victim impact statements, and restitution.

When a convicted offender is sentenced to probation (which is sometimes called "community supervision"), a probation officer will conduct an assessment to help determine the most effective supervision plan.

## **Assessing the Offender: The Pre-sentence Investigation**

When an offender is found guilty through a plea agreement or trial, a probation officer conducts a “pre-sentence investigation” (PSI) to help the sentencing court and judge assess and classify the offender. Information contained in a typical PSI may include:

- Circumstances of the offense.
- Statement from the victim that comes from a personal interview with a probation official, as well as from any victim impact statement submitted to the court, that address the physical, financial, and emotional impact of the crime and recommendations for sentencing.
- Statement of the arresting law enforcement officer.
- Defendant’s family, educational, and employment histories.
- Information about the defendant’s mental status.
- Defendant’s use of alcohol or other drugs, including illegal substances.
- Defendant’s criminal record.
- Proposed supervision plan.
- Recommendation for sentencing (which can include “special conditions of probation supervision” that address victim and community safety).

A PSI report is prepared for the court and, if approved, becomes the basis for supervising that offender. The person who writes the PSI report is usually not the same person who will supervise the offender if probation is ordered.

If a defendant is sentenced to probation, a victim can request a copy of the sentencing order and, in particular, any special conditions of supervision to which the offender is subject.

## **Offender Supervision**

Probation supervision centers around the officer’s contact with the offender, his/her family, employers, friends, and counselor, as well as with the victim of the crime. From these sources, the probation officer obtains a great deal of information about whether or not the probationer is complying with the conditions of probation established by the court. Throughout supervision, the probation officer can:

- Visit the offender’s home or place of employment.
- Review reports and attendance records from any treatment programs, such as alcohol or other drug treatment, individual or family counseling, sex offender treatment, batterers’ treatment, or financial management counseling.
- Review reports and attendance records from any required education and awareness programs, such as alcohol/drunk driving education, victim impact panels, or victim awareness classes.

- Seek or obtain information from the victim related to any concerns the victim may have, as well as his/her knowledge of the offender's compliance with conditions of probation.
- Help the offender find or maintain a job, and/or stay in school.
- Monitor the offender's compliance with any court-ordered payments, such as fines, fees, victim restitution, or child support.

Some offenders may be required to submit to electronic monitoring, where he/she wears an ankle bracelet that monitors all movement, or house arrest, which requires offenders to remain in their homes, except for certain periods as permitted by the court (such as "to go to work"). Others may be ordered to intensive probation or surveillance probation, which means a higher degree of contact between the probationer and officer, and requires more frequent visits at home or work.

*Probationers may also be supervised by officers who operate within specialized units, which means they have only one type of offender on their caseload (e.g., drunk drivers, batterers, or sex offenders), and they are specially trained to supervise such probationers, and deal sensitively with their victims.*

### **Termination of Probation**

Probation usually ends in one of three ways:

- **Early termination:** For good behavior and compliance with the conditions of probation, the court may reduce the period of supervision and terminate probation prior to conclusion of the original term.
- **Expiration of Sentence/Term:** A probationer completes his/her full probated sentence. (This is supposed to happen when all conditions of the probation sentence have been met.)
- **Revocation:** Probationers may choose not to comply with the orders of the court and, in doing so, place themselves at risk of having their probated sentences revoked, and being sent to jail or prison. The revocation process usually begins with the commission of a new offense by the probationer (committed against his/her original victim or an entirely new victim), or his/her violation of any of the other conditions of probation (which is known as a "technical violation").

Once any new offenses or technical violations are brought to the attention of the court by the probation officer, the offender is entitled to a hearing. *The victim(s) of the original offense, that resulted in the probation sentence, and/or the victim(s) of the new offense have the right to attend and/or testify at the revocation hearing.*

Upon the conclusion of the hearing, the court may choose to keep the offender on probation (usually under more strict conditions) or, instead, sentence the probationer to a jail or prison term. It is important to remember that the violation of a condition of probation does not mean the offender will automatically be sent to jail or prison.

## Probation and Victims' Rights

Within the probation segment of the criminal justice system, the range of rights for crime victims includes:

- Notification of your rights as a victim of crime.
- Notification of the name and contact information of the probation officer who is supervising the offender.
- Notification of the status of probation supervision, and any related hearings or activities (such as termination or expiration of the sentence, technical violations, or revocation).
- Informing you of any rights you have to attend, participate in, and/or testify at hearings (such as technical violations or revocation hearings) as a victim or witness, and facilitating your attendance and participation.
- Notification of the status of the probationer (such as home confinement, community supervision, or detention).
- Notification if the offender requests to serve his/her probation sentence in another state, and the state that will be supervising his/her probation. (This right is enforced by the Interstate Compact, through which all 50 states agree to notify victims if their offenders ask to serve probation in a state other than the one where the crime was committed.)
- Providing information about your right to protection, and assisting you with referrals to obtain protective or stay-away orders that prevent the probationer from contacting you.
- Informing you about the pre-sentence investigation process, and your role in providing critical information that will contribute to the sentencing recommendation.
- Informing you of your right to complete a victim impact statement prior to sentencing that will help the court understand the physical, emotional, financial, and spiritual effects that the crime had on you and your loved ones, *and to have your statement included in the pre-sentence investigation report to the court.*
- Informing you of your right to restitution, providing you with information about how to document your losses resulting from the crime so a request for restitution can be made as a condition of the sentence, and monitoring restitution payments made by the offender to the court, which will be provided to you when they are received. Providing information about and referrals to crime victim services that are available to help you.
- *In cases involving violent crime*, providing information about the Crime Victim Compensation Program, and professionals who can help you complete an application to cover your out-of-pocket financial losses directly resulting from the crime.

## Probation and Victim Information

As a victim of crime, you may have questions about the probation process. Here are some things for you to consider:

- ✓ Document the name and contact information for all probation personnel involved with your case, and with supervising the offender in the community.
- ✓ Identify a specific person you should notify if your contact information (mailing address, post office box, home or work telephone number, or e-mail address) should change.
- ✓ Ask if there is a specific unit or person within the probation agency that is designated to provide crime victims with information about their rights, assistance and referrals for additional help.
- ✓ Ask for and carefully review your rights as a victim of crime. If you have any questions, ask the probation official for clarification and answers.
- ✓ Ask for information that explains the probation and offender supervision processes.
- ✓ Ask about how you will be informed of the status of your case, and who will be informing you.
- ✓ Ask about how you will be informed about the status of the probationer, and who will inform you.
- ✓ Ask whether or not your personal contact information is kept confidential from the probationer or his/her attorney.
- ✓ Clearly identify any concerns you may have about your safety and security, or that of your family. If the offender has harassed, threatened or intimidated you since the crime or sentencing occurred, make sure the probation officer knows this and informs you of any action that is taken.
- ✓ Ask for information about options for your personal protection, and for assistance or referrals to someone to help you secure a protective or no-contact order, if needed.
- ✓ If a protective or no-contact order is issued, ask to be notified when it is served to the offender by the law enforcement agency.
- ✓ Ask about the pre-sentence investigation (PSI) process, specifically:
  - Who will be contacting you for an interview, when, and how (i.e., over the telephone, in person, or in writing)?
  - What type of information you will be asked to provide that is most helpful to the PSI?



- Whether or not a written victim impact statement can be included in the PSI report to the court, and whether or not this statement is confidential?
  - Whom to contact if you have not been asked to participate in the PSI process and would like to be interviewed?
- ✓ Ask about how victim restitution management works, specifically:
- How to document your financial losses for the purposes of restitution.
  - How to obtain a copy of the restitution order, payment plan and schedule.
  - Who is responsible for collecting restitution from the probationer?
  - Who is responsible for sending you restitution that the probationer has paid?
  - Whom do you contact if you do not receive restitution payments in accordance with the schedule, or if payments are delinquent by at least 60 days?
  - Whom do you contact if or when restitution has been paid in full, or if and when you no longer wish to receive restitution payments?
  - If you are aware of any violations of the probationer's conditions of probation, ask whom you should contact to provide this important information, and what type of documentation is most helpful?
  - Ask if you have the right to attend, participate in, or testify at hearings resulting from technical violations by the probationer, or probation revocation hearings, and who can help you exercise this right (if applicable).
  - Ask for a referral to a victim assistance professional who can provide help, support, and explanations of the criminal justice system and available victims' rights and services.
  - *In cases involving violent crime*, ask for an application for Crime Victim Compensation, and a referral to a victim assistance professional who can help you complete the application process.

## **Institutional Corrections**

The (*State Department of Corrections*) is responsible for incarcerating offenders who have been convicted of a felony crime. Through a variety of classification, risk management, education, and treatment programs, institutional corrections can effectively manage inmates in a secure environment, and contribute to the overall safety of the public and crime victims.

Some inmates will choose to serve their entire sentence behind bars, which means when their sentences expire, they will not be subject to any supervision in the community. Victims of crime are entitled to receive information about the status of such offenders while they are still in prison and when they are released. Other inmates will be eligible for parole consideration prior to the expiration of the sentence handed down by the court. In such cases, victims are entitled to be notified about any possible parole release hearings, and to provide input prior to or during such hearings.

Even when an offender is securely detained behind bars, crime victims may still have needs and concerns that should be addressed. This section explains institutional corrections and related victims' rights.

### **Inmate Information Is Available to the Public**

*Information about the name, location, custody level, and first possible date for release consideration of all inmates is available on-line to crime victims and the public at: (web site address). This web site includes contact information if you have any questions or concerns, or need additional information about an inmate's status.*

### **What Does the Sentence Mean?**

*(In each state, the actual time a person who is sentenced to serve time in prison varies considerably. If possible, provide a brief overview here of the considerations that affect how long an inmate will be incarcerated and, if relevant, when victims can expect to be prepared for a parole or other release hearing.)*

### **Classification of Inmates**

After the sentencing hearing in court, the convicted offender is taken by Sheriff's deputies to a receiving facility, where he/she is photographed and fingerprinted. *All felony offenders are also required to provide a DNA sample for our state's DNA database.*

All inmates go through an orientation process so they understand prison rules and expectations, medical and mental health services, and educational, vocational (work), and religious programs. The classification process determines inmates' housing assignment (to which institution they will be sent), custody level (*usually work release, minimum, medium, maximum, and super-maximum*), and how they can successfully

complete their prison sentence. Classification is based upon several important factors, including:

- Potential for risk to the public (security needs).
- Potential for risk within the institution (custody needs).
- Medical and health care needs.
- Mental health needs.
- Training and programming needs.
- Educational needs.
- Vocational training needs and work skills.

The victim impact statement and/or PSI report from the sentencing hearing can also be utilized in the classification process. If a victim has any concerns about past or potential future unwanted contact from the offender and his/her colleagues, or other concerns that might affect where the offender is housed, this information is critical to effective classification.

Inmates who successfully transition from state prison to the community on parole may have their level of custody reduced as their release date approaches. *[If victims in your state are notified about reductions in custody level, indicate it here.]*

### **What Happens in Prison?**

The movement of inmates within prisons is closely regulated. All living quarters and program areas include a number of locked doors or gates with strictly controlled access. To ensure accountability for all inmates, census checks are conducted daily, and random searches and inspections occur frequently to maintain safety and ensure compliance with rules against contraband. Prison visitors and vehicles are also subject to search at any time.

Inmates who break the rules are disciplined. Sanctions include changing their custody level, and/or extending the length of time they must serve in prison.

A range of programs in prison is designed to rehabilitate offenders, and prepare those who will eventually be paroled to successfully reintegrate back into the community.

These include:

- Prison labor (explain if inmates are paid, and whether a portion of their remuneration goes toward victim restitution or the State Victim Compensation Program).
- Vocational training to provide them with productive work skills.
- Education to help them obtain (a GED, high school diploma, and/or college degree).
- Treatment programs (including a range of mental health counseling programs; alcohol/other drug abuse treatment; sex offender treatment; and batterers treatment).

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- Life skills classes.
- “Impact of Crime on Victims” programs to help inmates understand how their actions affected their victims, their own families, their communities and themselves.
- Religious services that reflect a number of faiths.

### **Assessing Risk Prior to an Inmate’s Release**

*[If applicable to your state] When the (state) Department of Corrections determines whether or not an offender who is due to be released to the community is ready to do so, a “risk assessment” is conducted to determine the level of risk an offender may pose to the community. In addition to reviewing the crime(s) of conviction and circumstances, the Department will also carefully review three issues that are specific to victim safety:*

1. Has the victim been subject to an “imminent threat” by the offender? This includes factors such as current violation of a “no contact” order, or written, verbal, or other communications or behavior that could be defined as “threatening” to the victim.
2. Has the offender demonstrated fixated behavior toward his/her past, or any potential future victims? This is behavior that an objective or reasonable individual would define as placing somebody at risk; and/or that traditional interventions such as incarceration, issuance of “no contact” orders, and sanctions resulting from infractions have done nothing to change repeated, high-risk behaviors.
3. Is the offender pursuing a relationship with a past victim without the consent of the victim?

Victims who have been subjected to any of these three types of high-risk behavior by incarcerated offenders should inform the (state) Department of Corrections of this behavior in order to accurately inform the risk assessment process.

### **Institutional Corrections and Victims’ Rights**

Within the institutional corrections segment of the criminal justice system, the range of rights for crime victims includes:

- Notification of your rights as a victim of crime.
- Notification of the location, status, *and custody level* of the inmate, including notification if the inmate escapes from secure custody.
- Notification of contact information for the institution where the inmate is housed.
- Providing information about your right to protection, assisting you with referrals to obtain “no contact” orders that prevent the inmate from contacting you, and informing you of measures you should take to document and address unwanted contact from an inmate.
- *If the sentence included an order of restitution*, informing you of your right to receive restitution payments from the inmate through deposits in his/her trust account and/or wages received from work.

- Providing information about and referrals to crime victim services in the community that are available to help you.
- *In cases involving violent crime*, providing information about the Crime Victim Compensation Program, and professionals who can help you complete an application to cover your out-of-pocket financial losses directly resulting from the crime.

## Institutional Corrections and Victim Information

As a victim of crime, you may have questions about the institutional corrections process. Here are some things for you to consider:

- ✓ Ask for, and carefully review, your rights as a victim of crime. If you have any questions, ask the Department of Corrections for clarification and answers.
- ✓ Ask for information that explains institutional corrections and any rights you may have.
- ✓ Ask about the institution, custody level, and status of the offender.
- ✓ Document the name and contact information for the institution where the offender is housed.
- ✓ Identify a specific person you should notify (at the Department or specific correctional facility) if your contact information (i.e., mailing address, post office box, home or work telephone number, or e-mail address) should change.
- ✓ Ask if there is a specific unit or person within the correctional agency that is designated to provide crime victims with information about their rights, assistance, and referrals for additional help.
- ✓ Ask if your contact information, and any contact you may have with the correctional agency or institution, are included in a confidential section of the inmate's file.
- ✓ Ask about how you will be informed of the status of your offender/inmate, and who will inform you.
- ✓ Ask whether or not your personal contact information is kept confidential in the inmate's file.
- ✓ Clearly identify any concerns you may have about your safety and security, or that of your family. If the inmate has harassed, threatened, or intimidated you since the crime or sentencing occurred, or while the offender is incarcerated, make sure the correctional agency and inmate's institution know this and inform you of any action that is taken.
- ✓ Ask for information about options for your personal protection, and for assistance or referrals to someone to help you secure a no-contact order, if needed.
- ✓ If a no-contact order is issued, ask to be notified when it is served on the offender by the law enforcement agency.
- ✓ *Ask about how victim restitution management works, and how you will receive restitution payments paid by the inmate, specifically:*
  - *Whom do you contact if you do not receive restitution payments in accordance with the schedule, or if payments are delinquent by at least 60 days?*

- *Whom do you contact if or when restitution has been paid in full, or if and when you no longer wish to receive restitution payments?*
- ✓ Ask for a referral to a victim assistance professional who can provide help, support, and explanations of the criminal justice system and available victims' rights and services.
- ✓ *In cases involving violent crime*, ask for an application for Crime Victim Compensation, and a referral to a victim assistance professional who can help you complete the application process.

## Parole

When inmates are released from prison, they are re-integrated back into the community through parole. Parole is the supervised release of prisoners to the community, with conditions attached to the release that are designed to protect the safety of the public, as well as the victim(s) of that parolee. Parole is considered part of the prison sentence that is served in the community.

If a defendant is sentenced to “life without possibility of parole,” that means he/she will never be eligible for parole supervision, and will serve the entire sentence in prison.

Within paroling authorities, there are *two/three* distinct divisions and functions: the paroling authority; *the paroling authority Victim Assistance Program*; and parole supervision officers or agents.

### Paroling Authority

The paroling authority includes (#) members that are appointed by and serve at the pleasure of the Governor. *In (state), there is a position designated on the paroling authority that must be filled by a victim/survivor of crime.* The paroling authority makes decisions about whether or not to grant parole to inmates; monitors the control of parolees who are released to community supervision; discharges offenders from parole when they have completed the terms and conditions of parole supervision; and makes parole revocation decisions if a parolee has violated the terms and conditions of parole.

Parole decisions can be made *before a meeting of the full Board, at hearings that have panels of (#) or more paroling authority members, and/or through a meeting with an individual paroling authority member who reports back to the full Board.* The decision to parole an inmate requires the vote of a majority of Board members.

*In (state), parole examiners interview offenders who are eligible for parole through a pre-parole investigation (PPI), and provide a detailed report for review by the full paroling authority. You should be contacted for an interview during the PPI process, and also request that your written victim impact statement be included in the PPI report to the paroling authority.*

A number of factors are considered in parole release decisions, including:

- The offense for which the offender was sentenced to prison.
- His or her previous criminal record.
- The offender’s behavior while incarcerated (including any infractions of prison rules, such as assaulting other inmates or correctional officers, use of alcohol or other drugs, or unwanted contact with his/her victim).
- Documentation of any vocational, educational, and treatment progress made by the offender while in prison (or his/her refusal to participate in such programs).



- The offender's plans if released, including job or educational opportunities, having a place to live, and support in the community available from family or friends.
- Any relevant information received from the family and friends of the offender.
- Any relevant information received from the victim (through a *victim impact statement*, *pre-parole investigation interview*, and/or *testimony* before the paroling authority).
- Any relevant information received from justice officials involved with the offender's arrest, prosecution, or incarceration.
- Any factors that would affect the safety of the victim or public.

The offender has the right to appeal a paroling authority decision, and the Board can reconsider cases when significantly new information is presented that was unavailable to the paroling authority when the case was originally reviewed. The victim does not have the right to appeal a paroling authority decision *unless his/her rights to be notified and to provide input were willfully and knowingly violated.*

### **Victim Input at Parole**

Victims of crime are allowed to provide information to the paroling authority about how the crime has affected them since it occurred — physically, emotionally, financially, and spiritually. This is called a victim impact statement (VIS), and it can be provided to the Board *prior to the hearing in a written statement or through a personal interview with a paroling authority member; prior to or at the hearing in an audiotape, videotape or DVD format; in person at the actual parole hearing by testifying before the paroling authority, or by providing a written statement that will be read at the hearing; or through the use of teleconferencing technology that enables personal testimony without requiring the victim to be present on-site at the hearing.*

The following guidelines may be helpful to facilitate your input for consideration and review by the paroling authority:

## **Tips for Providing Victim Impact Information or Testifying Before the Paroling Authority**

- ✓ It is always helpful to review a copy of your original victim impact statement (VIS) provided at the time of sentencing to determine if your feelings and concerns have changed, and to provide a copy of your original VIS to the paroling authority *prior* to the *hearing*.
- ✓ Do you have any concerns about presenting information to the paroling authority that you do not want your offender to hear?
- ✓ Does the crime still affect you emotionally, physically, or spiritually? If so, how?
- ✓ Do you have any long-term mental health issues resulting from the crime that has been clinically diagnosed, such as:
  - Post-traumatic stress disorder?
  - Depression?
  - Sleep disorders?
  - Thoughts of suicide, or suicide attempts?
  - Alcohol and other drug use problems?
  - Problems with relationships?
  - Changing view of the world as a “safe place?”
  - Trust issues?
- ✓ Do you have any specific suggestions regarding how the paroling authority can hold the offender accountable for the harm he/she has caused, such as:
  - Victim restitution?
  - Community service based upon your recommendation?
  - Alcohol or other drug treatment?
  - Offender-specific treatment (such as sex offender treatment, batterers treatment, etc.)?
  - An order of “no contact” that prevents the offender from contacting you or your loved ones?
- ✓ In the event that the offender will be released to community supervision, do you have any suggestions for special conditions of release?
- ✓ Would you like to limit the offender’s capacity to respond to your victim impact statement, or to you personally at the parole hearing?
- ✓ Would you like the opportunity to receive an apology from your offender?

- ✓ Would you like to be informed of the paroling authority's decision, and how that decision was made?
- ✓ If the offender is released to parole supervision, would you like to be kept informed of his/her status, and any violations of the conditions of parole?
- ✓ Is there any other information you feel would help the paroling authority make its decision, or any information you need to facilitate your victim impact statement preparation and delivery?

## **Parole Victim Assistance Program**

*The parole authority has a Victim Assistance Program to help victims understand and exercise their rights; provide orientation to the parole process; offer assistance to victims who want to provide input for consideration at parole hearings, and facilitate their attendance and participation; provide information about and referrals to additional victim services; and if the offender is released to parole supervision, provide the victim with information about community supervision and related victims' rights and services. For additional information or assistance, please contact the (Parole Agency) Victim Assistance Program at (area code/telephone number), or visit its web page at: (web site/page address).*

## **The Paroling Authority and Victims' Rights**

Within the paroling authority segment of the criminal justice system, the range of rights for crime victims includes:

- Notification of your rights as a victim of crime.
- Notification of your right to attend or participate in paroling authority hearings.
- Providing you with information to exercise your right to submit a victim impact statement to the paroling authority.
- Providing you with information about your right to protection, and assisting you with referrals to obtain protective or no-contact orders from law enforcement that prevent the inmate or parolee from contacting you.
- Notification of the decision of the paroling authority (whether or not the offender is denied parole and returned to prison, or released on parole to the community), and the status of the offender (including when he/she will be released from prison).
- If the offender is released on parole supervision, providing you with contact information for the supervising agency and officer.
- *If a parolee violates the conditions of parole supervision, notifying you of such violations and providing you with the opportunity to attend and/or have input at any parole revocation hearing.*
- Providing you with information about and referrals to crime victim services that are available to help you.
- *In cases involving violent crime, providing information about the Crime Victim Compensation Program, and professionals who can help you complete an application to cover your out-of-pocket financial losses that result from the crime.*

## The Paroling Authority and Victim Information

As a victim of crime, you may have questions about the paroling authority process. Here are some things for you to consider:

- ✓ Become informed about the paroling authority, its members and processes. You can contact the paroling authority for information at *area code/telephone number; mailing address; and/or web site*.
- ✓ Ask if the paroling authority has a Victim Assistance Program *and, if so, become familiar with the services it can provide you*.
- ✓ Identify if there is a specific individual within the paroling authority you should notify if your contact information (i.e., mailing address, post office box, home or work telephone number, or e-mail address) should change.
- ✓ Ask for, and carefully review, your rights as a victim of crime. If you have any questions, contact the paroling authority for clarification and answers.
- ✓ Ask about how you will be informed of paroling authority hearings, and any rights you may have as a victim.
- ✓ Ask whether or not your personal contact information is kept confidential from the offender and his or her attorney.
- ✓ Ask about your right to provide your input prior to or during the parole hearing, how this right is implemented, and who can help you exercise this right (your victim impact statement).
- ✓ Ask if the paroling authority has authority to provide you with protective measures if you think you need them, and how to facilitate processes that can enhance your personal safety and security.
- ✓ Ask if the paroling authority can order restitution, or include the payment of restitution ordered by the court in any special conditions if the inmate is released to parole supervision.
- ✓ Determine if there is a pre-parole investigation (PPI) process and, if so, your rights and role in this process:
  - Who will be contacting you for an interview, when, and how (i.e., over the telephone, in person, or in writing)?
  - What type of information you will be asked to provide that is most helpful to the PPI?
  - Whether or not a written victim impact statement can be included in the PPI report to the paroling authority, and whether or not this statement is confidential.

- Whom to contact if you have *not* been asked to participate in the PPI process and would like to be interviewed.
- ✓ Determine if, when, and how you will be notified of the paroling authority's decision.
- ✓ If the offender is released to parole supervision, ask to receive:
  - A copy of the conditions of supervision.
  - Contact information for the supervising agency and parole *officer/agent*. If you are aware of any violations of the offender's conditions of parole supervision, whom you should contact to provide this information, and what type of documentation is most helpful?
- ✓ Determine if you have the right to attend, participate in, or testify at hearings resulting from the parolee's violation of parole supervision conditions, and who will facilitate your participation.
- ✓ If needed, ask for a referral to a victim assistance professional who can provide help, support, and explanations of the criminal justice system and available victims' rights and services.
- ✓ *In cases involving violent crime*, ask for an application for Crime Victim Compensation, and a referral to a victim assistance professional who can help you complete the application process.

## Parole Supervision

When an inmate is released on parole, he/she is supervised and monitored by a *parole officer/ parole agent*. Parole supervision centers around the *officer's/agent's* contact with the offender, his/her family, employers, friends, and counselor, as well as with the victim of the crime. He/she can obtain a great deal of information from these sources about whether or not the parolee is complying with the conditions of parole established by the paroling authority through a variety of strategies. (See "Supervision" within the Probation section of this *Handbook*.)

Victims of crime should be aware of the conditions of parole supervision, and the name and contact information for the supervising parole *officer/agent*. If a victim is aware of any violations of the conditions of parole, these should be reported immediately to the parole *officer/agent* and, in cases of emergency, to local law enforcement.

## Termination of Parole Supervision

Parole supervision can be terminated in three ways:

1. **Early discharge:** Parolees who exhibit good behavior, the ability to abide by all rules of parole supervision, and compliance with the conditions of parole may be considered and reviewed for early discharge from parole.
2. **Expiration of Parole Term:** A parolee can complete his/her full parole term. (This is supposed to happen when all conditions of parole supervision have been met.)
3. **Revocation:** If parolees fail to comply with conditions of parole, their parole can be revoked. The revocation process usually begins with the commission of a new offense by the parolee (committed against his/her original victim or an entirely new victim) or his/her violation of any of the other conditions of parole.

Once any new offenses or parole violations are identified, the parolee is entitled to a hearing by the *paroling authority/a parole hearing examiner/the parole revocation authority*. *The victim(s) of the original offense, that resulted in the offender's incarceration, and/or the victim(s) of any new offense have the right to attend and/or testify at the parole revocation hearing*

Upon the conclusion of the hearing, the *paroling authority/a parole hearing examiner/the parole revocation authority* may keep the offender under parole *supervision* (usually under more strict or "intensive supervision" conditions), or revoke parole and return the offender to jail or prison. It is important to remember that the violation of a condition of parole does not mean the offender will automatically be sent to jail or prison.

## Parole Supervision and Victims' Rights

Within the parole supervision segment of the criminal justice system, the range of rights for crime victims include:

- Notification of your rights as a victim of crime.

- Notification of the name and contact information for the *parole officer/agent* who is supervising the offender.
- Notification of the status and conditions of parole supervision, and any related hearings or activities (such as early discharge, expiration of parole, or revocation).
- Informing you of any rights you have to attend, participate in, and/or testify at parole revocation hearings as a victim or witness, and facilitating your attendance and participation.
- Notification of the status of the parolee.
- Notification if the offender requests to be supervised on parole in another state, and the state that will be supervising his/her probation. (This right is enforced by the Interstate Compact, through which all 50 states agree to notify victims if their offenders ask to serve their parole in a state other than the one where the crime was committed.)
- Providing information about your right to protection, and assisting you with referrals to obtain protective or stay-away orders that prevent the parolee from contacting you.
- Providing information about and referrals to crime victim services that are available to help you.

*In cases involving violent crime*, providing information about the Crime Victim Compensation Program, and professionals who can help you complete an application to cover your out-of-pocket financial losses directly resulting from the crime.



## Parole Supervision and Victim Information

As a victim of crime, you may have questions about the parole supervision process. Here are some things for you to consider:

- ✓ Document the name and contact information of the parolee's supervising *officer/agent*.
- ✓ Identify a specific person you should notify if your contact information (i.e., mailing address, post office box, home or work telephone number, or e-mail address) should change.
- ✓ Ask for, and carefully review, your rights as a victim of crime. If you have any questions, ask the parole *officer/agent* for clarification and answers.
- ✓ Ask for information that explains the parole supervision process.
- ✓ Ask about how you will be informed about the status of the parolee, and who will inform you.
- ✓ Ask whether or not your personal contact information is kept confidential from the parolee or his/her attorney.
- ✓ Clearly identify any concerns you may have about your safety and security, or that of your family, to the parole *officer/agent*. If the parolee has harassed, threatened, or intimidated you before he/she was released to parole supervision, make sure the parole *officer/agent* knows this.
- ✓ Ask for information about options for your personal protection, and for assistance or referrals to someone to help you secure a protective or no-contact order.
- ✓ If a protective or no-contact order is issued, ask to be notified when it is served to the parolee by the law enforcement agency.
- ✓ If restitution is a condition of parole supervision, ask about how victim restitution management works, specifically:
  - How to obtain a copy of the restitution order, payment plan and schedule?
  - Who is responsible for collecting restitution from the parolee?
  - Who is responsible for sending you restitution payments?
  - Whom do you contact if you do not receive restitution payments in accordance with the schedule, or if payments are delinquent by at least 60 days?
  - Whom do you contact if or when restitution has been paid in full, or if and when you no longer wish to receive restitution payments?
- ✓ If you are aware of any violations of the parolee's conditions of parole supervision, ask whom you should contact to provide this important information, and what type of documentation is most helpful.
- ✓ Ask if you have the right to attend, participate in, or testify at hearings resulting from violations by the parolee, or parole revocation hearings, and who can help you exercise this right (if applicable).

- ✓ Ask for a referral to a victim assistance professional who can provide assistance, support, and explanations of the criminal justice system and available victims' rights and services.
- ✓ *In cases involving violent crime*, ask for an application for Crime Victim Compensation, and a referral to a victim assistance professional who can help you complete the application process.

## Glossary of Terms

The criminal justice system uses words and terms to describe the practices, policies, procedures, and persons involved in its processes. As a victim of crime, it is very helpful to understand the definition of these terms; while definitions may vary state to state, the following “glossary of terms” provides a general overview of such definitions.

**Accused:** A person or persons formally charged but not yet put on trial for committing a crime.

**Acquittal:** A legal judgment, based upon the decision of either a jury or judge that a person accused of a crime is not guilty of the charges for which he/she has been tried.

**Adjudication:** The judicial decision that ends a criminal proceeding by a judgment of acquittal, conviction, or dismissal of a case. This term is also used in juvenile proceedings.

**Admissible Evidence:** Evidence that is relevant and proper for consideration in reaching a decision in court. Pre-trial hearings are often held to allow the judge to make this determination.

**Affidavit:** A written, sworn statement in which the writer swears that the information stated therein is true.

**Appeal:** A request by either the defense counsel or prosecutor in a case to have a higher court resolve a dispute with a judge’s decision.

**Arraignment Hearing:** A Hearing in which a person charged with a crime is brought before the court to plead either guilty or not guilty to the criminal charges alleged in the indictment or information, and is advised of his/her constitutional rights under law. By definition, arraignment hearings are considered *pre-trial hearings*.

**Arrest Warrant:** An order made on behalf of the State, based on a complaint and signed by a judge, authorizing law enforcement to arrest a person who is thought to have committed a crime. A person who is arrested on a warrant stays in custody until bail or bond is posted, or until released by an order of the court.

**Attend, Right to:** The right to attend a hearing or trial equates to the right to be physically present in the hearing room during the course of the proceeding. (Also referred to as the right to be present.).

**Bail Hearing:** A hearing to determine whether or not an incarcerated defendant or convicted offender will be released from custody and to determine what amount (if any) he/she must pay as a bond to assure his//her presence at future proceedings (e.g.,

trial). This may also include specific conditions of bail, e.g., no contact with the victim or witness, must attend treatment programs, etc. (Also referred to in some jurisdictions as a bond hearing.)

**Bench:** Where the judge sits during court proceedings. The term is often used to refer to the judge.

**Bench Trial:** A trial in which the judge hears the case without a jury, and decides whether the accused is guilty.

**Beyond a Reasonable Doubt:** The degree of proof needed for a judge or jury to convict a person accused of a crime.

**Bond Hearing:** (See Bail Hearing)

**Burden of Proof:** The State carries the burden of proof to establish “beyond a reasonable doubt” that the accused committed the offense for which he/she is charged.

**Case Law:** The law as formed by past court decisions, opinions, interpretations, or traditions.

**Challenging Denial of Claim for Compensation:** Any steps taken by the party applying for crime victim compensation to overturn, or adjust a compensation award, i.e., file a motion to reconsider and/or appeal the determination to the Board or a higher authority or court of law.

**Change of Venue:** The transfer of a pending case in one county or district to another county or district. A “change of venue” is often sought because of claimed prejudicial publicity in the original county or district.

**Charge:** A formal accusation filed by the prosecution that a specific person has committed a specific crime. (Also referred to as “pressing charges.”)

**Clemency:** To show mercy or leniency by reducing the punishment for conviction of a crime.

**Community Supervision:** An order by a by one or more criminal justice officials, most commonly a probation or parole officer. Such orders often include conditions that the offender must abide by, and can include conditions specific to victims’ concerns and needs (such as safety and protection) if they are identified through a pre-sentence investigation (PSI) or victim impact statement.

**Commutation:** A Chief Executive of a government has the right to substitute a less severe punishment of the defendant than that imposed by the judicial branch.

criminal court, usually as part of a sentence, requiring a released offender to submit to supervision.

**Compensation:** The term used to refer only to the state-administered program that provides violent crime victims with recompense for their out-of-pocket financial losses directly resulting from the crime. It is not intended to encompass restitution, or pursuit of civil claims or judgments.

**Compensation Award:** The sum of money ordered by the State Victim Compensation Board/Authority to be paid to a victim of crime as recompense for his/her out-of-pocket financial losses directly resulting from the crime.

**Complaint:** A preliminary charge made by the State that a person has committed a specified offense.

**Confidentiality:** A requirement that certain facts about a proceeding or nature of a proceeding be withheld from public discussion or scrutiny, ostensibly to serve the interests of justice.

**Contempt of Court:** This is usually thought of as someone attacking the integrity of the court. This can be done by refusing to obey a court order, such as failing to pay a fine.

**Continuance:** A delay or postponement of a court hearing; the case is said to be "continued" when it has been delayed or postponed. A case can be continued for good cause, such as illness or witness availability, or by mutual agreement between the prosecution and defense.

**Conviction:** A judgment of the court based either on the decision of a jury or judge, that the *defendant* is *guilty* of the crime for which he/she was tried.

**Corroborating Witness:** A person who is able to give information that supports the statements made by either the victim/witness or the accused.

**Count:** Each separate offense listed in a complaint, information, or indictment accusing a person of committing a crime.

**Crime:** A violation of the law of a State or other jurisdiction.

**Criminal:** A person who has been convicted by a court of committing a crime.

**Criminal Justice System:** The entire network of government agencies charged with law enforcement, prosecution, defense, trial, and the punishment and supervision of those arrested and/or convicted of having violated the criminal law in a State or jurisdiction.

**Criminal Trial:** A judicial proceeding before a court to determine the guilt of a party *charged* with a crime.

**Cross Examination:** The questioning of a witness by an opposing party, i.e., the prosecution or defense **counsel**.

**Defendant:** A person who has been formally charged by a court with committing a specific crime.

**Defense Counsel:** The lawyer who represents the defendant in a legal proceeding. Under the Sixth Amendment of the U.S. Constitution, all persons accused of a crime have a right to counsel (i.e., a lawyer), also sometimes called the “public defender” or “defense attorney.”

**Deposition:** The sworn testimony of a witness taken outside of court in the presence of the attorneys for the prosecution and defense. A deposition can be used at trial to impeach or discredit a witness’ testimony, or can be read to a jury if the witness is unavailable. In a civil case, depositions are used to establish the facts of the case prior to trial or settlement.

**Dismissal:** A decision by a judge to end a case, with or without prejudice, for legal or other reasons.

**Disposition:** The final decision that ends a criminal proceeding or that ends a disputed matter within the proceeding.

**Docket:** The formal record maintained in brief of the court proceedings. The “trial docket” sometimes refers to the list of cases to be tried on any given day, or in a specified period of time.

**Due Process:** All legal statements concerning procedural and substantive due process standards that must be applied in a disciplinary hearing or trial, including those raised primarily as defenses.

**Enforce:** To put into execution; to cause to take effect or to make effective; to compel obedience to a law, rule, or order. Thus, to enforce a victim’s right is to make a right of a victim a reality in practice.

**Evidence:** Testimony and objects used to prove or corroborate the statements made by the victim, the accused, or other witnesses.

**Exercise:** To make use of. Thus, to exercise a right or power enables the holder of the right to have it fulfilled.

**Felony:** A serious crime potentially punishable by State or Federal prison time.

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**Final Disposition:** A conclusive determination that settles the issues and rights of all the parties in interest — a judgment or decree that terminates in the court that enters it.

**Grand Jury:** A collection of citizens called to serve on a jury whose duty it is to examine the evidence supporting charges alleged by law enforcement and/or the prosecutor, to determine if they are sufficient to warrant a subsequent criminal trial.

**Grand Jury Hearing:** A hearing during which the Grand Jury examines the evidence supporting charges alleged by law enforcement and/or the prosecutor, to determine if they are sufficient to warrant a subsequent criminal trial.

**Guilty:** A verdict of a judge or jury that a person accused of committing a crime did, indeed, commit it.

**Habeas Corpus:** A Federal process and proceeding in which a prisoner challenges the lawfulness of his/her imprisonment. An action by way of “writ of habeas corpus” does not function to determine the prisoner’s guilt or innocence.

**Heard, Right to Be:** To speak — in this context, to make an oral statement during the course of a proceeding (i.e., provide an oral victim impact statement at a sentencing or parole consideration hearing). The “right to be heard” can also be exercised through written victim impact statements and, in some jurisdictions, through audiotaped, videotaped, or teleconferenced victim impact statements. It may also be enacted through a designee of the victim or family of the victim.

**Hearing:** A legal proceeding in which arguments, witnesses, and/or evidence are heard by a judge or administrative body.

**Hearsay:** Testimony of an individual that is not from his/her personal knowledge, but from what the witness has heard another person say.

**Indictment:** Formal charging document presented by the prosecution to a grand jury. The grand jury may then issue the indictment if it believes that the accusation, if proved, would lead to a conviction.

**Information:** Formal charging document issued by a prosecuting attorney (with no grand jury involvement).

**Jail:** The local facility where persons in lawful custody are held. Defendants awaiting trial and defendants convicted of lesser crimes are held in jail, as opposed to prison.

**Judicial Officer or Judge:** An officer of the court who determines causes between parties or renders decisions in a judicial capacity. The judge generally decides

questions of law, except in the case where a jury trial is waived, where the court would also function as a fact-finder.

**Jury:** A panel of citizens selected by the prosecution, defense, and *judge*, and sworn to determine certain facts by listening to testimony in order to decide whether the accused is guilty or not.

**Jury, Hung:** A “hung jury” is one whose members cannot agree whether the accused is guilty or not guilty.

**Misdemeanor:** A crime that is less serious than a felony, and for which the punishment can be imprisonment for one year or less, usually in a jail or other local facility, and/or a fine.

**Mistrial:** A trial that is invalid because of some fundamental error in procedure or other wrongdoing.

**Motion:** A verbal or written request made by the prosecutor or defense attorney before, during, or after a *trial* that the court responds to by issuing a rule or an order.

**Nolo Contendre:** A defendant’s formal answer in court to the charges in which the defendant states that he/she does not contest the charges. The nolo contendere plea is not an admission of guilt, but carries the same legal consequences as a guilty plea.

**Non-system-based Victim Service Providers:** Victim service providers whose base of operation and services occur within the context of a private, non-governmental organization (e.g., a nonprofit domestic violence shelter or rape crisis center, a nonprofit court accompaniment program, a psychologist specializing in child abuse, etc.).

**Not Guilty:** A verdict by a judge or jury that a person accused of a crime did not commit it, or that not enough evidence exists to prove beyond a reasonable doubt that the accused committed the crime.

**Notice:** An official means of providing information, in oral or written form, to an identified party regarding his/her rights or interests (e.g., a letter stating the date, time, and location of a parole hearing; a telephone call informing a victim about the outcome of a sentencing hearing; an automated telephone call informing the victim of the escape of their accused offender, etc.).

**Objection:** A protest or argument made concerning the activity of the other party (i.e., prosecution or defense counsel) in court. The judge can “overrule” or “sustain” an objection.

**Pardon:** An official release from responsibility and consequences for a crime, usually only granted by the chief executive of a government.

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**Parole:** Release of a prisoner from imprisonment, but not from legal custody and supervision. Persons under parole supervision (the “parolee”) are subject to conditions of supervision that are designed to reduce recidivism and promote victim and public safety, and are supervised by a parole officer or parole agent.

**Parole Revocation:** When probable cause is found that an offender under parole supervision violated his/her conditions of supervision (such as protective orders, possessing a weapon, using alcohol or other drugs, or committing a new offense), parole is revoked and the offender is returned to custody (jail or prison).

**Plea Agreement:** An agreement whereby the accused and the prosecutor in a criminal case work out a mutually acceptable disposition of the case subject to court approval. It usually involves the defendant’s plea of guilty to a lesser offense, which could include a recommendation for a lighter sentence. In many jurisdictions, victims have the right to “confer” with the prosecutor about any possible plea agreement.

**Plea Agreement Hearing:** A hearing where the prosecutor and defense counsel submit a plea agreement to the court for its approval.

**Plea of Guilty:** An admission of guilt by the defendant in open court.

**Post-conviction Hearing or Proceedings:** Following a conviction and direct appellate review, many states provide for procedures for post-conviction review. Typically, the grounds for relief under these proceedings are both limited and different from those on appeal of a conviction.

**Preliminary Hearing:** A legal proceeding before a judge in which arguments, witnesses, and/or evidence are presented to determine if there is sufficient probable cause to hold the accused for trial. It is sometimes called a probable cause hearing.

**Present, Right to Be:** The act of being in the physical proximity of action. In this context, the right to be present equates to being physically present in the court/hearing room during the course of criminal proceedings.

**Pre-sentence Investigation (PSI):** The PSI is usually conducted by a probation officer after a plea or verdict of guilty. It is done before sentencing to enable the judge to impose a proper sentence by learning more about the defendant, as well as about the impact of the crime on the victim. The PSI includes information about the defendant’s criminal history and personal background, and how the victim(s) were affected — physically, financially, emotionally, and spiritually. Upon completion, a *pre-sentence investigation report* is provided to the court.

**Pre-trial Release Hearing:** Any hearing to determine whether the defendant will be released from custody prior to the trial (i.e., bail or bond hearing).

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**Prison:** State or Federal facilities where persons convicted of the commission of a felony (or multiple felonies) are held. The state Department of Corrections (or similar title) oversees the management of prisons, and most Departments have victim services programs.

**Probable Cause:** The degree of proof needed to arrest and begin prosecution against a person suspected of committing a crime. The evidence must be such that a reasonable person would believe that this specific crime was committed, and that it is probable that the person being accused committed it.

**Proceeding:** An occurrence in form and manner of conducting business before a court or judicial officer (e.g., hearings, trials, conferences, etc.).

**Pro se:** When the defendant is representing him/herself in Court and not represented by counsel (a defense attorney), as when he/she has waived the right to counsel in a criminal proceeding.

**Probation:** Conditional freedom granted to an offender by the court after conviction or a guilty plea, with requirements for the offender's behavior ("conditions of probation"), and which any violation of such requirements or conditions may result in revocation of the probation with the potential for jail or prison time. A probation officer usually conducts supervision.

**Prompt Disposition:** (See Speedy Trial.)

**Prosecutor:** A lawyer employed by the government or elected by the people to represent the general public's interests in court proceedings against people accused of committing crimes. Many prosecutors' offices have *victim/witness programs* that are designed to inform victims of their rights, help them understand the criminal justice process, and provide them with information about and referrals to services that can help them.

**Recusal:** An action taken by any court official, including a judge, to disqualify or withdraw him/herself from a case where his/her impartiality might be questioned.

**Release Hearing:** A hearing to determine whether to grant, and on what basis to grant, an incarcerated or accused defendant limited, temporary, or permanent release (e.g., work release, temporary release for a family emergency, medical treatment, vocational training, to attend legal proceedings, etc.).

**Restitution:** A court order requiring a convicted offender, as a condition of a sentence, to repay the victim money or services to compensate for the monetary losses that resulted from the commission of the crime.

**Restraining Order:** An order issued by a court of appropriate jurisdiction forbidding a party from engaging in some proscribed activity. In the context of victim protection, often an order forbidding the alleged or convicted offender to have any contact with the victim (or other people connected to the victim) or witnesses, or to act in a way contrary to those people's interests. (Often referred to in some jurisdictions as: *stay away order*, *no contact orders*, or *protective orders*.)

**Sentence:** A sentence is what a judge or jury formally pronounces after a criminal defendant has been found guilty; the sentence is the punishment doled out.

**Sentence, Concurrent:** Running together — concurrent sentences run, or are served, at the same time.

**Sentence, Consecutive:** Sentences that run or are served one after the other.

**Speedy Trial, Victim's Right to a:** Though usually defined in the context of the defendant's Sixth Amendment right to a speedy trial, a "speedy trial for victims" is generally defined as a trial conducted as soon as the prosecution, exercising reasonable diligence, can sufficiently prepare its case. It is a trial conducted without unreasonable or oppressive delay without violating the defendant's constitutional right to adequately prepare his/her defense. (Also referred to as a victim's right to prompt disposition.)

**Statute:** Any law passed by a local, state, or federal legislative body.

**Stay Away Order:** An order from a court of appropriate jurisdiction forbidding a party in a legal action (criminal or civil) from having direct or indirect contact with another party. Violations are usually enforced as contempt of court. (Often referred to in some jurisdictions as restraining orders, no contact orders, or protective orders.)

**Subpoena:** A court order requiring a person to appear in court on a specified day and time to give testimony. It may also include an order to produce documents or records. Failure to appear constitutes contempt of court.

**Summons:** A court order used to bring a person accused of a crime (who is not in custody) to court.

**System-based Victim Service Providers:** Victim service providers whose base of operation and services occurs within the context of a criminal or juvenile justice agency (e.g., a law enforcement-based crisis responder, a prosecutor-based victim services, a victim assistance specialist working within a community or institutional corrections agency, etc.).

**Testimony:** Evidence given by a competent witness under oath, as distinguished from **evidence** derived from writings and other sources.

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**Transcript:** The official record of proceedings of a trial or hearing.

**Trial:** A judicial examination, in accordance with the law of the land, of a cause, either civil or criminal, of issues between the parties, whether of law or fact, before a court that has proper jurisdiction.

**Victim Impact Statement:** A written or verbal statement of a victim's views concerning the physical, financial, emotional, and spiritual impact the crime has had on them, their lives, and the lives of their families/loved ones, that is offered to the court or other decision-making body — mostly during sentencing or release consideration hearings. Victim impact statements may include the victim's opinion as to the risk the accused or convicted defendant may pose to them if released, and/or the victim's recommendation of an appropriate sentence.

**Victim Right:** The Webster's Dictionary definition of a right is that a right is "the power or privilege to which one is justly entitled." A "victim's right" is a "power granted by law that entitles a victim to require another person, usually a criminal justice official (i.e., police, prosecutor, judge, probation or parole officer, or corrections official), to perform a specific act or refrain from performing a specific act."

**Voir Dire:** A procedure in which the prosecutor and defense attorney question prospective jurors to pick a jury.

**Waiver:** The voluntary surrender of a right, claim, or privilege.

**Warrant:** A court order directing a law enforcement officer to make an arrest, a search, or a seizure.

### Crime Victims' Rights Record Keeping Log

Date of Contact	Contact Made With (Name/Title/Agency)	Contact Information (Telephone, Address, Email, etc.)	Topics Discussed	Any Response Sent by Me	Any Response Received by Me	Notes