

VICTIMS' RIGHTS AND THE CRIMINAL JUSTICE PROCESS

**NOTICE OF LEGAL RIGHTS
AND REMEDIES AVAILABLE**



BOCA RATON POLICE SERVICES

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THE BOCA RATON POLICE SERVICES DEPARTMENT

recognizes the impact that crime victimization has on individuals and our community. The purpose of this pamphlet is to provide important information about victims' rights, the criminal justice process, and services committed to assisting victims of crime.

THE FLORIDA LEGISLATURE recognizes that many innocent persons suffer injury or death as a result of criminal acts. Such persons or their dependents may suffer disabilities, incur financial hardships or become dependent upon public assistance. The Legislature finds that there is a need for government assistance for the victims of criminal acts.

CRIME COMPENSATION

If you are physically injured as a result of a crime, you may be eligible for monetary reimbursement of medical bills incurred, loss of wages, and reimbursement for counseling expenses through the **OFFICE OF THE ATTORNEY GENERAL, BUREAU OF VICTIM COMPENSATION 1-800-226-6667**. The purpose of the program is to provide compensation to innocent victims of crime or their families who suffer physical injury or death as a direct result of a crime. These forms are available through hospitals, police departments, the State Attorney's Office, and Victim Services.

FLORIDA STATE STATUTE 960 guarantees the rights of a victim including the next of kin of a homicide victim, to be informed, to be present, and to be heard, when relevant, at all crucial stages of the criminal proceedings, to the extent that this right does not interfere with constitutional rights of the accused (S.16(b) Article 1 of the State Constitution).

FLORIDA STATE STATUTE 960

If you are the victim of a crime you have the RIGHT to:

1. Be informed of local victim assistance programs
2. Be informed, present, and heard at all crucial stages of the criminal or juvenile justice proceedings, and to be informed how to participate in these proceedings
3. Be informed about the availability of Crime Victim Compensation
4. Be protected from intimidation
5. Submit a victim impact statement
6. Request and receive restitution from the offender
7. Be notified of scheduling changes
8. Be informed of the address confidentiality program for victims of domestic violence administered by the Attorney General's Office
9. In the case of incarcerated victims, the right to be informed, and to submit written statements at all crucial stages of the criminal proceedings, parole proceedings, or juvenile proceedings

10. A prompt and timely disposition to the extent this right does not interfere with the rights of the accused
11. Be notified upon escape of an offender from state correctional facility by the State Attorney
12. Request a victim advocate to attend discovery depositions of the victim
13. Be notified in advance, if possible, of the release of the offender
14. Be notified when an inmate has been approved for community work (notification made to the victim, the victim's parent or guardian if the victim is a minor, the lawful guardian if the victim is a minor, or the victim's next of kin if the victim is a homicide victim)
15. The State Attorney's Office will specifically consult victims involved in a felony case with physical or emotional injury or trauma, a case in which the victim is a minor, and a case involving a homicide. The State Attorney's Office will consult such victims, guardians, witnesses, and/or family members regarding: release of the accused, pending judicial proceedings, plea agreements, participation in pretrial diversion programs, and sentencing of the accused.
16. Be notified of the arrest of the accused
17. The victim of a crime and the State Attorney, with consent of the victim, have standing to assert the rights of a crime victim, which are provided by law or s.16(b), Art. 1 of the State Constitution
18. Any victim, the victim's parent and guardian if the victim is a minor, or the victim's next of kin in the case of a homicide has the right to review (upon request) portions of any presentence investigation report. Any person who reviews the report must maintain the confidentiality of the report. For more details, please contact the State Attorney's Office at (561) 355-7170.
19. Request, for specific crimes, an exemption prohibiting the disclosure of information to the public, which reveals your home or work phone numbers, home and work addresses, and personal assets not otherwise held confidential under the Public Records Law
20. Be provided with information regarding the victim's right to request the courtroom be cleared, with certain exceptions, during his or her testimony of a sexual offense, regardless of the victim's age or mental capacity
21. Be provided with information regarding HIV testing in any case which involves the transmission of bodily fluids from one person to another, upon request of the victim or the victim's legal guardian, or of the parent or legal guardian of the victim if the victim is a minor. The court shall order such person to undergo HIV testing. In addition, in certain cases, if requested by the victim, the victim has a right to receive information on the results of the testing within two weeks of the court's receipt of such results.

22. The right of a victim of a sex offense who is under the age of 18 or is a disabled adult or elderly person, to request the court to order the accused to undergo HIV testing regardless of whether the offense involves the transmission of bodily fluids. If requested by the victim, the victim has a right to receive information on the results of the testing within two weeks of the court's receipt of such results.
23. When the victim of an offense committed by a juvenile is a minor, the Department of Juvenile Justice shall determine if the victim, or any sibling of the victim, attends or is eligible to attend the same school as the offender. If so, the appropriate agency shall notify the victim's parent/guardian of the right to attend sentencing/disposition to request the offender attend another school.
24. VICTIM'S RIGHT TO AN ADVOCATE
The right of the victim to request the presence of a victim advocate during the forensic medical examination. An advocate from a certified rape crisis center shall be permitted to attend any forensic medical examination.
25. POLYGRAPH EXAMINATION
No law enforcement officer, prosecuting attorney or government official shall ask or require a victim of a sexual offense to submit to a polygraph examination or other truth telling device as a condition of the investigation.
26. HEPATITIS AND HIV TESTING
The right of a victim or the victim's legal guardian, or the parent or legal guardian of a victim, if the victim is a minor, to request that a person who is charged with any offense enumerated in section 775.0877 (1)(a)-(n), Florida Statutes, that involves the transmission of bodily fluids from one person to another, undergo hepatitis and HIV testing.
27. If a victim has been diagnosed with autism or an autism spectrum disorder, he or she or the parent or guardian, has the right to request that a public safety official make a good faith effort to ensure that a related professional, such as a mental health counselor, special education instructor or clinical social worker be present for all interviews of the individual. All expenses related to the attendance of the professional at the interviews are the responsibility of the requesting victim, parent or guardian; however, the defendant shall reimburse the victim for all expenses related to the attendance of the professional at the interviews, in addition to restitution and penalties provided by law.
28. The right of a victim, if contacted, to obtain information relating to a criminal proceeding by an attorney, investigator, or any other agent acting on behalf of the criminal defendant, to be informed of (1) the person's name and employer and (2) the fact that such person is acting on behalf of the defendant.

MARSY'S LAW

Article I, Section 16 of the Florida Constitution gives crime victims the following rights.

You have the right:

- To receive due process from the courts and to be treated with fairness and respect for your dignity
- To be free from intimidation, harassment and abuse
- Within the judicial process, to be reasonably protected from the accused
- To have the safety and welfare of you and your family considered when setting bail or pretrial release conditions that could affect you or your family
- To be heard in any public proceeding involving bail or pretrial release
- To prevent disclosure of information or records that could be used to locate or harass you or your family or which could disclose confidential or privileged information about you
- To prompt return of your property when no longer needed as evidence
- To full and timely restitution in every case and from each offender convicted of the crime for all losses suffered, both directly and indirectly, as the result of the criminal conduct
- To proceedings free from unreasonable delay and to a prompt and final conclusion of the case and any related post-judgment proceedings (In appropriate cases, the prosecutor may file a good faith demand for a speedy trial, allowing the case to be tried within sixty days, assuming the defendant's due process rights can be met by such, and advancement in the trial date. In non-capital cases, all state level appeals, and post-conviction proceedings must be completed within two years, and capital cases within five years, unless the court enters an order with specific findings concerning why the court was unable to do so and the circumstances causing the delay.)
- To be informed of these rights and to seek an attorney's advice regarding these rights

Also, upon your specific request, you have these additional rights:

- To reasonable, accurate, and timely notice of, and to be present at, all public proceedings involving the criminal conduct including, but not limited to, trial, plea, sentencing, or adjudication, even if you are a witness at the proceeding
- To reasonable, accurate, and timely notice of any release or escape of the defendant and of any proceeding during which a right of yours as the victim may be implicated
- To confer with the prosecutor concerning any plea agreements, restitution issues, participation in pretrial diversion or release programs by the defendant and sentencing or any other disposition of the case

- To provide information to anyone conducting or compiling a pretrial investigation regarding the crime's impact on you or your family, and to have such information considered by the court. Once the report is completed, you have a right to receive a copy of it except for portions made confidential by law.
- To be informed of the conviction, sentence, adjudication, or other dispositions of a convicted offender, his or her release date, or the date of their escape from custody
- To be informed of all post-conviction processes and procedures, to provide information to the release authority to be considered before any such release and to be notified of any release decision regarding the offender. This right is extended to every person harmed by the offender.
- To be informed of any clemency or expungement procedures regarding the offender, to provide information to the governor, the court, any clemency board, and other authority in these procedures, and to have that information considered before a clemency or expungement decision is made, and to be given notice of that authority's decision before the offender's release
- A victim who is incarcerated has the right, upon request, to be informed and submit written statements at all stages of the criminal and juvenile proceedings.
- A victim has the right to employ private counsel.

THE CRIMINAL JUSTICE SYSTEM

As the victim or witness, your role is critical. If you have seen, heard, know or experienced something that is important to the investigation of the case, please report any information to the officer handling the case. You may be interviewed by law enforcement to identify the assailant, etc. Please keep our department advised of where you are living and your telephone number (work and home). The criminal justice process starts with the crime. There are four ways a case can proceed:

1. A person may be arrested at the time of the crime. Law enforcement completes an arrest document stating the charges against the accused. If no arrest is made at the time of the crime, law enforcement investigates.
2. If appropriate, law enforcement presents a sworn complaint to the State Attorney's Office. The State Attorney's Office determines whether there is probable cause to believe that a crime was committed and that the suspect may have committed the crime. The State Attorney's Office may file a document, called an "Information," with the Clerk of the Court charging the suspect with a criminal offense. If an "Information" is filed, the Judge through the Clerk of the Court may issue a *capias*.

3. Based upon the investigation, an affidavit of probable cause is presented to the Judge by the State Attorney's Office. If probable cause is found, the Judge may issue an arrest warrant. Both the capias and the arrest warrant direct law enforcement to arrest the person believed to have committed the crime.
4. The accused may be arrested based upon the investigation and indictment returned by the Grand Jury.
5. If probable cause is found, the State Attorney's Office may choose to file charges and summons the suspect into court. You may be required to meet with your State Attorney's office. Law enforcement, prosecuting attorneys or any other government official cannot ask or require a victim of a sexual offense to submit to a polygraph examination or truth telling device as a condition of the investigation.

HOW LONG UNTIL AN ARREST IS MADE?

As a victim you have a right to be notified of an arrest. Each case will proceed differently. The law enforcement agency making the arrest will notify you of the arrest. Interviewing witnesses and the collection of evidence can be a timely process. There is no set time frame. If you would like to find out about your case, call (561) 338-1234. Please give the DEFENDANT'S NAME and the CASE NUMBER when you call.

BAIL OR BOND

Bail or Bond is an amount of money or property posted by the defendant for his/her release to ensure the defendant appears in court. For many crimes, bail bonds have been previously determined by the courts and are contained in a list of standard bond amounts. The amount of bond may also be set by the Judge at the time that the arrest warrant or arrest capias is issued. The court considers the nature of the offense, evidence, defendant's employment status, mental condition, ties to the community, and convictions before setting bail. In less violent crimes, the defendant may be allowed to post bond and be released immediately. In Palm Beach County, there is a "no bond" policy on arrests of domestic violence acts. The suspect must appear at a first appearance hearing (magistrate hearing) and a Judge will set a bond amount and special conditions at that time.

WHAT IF MY CASE INVOLVES A JUVENILE?

A juvenile (under 18 years of age) who is accused of a crime and arrested or charged with a misdemeanor or a non-violent felony, may be immediately released to the custody of his/her parents or guardian. Juveniles who are not released will go to the Juvenile Assessment Center at 1100 45th Street, West Palm Beach and the parent or guardian will be notified. The juvenile will then be diverted into a pretrial diversion program or placed with the department of Juvenile Justice.

FIRST APPEARANCE HEARING (MAGISTRATE HEARING)

Within twenty-four (24) hours of the arrest, the defendant may appear before a Judge for a magistrate hearing. At the magistrate hearing, the Judge will set the conditions, if any, for release of the defendant from jail. When a person who is accused of a crime has sufficient roots in a community to ensure that the person will return for trial, the Judge may release the accused on his/her own recognizance pending judicial proceedings. This means that the accused does not have to post the bond. Some defendants can post bond prior to the hearing, based on certain conditions. Victims and witnesses are not required to be present at this hearing, but you have the right to attend, and to make the Judge aware of your feelings about the release of the accused if you desire to do so. Magistrate hearings are held each morning. If you wish to speak with the assistant state attorney, you must indicate that to the court deputy or the victim/witness advocate in the magistrate room. The court deputy will then inform the attorney that you are present and wish to make a statement. It is important that you inform the court if the accused has threatened to harm you or your family in any way.

NOTIFICATION OF THE RELEASE OF THE ACCUSED

If the defendant is able to post bond he/she may be released pending trial. You, as a victim, have a right to be advised of the release of the defendant. The jail may attempt to contact you by phone or letter or you may call the Palm Beach County Jail at (561) 688-4340.

VICTIM/WITNESS PERSONAL SAFETY

1. In the event you receive threats, bribes, or other attempts to persuade or intimidate you into testifying untruthfully, or to forget, or to make yourself unavailable as a witness, report it immediately to your local law enforcement agency.
2. If you are the victim of domestic violence (violence within the family) or repeat violence (two incidents), you can file an injunction for protection with the Clerk of the Court, at 200 West Atlantic Avenue, Delray Beach. Please contact the Clerk at (561) 274-1591 for additional information. Domestic violence victims can contact the Domestic Violence Intake Unit at (561) 274-1507 for additional assistance. Also, you can contact the law enforcement agency for any safety concerns.

ARRAIGNMENT

An arraignment is for the initial court appearance of the defendant at which time the court will inform the defendant of the charges pending, give the defendant his/her rights, appoint a lawyer if necessary, and hear the plea of the defendant. The arraignment is set before a Judge when a defendant is charged with an offense. At the arraignment, the defendant is told what he/she is charged with and the possible penalties for the offense. The defendant may plead guilty, and if so, the Judge may impose a sentence at this time. If you would like your feelings to be taken into consideration,

it is important that you appear at the hearing or speak with the State Attorney's Office.

SUBPOENA

You may be receiving a subpoena for certain hearings and the trial. A subpoena is a court order to appear at the time and date indicated. The telephone number of the Victim/Witness Liaison will be on the subpoena, and you will be required to call him or her upon receipt. Your telephone number(s) will be taken in order to inform you of changes in the court date or case status. Many cases do not go to trial, and the State Attorney's Office will do their best to notify you of changes if you provide them with a contact number. A victim or the next of kin of a victim may not be excluded from any portion of any hearing, trial, or proceeding pertaining to the offense based solely on the fact that such person is subpoenaed to testify, unless, upon motion, the court determines such person's presence to be prejudicial.

VICTIM IMPACT STATEMENT

A victim may file a Victim Impact Statement with the State Attorney's Office at any time before sentence is imposed on the defendant. The Victim Impact Statement is a written or oral statement given by you describing the effect the crime has had on you personally and the losses that you have suffered. The statement also advises the court of your feelings about the incident, which the State Attorney's Office will review. The Victim Impact Statement may be obtained from the State Attorney's Office, Victim Advocate Unit (561) 355-7100 or DOVE Program (561) 355-7433. These resources may also assist you in the completion of the form. The completed form will then be placed in the court file to be presented to the Judge for consideration. Additionally, you may be present in court to testify about the impact that the crime had on you.

RESTITUTION

As a victim, you have the right to request and receive restitution and to receive information on how to enforce the court's order. The court shall order the defendant to make restitution to the victim for damage or loss caused directly or indirectly by the defendant's offense. Restitution may be monetary or nonmonetary. The State Attorney's Office has the responsibility to present to the court the dollar amount and items to be considered in any restitution hearing. For this reason, the Victim Impact Statement form must be filled out and documentation supplied to the assistant state attorney handling the case at the earliest possible time. After the inmate's release, any questions about restitution can be asked of the State Probation Department of Corrections at (561) 837-5175 (for felony charges) or at (561) 683-6776 (for misdemeanor charges).

RIGHT TO A TIMELY DISPOSITION

As the victim, you have the right to a prompt and timely disposition of the case to the extent that this right does not interfere with the rights of the accused.

ADVANCE NOTIFICATION OF JUDICIAL PROCEEDINGS

Advance notification to a victim or the relative of a victim concerning judicial proceedings relates to: the arrest of the accused, the release of the accused pending judicial proceedings or modification of the release conditions, and for juvenile cases, those designated proceedings. Notification can only be accomplished if the victim or relative of a homicide victim has provided the appropriate agency with a current address and that the agency itself has sufficient advance notification of the judicial or post-judicial proceedings. In addition, any information gained by the victim pursuant to F.S. 960, including the next of kin of a homicide victim, regarding any case handled in juvenile court, must not be revealed to any outside party, except as is reasonably necessary in pursuit of legal remedies.

NOTIFICATION TO EMPLOYER AND CREDITORS

At your request, your local law enforcement agency and/or the State Attorney's Office will inform your employer that your cooperation in their investigation and prosecution of the case may require your absence from work. At your request, we will also contact your creditors to seek their considerations if you are unable, temporarily, to continue payments as a result of the crime.

RETURN OF PROPERTY

As a victim of crime, you have the right to the prompt return of property unless there is a compelling law enforcement need to retain it. If property was stolen or other property is needed by law enforcement to prove the crime, it becomes important as evidence. Some evidence/property must be sent to labs for analysis. It is helpful or sometimes necessary to keep the property until trial. However, your property will be returned to you as promptly as possible. If you have questions concerning the release of your property, call the law enforcement agency or the State Attorney's Office.

ESCAPE FROM COMMITMENT FACILITY

You are entitled to information concerning the escape of the offender from a state corrections institution, county jail, juvenile facility, or involuntary commitment facility. The State Attorney's Office will make every effort to notify the victim, material witness, or relatives of a homicide victim of the inmate's escape.

PRESENCE OF A VICTIM ADVOCATE

At the request of the victim, a victim advocate shall be permitted to attend and be present during any discovery depositions of the victim. Victims and witnesses who are not incarcerated shall not be required to attend discovery depositions in any correctional facility.

INFORMATION ABOUT ADDITIONAL VICTIM ASSISTANCE

Information will be made available to victims and witnesses about other assistance such as transportation, parking, waiting areas, and translator services to be utilized when attending court. Contact your law enforcement agency and/or State Attorney's Office for information.

WHAT HAPPENS NEXT?

Information on how your case proceeds after first appearance will be available to you at the State Attorney's Office. You may be receiving notices of various hearings that will occur during the course of the criminal process. You should always contact the State Attorney's Office to receive additional assistance with your case.

We thank you in advance for your patience, assistance, and cooperation in the investigation of this crime.

There are several agencies in the community that are available to provide additional assistance. Some of these agencies are listed on the following page.

ADDITIONAL RESOURCES

Aid to Victims of Domestic Abuse	(561) 265-2900
Alcoholics Anonymous	(561) 276-4581
Al-Anon	(561) 278-3481
Boca Raton Police Services Department	(561) 338-1234
Boca Raton Victim Advocate	(561) 338-1317
Boca Raton Youth Crime Specialist	(561) 338-1386
Center for Family Services	(800) 404-7960
Clerk of the Court	(561) 274-1591
Comprehensive AIDS Program	(561) 687-3400
County Probation (PRIDE)	(561) 683-6776
Covenant House (up to 18 years old)	(954) 561-5559
Crisisline (24-hour hotline)	(561) 930-1234 or 211
Department of Children and Families Abuse Registry	(800) 96-ABUSE
Department of Children and Families	(561) 279-1600
Dick Webber Center (for prevention of child abuse)	(561) 586-4996
Drug Abuse Foundation	(561) 278-0000
Guardian Ad Litem	(561) 355-2773
Haitian Center for Family Services	(561) 366-8003
Jail Information	(561) 688-4340
LAIRO (Latin American Immigrant & Refugee Organization)	(561) 966-4515
Legal Aid	(800) 403-9353
MADD (Mothers Against Drunk Drivers)	(800) 804-6233
Palm Beach Sheriff's Office of Victim Notification	(561) 688-4340
Palm Beach Sheriff's Office Court Services Bureau	(561) 355-2760
Restitution (Felony)	(561) 837-5175
Restitution (Misdemeanor)	(561) 683-6776
Parent Child Center	(561) 844-3531
Salvation Army	(561) 391-1344
State Attorney's Office/ Victim-Witness Assistance	(561) 355-7100
State Attorney's Office/ DOVE Program (Domestic Violence Elimination)	(561) 355-7433
State Probation Department of Correction (DOC)	(561) 837-5175
Crime Victim Compensation	(800) 226-6667
Victim Services Hotline	(561) 833-7273
Victim Services (Central - West Palm Beach)	(561) 355-2418
Victim Services (South - Delray Beach)	(561) 274-1500
VINE (Victim Information/Notification Everyday)	(877) 727-6846
Youth Services Bureau	(561) 233-0300
YWCA Harmony House	(561) 640-0050



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