

WEST PALM BEACH POLICE DEPARTMENT

IV-12 VICTIM/WITNESS GUIDELINES

EFFECTIVE: 10/01/2005

CALEA Standards: 55.1.1, 55.1.3, 55.2.1, 55.2.2, 55.2.3, 55.2.4

55.2.5

CFA Standards: N/A

I. POLICY: In an effort to comply with the laws of the State of Florida governing victims and witnesses of crime, it shall be the policy of the West Palm Beach Police Department to inform all victims and witnesses of their rights as enumerated in Florida Statute. The victims and witnesses will be made aware of their rights by the use of a Victim/Witness Rights Brochure.

II. DEFINITIONS:

A. Victim - A person who suffers physical, financial, or emotional harm as the direct result of a specified crime committed upon his/her person or property. Also regarded as a victim is a victim's parent or guardian if the victim is a minor, the lawful representative of the victim or the victim's parent or guardian if the victim is a minor, and the next of kin of a homicide victim.

B. Witness - A person, as determined by law enforcement, who has information or evidence relevant to a specific crime.

III. RIGHTS OF VICTIMS AND WITNESSES:

A. The following guidelines and rights of victims and witnesses of crimes are enumerated in the Victim Rights Brochure:

1. The right of the victim to receive information on local community services to include counseling, shelter, legal assistance, or other types of help, depending on the particular circumstances. Telephone numbers of these services will be provided to the victims and witnesses as applicable.
2. The right of the victim to receive information regarding the availability of crimes compensation, when applicable for victims or crimes or their relatives where the victim is deceased. Telephone numbers of these services are included in the Victims Rights Brochure.
3. The right of the victim or witness to receive information regarding the victim's role within the criminal justice or juvenile justice system to include what the victim may expect from the system and what the system may expect from the victim.
4. The right of the victim or witness to receive information regarding the stages of the criminal and juvenile justice process which are significant to the victim or witness and the manner in which information about such stages may be obtained.
5. The right of the victim, who is not incarcerated, including the next of kin of a homicide victim, to be informed, present, and heard when relevant, at all crucial stages of a criminal or juvenile proceeding, to the extent that the right does not interfere with the constitutional rights of the accused.
6. The right that victims and witnesses who are not incarcerated shall not be required to attend discovery depositions in any correctional facility.
7. The right that 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.
8. The right that incarcerated victims shall be informed of the crucial stages of the criminal and juvenile proceedings and be afforded the opportunity to submit written statements at all crucial stages of the proceedings.

9. The right of a victim to a prompt and timely disposition of the case as long as it does not interfere with the constitutional rights of the accused.
10. The right to be free from intimidation. It is against the law to cause a victim/witness to be placed in fear by force or threats, to make an assault on, or harm any victim/witness. It is a felony to tamper with or threaten a witness. If you are being threatened or intimidated, please contact the West Palm Beach Police Department, Palm Beach County Sheriff's Office or the Palm Beach County State Attorney's Office or any law enforcement officer.
11. The right that each victim who has been scheduled to attend a criminal or juvenile justice proceeding shall be notified as soon as possible by the agency or person scheduling his appearance of any change in scheduling which will affect his appearance.
12. The right to receive advance notification of judicial proceedings relating to the arrest and/or release (to include community control and work release) of the accused as well as the proceedings in the prosecution.
13. In addition to the provisions FS 921.143, the rights of the victim of a felony involving physical or emotional injury or trauma, or in a case in which the victim is a minor child or in a homicide, the guardian or family of the victim shall be consulted by the state attorney in order to obtain the views of the victim or family about the disposition of any criminal or juvenile case brought about as a result of such crime, including the views of the victim or family about:
 - a. The release of the accused pending judicial proceedings.
 - b. Plea Agreements.
 - c. Participation in pretrial diversion programs.
 - d. Sentencing of the accused.
14. The right of the victim to a prompt return of property unless there is a compelling law enforcement need to retain it.
15. The right of the victim to receive the assistance of the State Attorney and law enforcement in notifying the victim's employer and creditors in order to explain his circumstances.
16. The right of the victim to request and receive restitution and the victim's rights of enforcement in the event an offender does not comply with the restitution order. The victim shall also have the right to be notified when restitution is ordered.
17. The right of the victim to submit an oral or written impact statement pursuant to FS 921.143 and the right to receive assistance from the State Attorney in the preparation of such statement.
18. The right of the victim to receive reasonable consideration and assistance from employees of the West Palm Beach Police Department, when requested, the victim will be assisted in locating accessible transportation and parking, and shall direct those persons to separate pretrial waiting areas when such facilities are available. When so requested, this department shall also assist the Court in attempting to locate translators.
19. The right of the victim, material witness, parents or legal guardian of a minor who is a victim or witness, or immediate relative of a homicide victim to be notified of the escape of a criminal defendant. The State Attorney and law enforcement shall make every effort to ensure prompt notification.
20. The right of the victim to have a victim advocate present during discovery deposition.
21. The right of the victim to review certain portions of a pre-sentence investigation report for adult and youthful offenders prior to the sentencing of the accused.

22. The victim and the State Attorney's Office with the consent of the victim, have standing to assert any legal rights of a crime victim as provided by law or The Florida Constitution.
23. The right of the victim of a sexual offense to have the courtroom cleared, with certain exceptions, during his or her testimony, regardless of the victim's age or mental capacity.
24. The right of the victim of domestic violence to be informed of the address confidentiality program administered through the Attorney General's Office.
25. The right of a victim to know in certain cases and at the earliest possible opportunity, if the person charged with an offense has tested positive for human immunodeficiency virus (HIV) infection. In such cases, upon request of the victim or the victim's legal guardian, or of the parent or legal guardian of 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, it is the right of the victim to receive information on the results of the testing within two weeks of the court's receipt of such results.
26. The right of a victim to request, for specific crimes, an exemption prohibiting the disclosure of information to the public which reveals the victim's home and work telephone numbers, home and work addresses, and personal assets not otherwise held confidential under the Public Records Law.
27. The right to request, in certain circumstances that the offender be required to attend a different school than the victim or siblings.
28. The statutory obligation to advise the victim or the next of kin of a homicide victim that any information gained pursuant to FS Chapter 960, regarding any case handled in juvenile court, must not be revealed to any outside party, except as reasonably necessary in pursuit of legal remedies.
29. The victim has the right to be notified by the appropriate agency of the arrest and release of the offender (including work release and community control).

IV. PROCEDURE:

- A. Each officer shall be responsible for informing all victims of the availability of victim/witness services through the distribution of the Victim/Witness Rights Brochure.
- B. The officer shall provide victims and witnesses with information on steps available to law enforcement and the State Attorney to protect the victims or witness from intimidation. The information will be provided in the same manner as that relating to services of victims. The notification (contained in the Victim/Witness Rights Brochure) will include the advisement that it is a felony to tamper with or threaten a witness, and that the appropriate agency should be promptly contacted if a possible violation has occurred.
- C. It shall be the responsibility of the arresting or investigating officer to advise the victim that an offender has been arrested. It is also the responsibility of the arresting or investigating officer to complete a victim notification form on certain crimes. The notification will travel with the offender's paperwork to the booking facility for prompt notification by the facility upon release of the accused. The notification shall be made to the victim by the booking facility within four hours of the release of the accused. If such notice is not possible, the victim will receive notice via the U.S. Mail. Law enforcement officers of the appropriate agency will provide assistance as requested by other responsible agencies in attempting to notify the victim of the offender's release from confinement.
- D. Property of crime victims shall be promptly returned unless there is a compelling law enforcement reason for not returning it. The evidence custodian shall promptly comply with court orders allowing photographs of the victim's property to be used as evidence at the trial and/or requiring the return of the victim's property. Members should consult with the State Attorney's Office before releasing any property.
- E. When so requested, the West Palm Beach Police Department shall assist victims and witnesses of crime in notifying employers and creditors of court appearances and financial hardship.

F. West Palm Beach Police Department personnel are always ready to assist victims whenever possible. When so requested, employees will assist victims and witnesses in locating accessible parking and transportation, and will direct those persons to separate pretrial waiting areas where available. When necessary, employees will attempt to locate translators in appropriate cases.

G. In the event of an escape, the correctional facility shall notify the State Attorney's Office of the escape and the State Attorney shall make effort to notify the victim or the victim's next of kin as well as the Sheriff and/or Chief of the affected jurisdiction(s). The West Palm Beach Police Department shall render such assistance as requested by the State Attorney.

V. TRAINING AND EDUCATIONAL PROGRAMS:

A. So that all victims may be treated fairly, victim assistance education and training shall be offered to all employees taking courses at law enforcement training facilities or on an in-service basis. In addition, all members, and other employees as necessary, will be provided with the latest information pertaining to victim's rights and services available to them through the regularly scheduled in-service dealing with Human Diversity and Domestic Violence Awareness.

VI. ADMINISTRATIVE PROCEDURE:

A. The victim/witness assistance function shall be assigned to the Criminal Investigations Division Commander. The C.I.D. Commander shall have staff authority and responsibility for administering and coordinating the department's role in victim/witness assistance.

B. Responsibilities of the CID Commander include the following:

1. Coordinate the supervision and guide the activities through the chain of command of first responders who come into direct contact with victims/witnesses.
2. Ensure that the appropriate levels of training are received by sworn and non-sworn personnel who come in contact with victims/witnesses through coordination with the Personnel/Training Unit.
3. Coordinate with the Public Information office to insure that the public and media are aware of victim/witness assistance services provided to the community.
4. Establish and maintain liaison with the Palm Beach County Victim Services Section and other Criminal Justice professionals in the victim services field. At least every three years, review an analysis provided by Palm Beach County Victim/Witness Services to determine victim/witness assistance needs and available services. An analysis will be conducted by the C.I.D. Commander if there is no analysis available, or if the analysis does not include the following:
 - a. The extent and major types of victimization within the agency's service area.
 - b. An inventory of information and service needs of victims/witnesses in general (including homicide and suicide survivors) and special victims, such as those victimized by domestic violence, abuse and neglect (especially children and the elderly), sexual crimes, and drunken drivers.
 - c. Victim assistance and related community services available within the service area.
 - d. Identification of all unfulfilled needs.
 - e. Identification of needs that is appropriate for the agency to meet.
5. Based on the above analysis, review what victim/witness services are not being fulfilled and recommend to the Chief of Police whether the department can provide these services.
6. Establish departmental goals and objectives for victim/witness assistance based on the above analysis and approved recommendations made to the Chief of Police.

VI. REFERENCE:

- F.S.S. Ch. 960 Victim Assistance.
- F.S.S. 914.25 Protective services for certain victims and witnesses.
- F.S.S. 921.143 Appearance of victim or next of kin to make statement at sentencing hearing; submission of written statement.
- SOP # III-9 Domestic Violence.

Delsa R. Bush, Chief of Police

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Old SOP # 6.620.007
Revision Dates: 08/15/98, 12/15/98, 01/01/2005, 10/01/2005

Job Title Task Files: Shift Commander, Dispatch Operations, Detective, Supervisor, P.I.O.

**West Palm Beach Police Department
VICTIM RIGHTS BROCHURE**

YOUR RIGHTS AS A VICTIM OR WITNESS:

We realize that for many persons, being a victim or witness to a crime is their first experience with the criminal and juvenile justice systems.

As a victim or witness, you have certain rights within the system. This brochure is being provided to you to assist you with questions you may have regarding those rights. For further information regarding these rights please contact the State Attorney’s Office (SAO) and/or the appropriate law enforcement agency (LEA) handling your case.

OFFICER: _____

CASE # _____

West Palm Beach Police Department
600 Banyan Blvd.
West Palm Beach Florida 33401
(561)653-3400

CRIMINAL JUSTICE PROCESS

The stages of the criminal justice system are as follows:

CRIME COMMITTED- After a crime is reported to law enforcement an investigation will be conducted. If law enforcement is able to collect enough evidence, they may make an arrest.

ARREST- Suspect(s) taken to jail, fingerprinted, and photographed. Some are immediately released or have to post a bond to ensure they will show up in court.

(or)

INTAKE B Victim reports a crime to the local State Attorney’s Office. If probable cause is found, the State Attorney’s Office may choose to file charges and summons the suspect into court.

FIRST APPEARANCE - Occurs within 24 hours of an arrest. Each suspect kept in jail must appear before a Judge who establishes whether charges are reasonable. The Judge will also consider whether a bond should be set and if so how much. The Judge will also consider conditions of release and appoint a defense attorney if the suspect cannot afford one.

FILING OF FORMAL CHARGES - The State Attorney’s Office may file formal charges after reviewing law enforcement arrest reports, and within 21 days in certain circumstances.

ARRAIGNMENT- The accused is formally charged and enters a plea of guilty, not guilty, or no contest.

TRIAL PREPARATIONS- The prosecutor and defense attorney interview witnesses and exchange evidence in preparation for trial.

TRIAL - The prosecutor presents evidence to either the judge or a jury about the case. The defendant may be found guilty or not guilty. The process ends if the defendant is found not guilty.

PLEA- Defendant pleads guilty or no contest without a trial.

SENTENCING- If the defendant is found guilty, the Judge reviews sentencing guidelines, plea agreements, etc., and determines what type of sentence the defendant should receive.

JUVENILE JUSTICE PROCESS

INTAKE- The process of determining where a child under the age of 18 will be placed until the case is resolved. There are three forms of detention status: home, non-secure or secure.

DIVERSION PROGRAMS- An alternative to trial where the juvenile is placed in a community based program such as juvenile arbitration, juvenile alternative services program (JASP), or a treatment plan (Walker plan). If a juvenile successfully completes the diversion program, then the charges are generally dismissed.

FORMAL CHARGES - The filing of a petition in court by the State Attorney's Office. The charge may be filed in either juvenile court or adult court, depending upon the crime and age of the offender.

ARRAIGNMENT- The accused is formally charged and enters a plea of guilty, not guilty, or no contest.

ADJUDICATORY HEARING- The trial of the juvenile, conducted in front of a judge. The judge will decide whether the juvenile committed the charged offense(s).

DISPOSTIONAL HEARING (SENTENCING)- When a juvenile is found to have committed a delinquent act the court will hold a dispositional hearing to determine which sanctions to impose on the juvenile. The sanctions could range from community-based sanctions like probation and community services up to residential commitment.

JUVENILES TRIED AS ADULTS- Juveniles who commit very serious crimes may be tried as adults. Juveniles who are prosecuted as adults may be sentenced to adult or juvenile sanctions.

You may contact your State Attorney or law enforcement agency for more information regarding the stages of the criminal and juvenile justice process.

YOUR RIGHTS IN THE CRIMINAL AND JUVENILE JUSTICE SYSTEMS

If you are a victim of a crime or a witness because you have seen, heard, or know something about a crime that has been committed, you are important to the case. Your testimony may be necessary to establish the facts. Understandably, you might feel anxious about testifying in court. However, without your testimony the defendant might go unpunished.

VICTIM - A person against whom a crime was committed. Some victims suffer physical injury or property damage, and some have psychological injury or both. Victims have certain rights in Florida. Others who can claim these rights are the victim's parent or guardian if the victim is a minor, the lawful representative of the victim or of the victim's parent or guardian if the victim is a minor, and the next of kin of a homicide victim. As a victim of a crime, you have the following rights:

- Either you or the State Attorney's Office with your consent, have standing to assert any legal rights of a crime victim as provided by law or The Florida Constitution.
- In some cases, victims (or their relatives where the victim is deceased) may be eligible for financial compensation from the State of Florida. Information regarding eligibility may be obtained from the State Attorney's Office, local Witness Coordination Office (where available), law enforcement agency or from the Bureau of Crimes Compensation, Office of the Attorney General 1-800-226-6667.
- The right to receive information on available crisis intervention services and local community services to include counseling, shelter, legal assistance, or other types of help, depending on the particular circumstances. Telephone numbers of these services are provided at the end of this brochure.
- The right to receive information regarding the role of the victim in the criminal or juvenile process, including what the victim may expect from the system as well as what the system may expect from the victim.
- The right to receive information regarding the stages of the criminal or juvenile justice process and the manner in which information about such stages may be obtained. Note: You cannot be notified if we

cannot locate you. It is your responsibility to keep the State Attorney's Office informed of any changes in your address or telephone number.

- The right to be informed, present, and heard when relevant, at all crucial stages of a criminal or juvenile proceeding, to the extent the right does not interfere with the constitutional rights of the accused.
 - The right, if you are incarcerated, to be informed and submit written statements at all crucial stages of the criminal and juvenile proceedings.
 - The right to a prompt and timely disposition of the case as long as it does not interfere with the *constitutional rights of the accused*.
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- The right to be notified of the arrest and release of the offender, including release to community control and/or work release. When an arrest is made in a reported case, the victim, witnesses, relatives of minor victims and witnesses and relatives of homicide victims, where those persons have provided current addresses and telephone numbers to the West Palm Beach Police Department shall be notified.
- The right to receive information on the steps available to law enforcement and the State Attorney's Office to protect you from intimidation and/or harassment. It is a third degree felony to knowingly use intimidation or physical force, or threaten another person, or attempt to do so, or engage in misleading conduct toward another person, or offer pecuniary benefit or gain to another person. If you are being threatened or intimidated, please contact the West Palm Beach Police Department or any law enforcement officer.
- The right of the victim of domestic violence to be informed of the address confidentiality program administered through the Attorney General's Office. You may contact the Attorney General's Office at 1-800-266-6667. The State Attorney's Office may assist with this paper work if necessary.
- The right of each victim or witness who has been scheduled to attend a criminal or juvenile justice proceeding to be notified as soon as possible by the agency or person scheduling his/her appearance of any change in scheduling which will affect the victim's appearance.
- The right to receive advance notification of judicial and post judicial proceedings relating to the case, including all proceedings or hearings relating to:
 - The arrest of the accused.
 - The release of the accused pending judicial proceedings, any modification of release condition to include release to community control or work release.
- Proceedings in the prosecution or petition for delinquency of the accused, including the filing of the accusatory instrument, the arraignment, disposition of the accusatory instrument, trial or adjudicatory hearing, sentencing or disposition hearing, appellate review, subsequent modification of sentence, collateral attack of a judgment, and when a term of imprisonment, detention, or involuntary commitment is imposed, the release of the defendant or juvenile offender from such imprisonment, detention or juvenile offender from such imprisonment, detention or commitment by expiration of sentence or parole and any meeting held to consider such release.
- The right to not be excluded from any portion of any hearing, trial or proceeding pertaining to the offense based solely upon the fact that such person is subpoenaed to testify, unless the court determines otherwise.
- In addition to the provisions of s. 921.143, F.S., the rights of the victim of a felony involving physical or emotional injury or trauma, or in a case in which the victim is a minor child or in a homicide, the guardian or family of the victim shall be consulted by the State Attorney in order to obtain the views of the victim or family about the disposition of any criminal or juvenile case brought about as a result of such crime, including their views about:
 - The release of the accused pending judicial proceedings.

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- Plea Agreements.
 - Participation in pretrial diversion programs.
Sentencing of the accused.
 - The right to review certain portions of a pre-sentence investigation report for adult and youthful offenders prior to the sentencing of the accused.
 - The right to a prompt return of property unless there is a compelling law enforcement need to retain it.
 - The right to request that the State Attorney or law enforcement agency help you explain to employers and creditors that you may face additional burdens by taking time off from work to assist law enforcement and you may undergo serious financial strain either because of the crime or by cooperating with authorities.

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- Law Enforcement agencies and the State Attorney shall inform you of your right to request and receive restitution and of your rights of enforcement in the event an offender does not pay. The State Attorney shall seek your assistance in the documentation of your losses for the purpose of requesting and receiving restitution.
 - If an order of restitution is converted to a civil lien or civil judgment against the defendant, the clerks shall make available at their office, as well as on their website, information provided by the Secretary of State, the court, or The Florida Bar on enforcing the civil lien or judgment.
 - The State Attorney shall inform you if and when restitution is ordered.
 - The right to submit an oral or written impact statement to the court, pursuant to s. 921.143 F.S., prior to sentencing of the offender. The State Attorney or any assistant state attorney shall advise all victims or, when appropriate, the victim's parent, guardian, next of kin, or lawful representative that statements, whether oral or written, shall relate to the facts of the case and the extent of any harm, including social, psychological, or physical harm, financial losses, loss of earnings directly or indirectly resulting from the crime for which the defendant is being sentenced, and any matter relevant to an appropriate disposition and sentence.
 - The right to receive reasonable consideration and assistance from employees of the West Palm Beach Police Department. When requested, you will be assisted in locating accessible transportation and parking, and shall be directed to separate pretrial waiting areas when such facilities are available. When requested, you shall receive assistance in attempting to locate translators when practicable.
 - The right to be notified when the offender escapes from custody. The State Attorney shall make every effort to advise the victim, material witness, parents or legal guardian of a minor who is a victim or witness, or immediate relative of a homicide victim of the escape of a criminal defendant. The State Attorney shall also notify the Sheriff of the county where the criminal charge or petition for delinquency arose. The Sheriff shall offer assistance upon request.
 - The right of the victim to request that a victim advocate be permitted to attend and be present during any deposition. The victim advocate may be designated by State Attorney's Office, Sheriff's Office, or Municipal Police Department, or one representative from a not-for-profit victim services organization, including, but not limited to, rape crisis centers, domestic violence advocacy groups, and alcohol abuse or substance abuse groups.
 - The right of the victim of a sexual offense to have the courtroom cleared, with certain exceptions during his or her testimony, regardless of the victim's age or mental capacity.
 - The right to request, in certain circumstances that the offender be required to attend a different school than the victim or siblings of the victim. If the victim of an offense committed by a juvenile is a minor, and the

victim or any sibling of the victim attends or is eligible to attend the same school as that of the offender, the Department of Juvenile Justice or the Department of Corrections shall notify the victim’s parent or legal guardian of the right to attend the sentencing or disposition of the offender and request that the offender be required to attend a different school.

- The right of the victim who is not incarcerated to not be required to attend discovery depositions in any correctional facility.
- The statutory obligation of the victim, or next of kin of a homicide victim, that any information gained pursuant to FS Chapter 960, regarding any case handled in juvenile court, must not be revealed to any outside party, except as reasonably necessary in pursuit of legal remedies.
- The right to know in certain cases and at the earliest possible opportunity, if the person charged with an offense has tested positive for human immunodeficiency virus (HIV) infection. In such cases, upon request of the victim or the victim’s legal guardian, or 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 some cases, you can be notified of the results of the test within two weeks of the court’s receipt of the results.

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- The right to request, for specific crimes, that your home and work telephone numbers, home and work addresses, and personal assets not be disclosed to anyone.

REFERRAL NUMBERS

Abuse Registry
(Elderly and Children)
1-800-962-2873

Crimes Compensation
(Attorney General)
1-800-226-6667

Florida Bar Lawyer Referral Service
1-800-342-8060

Alcoholics Anonymous
(561)655-5700

Center for Family Services
(561)616-1222

Center for Information & Crisis Services
(561)383-1112

Crisis Pregnancy Center
(800)672-2296

Domestic Violence Hotline
(800)500-1119

Drug Abuse Foundation of Palm Beach
(561)732-0800

First Care Pregnancy Center
(561)392-3446

Food Addicts & Recovery Anonymous
(866)325-0500

Narcotics Abuse Help Line
(800)234-0420

Narcotics Anonymous
(561)848-6262

Rape Crisis
(561)833-7273

The Family Source of Florida Parent Help Line
Support Group for Parents Who Feel Overwhelmed
(800)352-5683

Palm Beach County State Attorney
(561)355-7100

West Palm Beach Police Victim Advocate
(561)822-1600

**For 24 case status or to report additional information about your case call:
The West Palm Beach Police Department
Dispatch Operations Center at
(561)822-1900**