



CAP TIPs is a series of periodic messages to assist in the planning and implementation of NCVRW Community Awareness Projects. Please feel free to send your individual questions or requests for assistance to Anne Seymour at annesey@atlantech.net

CAP TIP #8

To Improve Public Awareness

The Ten Core Rights of Crime Victims and Survivors

Introduction

Today in America, there are over 32,000 laws that define and protect the rights of crime victims and survivors, and 33 states have passed state-level victims' rights constitutional amendments. One of the most helpful ways to promote "strength" in crime victims and survivors is to ensure that they are aware of their rights, and how to seek supportive services that can help them exercise these rights. One way to enhance victims' "resilience" is to consistently enforce victims' statutory and constitutional rights in accordance with law. And one of the most critical ways to empower everyone concerned about "justice" is to educate them about the broad range of victims' rights so that community members are able to help people whom they know – family members, neighbors, friends and/or co-workers – who may become victims of crime.

Law enforcement, prosecutors, judges and courts, and institutional and community corrections agencies have important obligations to implement the laws and constitutional amendments adopted for the benefits of crime victims and survivors. The full exercise of rights by victims and survivors demonstrates that justice is, in fact, for *all*. Compliance with and enforcement of the rights of crime victims and survivors are core tenets of America's fundamental concept of justice.

It's important to note that victims' rights laws vary by state and jurisdiction. This CAP TIP offers an overview of the ten "core rights" and provides resources with information that is both general *and* specific to states.

Also included in a separate attachment are two posters – in English and Spanish – that incorporate the 2017 NCVRW theme artwork with the "ten core rights."

Resources about Crime Victims' Rights

To help you personalize victims' rights laws to your state or jurisdiction, there are eight helpful websites that offer myriad resources and information about crime victims' statutory and constitutional rights at the state, Tribal and Federal levels:

1. The Office for Victims of Crime (OVC) sponsors VictimLaw, a “one-stop shopping” searchable database that includes victims’ rights provisions for federal, tribal, state and territorial statutes. There are four ways to search, by:
 - Topic
 - Term
 - Jurisdiction
 - CitationVictimLaw can be accessed at <https://www.victimlaw.org/>.
2. For over 30 years, there have been nationwide efforts to pass a Federal constitutional amendment for victims’ rights. National Victims’ Constitutional Amendment Passage (NVCAP) provides an overview of these efforts at <http://www.nvcap.org/>.
3. NVCAP also provides a user-friendly map that identifies states that have passed constitutional amendments for victims’ rights, which can be accessed at <http://www.nvcap.org/states/stvras.html>.
4. NVCAP’s “sister organization,” the National Victims’ Rights Amendment Network (NVCAN), sponsored the Victims’ Rights Education Project (VREP) that features a handbook, series of brochures and “frequently asked questions” (among other resources) related to victims’ rights. VREP resources can be accessed at <http://www.nvcap.org/vrep/vrep.html>.
5. Six states have passed “Marsy’s Law” to promote equal rights for crime victims, with information and resources available at <https://marsyslaw.us/>.
6. The Rape, Abuse & Incest National Network (RAINN) offers state-specific summaries of laws and policy relevant to sexual assault at <https://www.rainn.org/public-policy-action>.
7. The National Council of Juvenile and Family Court Judges provides many overviews of state, Tribal and Federal laws related to intimate partner violence at <https://www.ncifcj.org/our-work/state-laws>.
8. The U.S. Department of Health and Human Services sponsors the Child Welfare Information Gateway with extensive information and resources about state and Federal child protection laws at <https://www.childwelfare.gov/topics/systemwide/laws-policies/>.

Ten Core Rights of Crime Victims

The ten core victims’ rights include the following:

1. Right to be treated with dignity and respect

The very foundation of our Nation’s victim assistance field is based upon the fact that historically, victims were virtually ignored in our systems of justice. When they were engaged in justice processes, it was merely as witnesses to crimes and, too often, they were viewed and treated like mere pieces of evidence. Since the inception of the victim assistance field, much has changed to ensure that crime victims and survivors are recognized as integral components and participants of our justice systems and its processes that seek to promote offender accountability and public safety; and as fellow Americans deserving of support and assistance,

regardless if they report crimes to law enforcement. Among the most significant outcomes have been efforts to ensure the fair treatment of victims with dignity and respect.

An excellent example of these terms being codified into law is in Utah, which offers the following statutory definitions:

- “Dignity” means treating the crime victim with worthiness, honor, and esteem.
- “Fairness” means treating the crime victims reasonably, even-handedly, and impartially.
- “Respect” means treating the crime victim with regard and value.

2. Right to notification

Victim notification is often called the “threshold right” for victims – a right from which access to the other core nine rights emanates. Victims and survivors should be notified about the status of their cases and the status and location of the alleged or convicted offender, and be provided with any information that can help them make informed choices as participants in their cases, and about their lives.

There are many professionals who can provide victims and survivors with notification services – from law enforcement, prosecutors, courts and the judiciary, and community and institutional corrections officials and Attorneys General, to community- and system-based victim advocates.

A summary of “Victims’ Statutory Rights to Notice: 75 Rights, Hearings and Events” is included at the end of this CAP TIP.

3. Right to be present at/attend proceedings

Victim attendance at justice proceedings facilitates their participation in justice – from pre-trial release and preliminary hearings, to court and probation proceedings, to parole hearings – and is essential for justice processes to smoothly proceed when victims are needed as witnesses. Victim participation also helps ensure that victims’ rights and needs are addressed across criminal and juvenile justice processes.

4. Right to be heard

The “voice of the victim” is an important component of *all* justice processes. Through victim oral and written impact statements, pre-sentence and pre-parole investigative reports (PSIs, PSRs and PPIs), victims can articulate how the crime has affected them – physically, emotionally, financially, socially and spiritually and what should happen to the offender – and present vital information to judges, jurors and paroling authorities that can help inform their decision-making.

A sample victim impact statement developed in 1999 through OVC’s National Victim Assistance Academy (NVAA) and updated in 2016 is included at the end of this CAP TIP.

5. Right to reasonable protection from intimidation and harm

Victims of crime should *never* be subject to intimidation, harm or harassment from *anyone*, including the defendant or convicted offender and the perpetrator’s families and friends. From pre-trial to after conviction, victims and survivors must be given opportunities to identify any issues they perceive to be threatening their personal sense of safety, and to have justice officials consider their safety needs and concerns throughout the entire spectrum of justice processes.

- A personalized Domestic Violence Safety Plan is available from the National Center on Domestic and Sexual Violence at http://www.ncdsv.org/images/DV_Safety_Plan.pdf.
- Guidelines for safety planning for sexual assault survivors are available from RAINN at <https://www.rainn.org/articles/safety-planning>.

6. Right to restitution

Restitution should be ordered as a part of a sentence or adjudication for convicted criminal and juvenile offenders, and/or as a condition of probation, parole, or other release. Victims need to be informed and assisted in asking for and receiving restitution. Restitution and other legal/financial obligations – such as child support – are important to hold offenders accountable for their crimes, and to help victims and survivors recoup some of the many financial losses they endure as a result of their victimization.

Victim advocates and justice professionals have an important role in helping victims document their pecuniary losses resulting from crime for the purposes of restitution. A checklist to help victims document such losses is available from Justice Solutions at http://www.justicesolutions.org/art_pub.htm#restitution.

7. Right to information and referral

Today in America, there are over 30,000 national, Federal, Tribal, state and local victim assistance programs that are both justice system- and community-based. Victims and survivors are entitled to receive information about *all* available services and rights that can help them cope with the immediate-, short-term and long-term impact of the crime.

OVC's Online Directory of Crime Victim Services offers a database for victim information and referrals that is searchable by the type of victimization; type of service requested; type of agency; and/or geographic jurisdiction. CAP programs can also sign up to be included in OVC's Directory. Please visit <http://ovc.ncjrs.gov/findvictimservices/search.asp> for more information.

8. Right to apply for victim compensation (for violent crime victims)

Victim compensation is the original "victims' right" in the United States. Victim compensation programs reimburse victims of violent crime for crime-related expenses such as medical costs, mental health counseling, funeral and burial costs, and lost wages or support. Today, all 50 states, the District of Columbia, the U.S. Virgin Islands, Guam and Puerto Rico have victim compensation programs. While each state's victim compensation program differs in its protocols and policies, information about all state programs can be accessed at www.nacvcb.com.

9. Right to speedy proceedings

At the federal level and, increasingly at the state level, victims have the right to proceedings free from unreasonable delay. This right ensures that undue delays don't hold up court or paroling processes, and that victims' efforts to secure justice are not unnecessarily prolonged.

10. Right to enforcement

The USDOJ Office for Victims of Crime supports many efforts to improve enforcement of victims' rights; a summary of these resources is available at <https://www.ovc.gov/rights/enforcement.html>.

For victims of Federal crimes, a program established under the *Crime Victims' Rights Act of 2004* and located within Executive Office of U.S. Attorneys (EOUSA) is the Crime Victims' Rights Ombudsman (<http://www.justice.gov/usao/resources/crime-victims-rights-ombudsman>). A victim of a Federal crime may file a complaint against any employee of the USDOJ who violated or failed to provide the rights established under the 2004 law cited above. The complaint process seeks to "request corrective or disciplinary action" and does not provide for the corrections of specific victims' rights violations.

For More Information

Please contact National Crime Victims' Rights Week Community Awareness Project Consultant Anne Seymour via email at annesey@atlantech.net; or by telephone at 202.547.1732.

Victims' Statutory Rights to Notice: 75 Rights, Hearings, and Events

Notification of Rights

- Right to compensation
- Right to restitution
- Right to notice of events and proceedings
- Right to a speedy trial
- Right to attend proceedings
- Right to be heard at proceedings
- Right to consult with the prosecutor
- Right to reasonable protection from the offender
- Information on how to request/exercise above rights
- Right to case status information
- Right to the name and telephone number of contact persons in the system
- Right to victim assistance and legal services referrals
- Right to an explanation of the legal process and/or justice proceedings

Notification of Hearings - Rights to Attend and Participate in

- Bail hearings
- Bail review/modification hearings
- Grand jury hearings
- Hearings related to orders of protection
- Other pre-trial hearings
- Hearings on acceptance of diversion for the offender
- Hearings on acceptance of a plea bargain
- Trials
- Sentencing
- Post-sentencing hearings
- Restitution hearings
- Appellate proceedings
- Probation revocation hearings
- Probation modification hearings
- Temporary release hearings
- Parole hearings
- Parole revocation hearings
- Parole modification hearings
- Pardon/commutation proceedings
- Hearings on the defendant's competency to stand trial
- Hearings on the defendant's release from mental institution
- Cancelled or rescheduled hearings
- Execution (in capital cases)

Right to Notice of the Following Events

- Arrest of the offender
- Bail or other pre-trial release of offender, and conditions of release
- Status of any offender who is in justice system custody or under supervision
- Offender's receipt of a protective order
- Indictment
- Dismissal of charges
- Dropping of case
- Plea negotiations
- Plea bargain
- Outcome of trial
- Sentence of the offender
- Appellate request for offender's DNA testing
- Filing of an appeal
- Outcome of appeal
- Location of incarcerated offender
- Earliest release date for incarcerated offender
- Offender re-entry back into the community
- Probation of the offender
- Probation revocation/reinstatement of sentence
- When the offender is in "out to court" status
- Transfer of offender from corrections to another jurisdiction (e.g., mental institution, INS custody, etc.)
- Request for Interstate Compact transfer
- Interstate Compact transfer and offender location.
- Furlough
- Work release
- Transfer from one prison facility to another
- Change of security status
- Release to civil commitment custody
- Parole
- Parole revocation
- Pardon
- Clemency
- Commutation
- Deportation
- Escape
- Recapture
- Death of offender
- Execution of offender (in capital cases)
- Offender's release from mental institution

Sample Victim Impact Statement

1. Please describe the offense, and how it has affected you and your family.
2. What was the *emotional impact* of this crime on you and your family?
3. What was the physical impact of this crime on you and your family? (*NOTE: This question should be utilized only for personal/violent crimes*).
4. What was the *financial impact* of this crime on you and your family? (*NOTE: Provide information about documenting losses for restitution and other financial/legal obligations, such as child support*)
5. What, if any, was the *spiritual impact* of this crime on you and your family?
6. Do you have any concerns about your safety and security? If “yes”, please describe your concerns:
6a: Would you like any protective measures taken by the (paroling/reentry authority) to promote your safety and security? If “yes,” please describe:
7. What (if anything) has changed in your life since *the time the crime occurred* and *now*?
8. What do you want to happen *now*?
9. Would you like an opportunity to participate in victim/offender programming (such as mediation/dialogue or victim impact panels) that can help hold the offender accountable for his/her actions? (*NOTE: Only utilize this question if such programs are in place, and ensure that the victim has written resources that fully describe such programs prior to including this question*)
10. If community service is recommended as part of the offender’s return to the community, do you have a favorite charity or non-profit organization you’d like to recommend as a placement? (Or “*would you like to make a recommendation for community service from our agency’s list of possible placements?*”)
11. Is there *any other information* you would like to share with the paroling/reentry authority regarding the offense; how it affected you and your family; and any concerns you have if/when the offender is released to community supervision?

_____ Please check here if you would like to continue to be notified about the status and outcome of your case and/or offender. (*This approach links the core victims’ rights of VIS and notification, and simplifies the process of enrolling in victim notification programs for victims*).

TEN CORE RIGHTS OF CRIME VICTIMS & SURVIVORS

RIGHT TO BE TREATED WITH DIGNITY AND RESPECT

RIGHT TO NOTIFICATION

RIGHT TO BE PRESENT AT/ATTEND PROCEEDINGS

RIGHT TO BE HEARD

RIGHT TO REASONABLE PROTECTION
FROM INTIMIDATION AND HARM

RIGHT TO RESTITUTION

RIGHT TO INFORMATION AND REFERRAL

RIGHT TO APPLY FOR VICTIM COMPENSATION
(IN VIOLENT CRIME CASES)

RIGHT TO SPEEDY PROCEEDINGS

RIGHT TO ENFORCEMENT

DIEZ DERECHOS BÁSICOS DEL CRIME VÍCTIMAS Y SUPERVIVIENTES

DERECHO A SER TRATADO CON DIGNIDAD Y RESPETO

DERECHO A LA NOTIFICACIÓN

DERECHO A ESTAR PRESENTE EN EL PROCEDIMIENTO

DERECHO A SER OÍDO

DERECHO A UNA PROTECCIÓN RAZONABLE DE
INTIMIDACIÓN Y DAÑO

DERECHO A LA RESTITUCIÓN

DERECHO A LA INFORMACIÓN Y REFERENCIA

DERECHO A SOLICITAR LA COMPENSACIÓN DE
VÍCTIMAS (EN CASOS DE CRIMEN VIOLENTO)

DERECHO A PROCEDIMIENTOS ALCANZADOS

DERECHO A LA APLICACIÓN