

1.15: Victim Rights and Assistance

Definition of a Victim

The CJ system refers to a victim as a person who has been directly harmed by a crime that was committed by another person. In some states, victims' rights apply only to victims of felonies (more serious crimes) while other states also grant legal rights to victims of misdemeanors (less serious crimes). Some states allow a family member of a homicide victim or the parent or guardian of a minor, incompetent person, or person with a disability to exercise these rights on behalf of the victims. ^[1]

The U.S. criminal justice system first introduced services for victims of federal criminal offenses during the 1980s. In the 1990s it was made law and Congress created the Victim's Rights and Restitution Act H.R.5368. The Act requires all Federal law enforcement agency officers and employees to make their best efforts to accord victims of crime with the right to (1) be treated with fairness and respect for the victim's dignity and privacy; (2) be protected from their accused offenders; (3) notification of court proceedings; (4) attend public court proceedings related to the offense under certain conditions; (5) confer with the Government attorney assigned to the case; (6) restitution; and (7) information about the conviction, sentencing, imprisonment, and release of the offender. Directs Federal law enforcement agency heads to designate the persons responsible for identifying the victims of a crime and providing certain services to such victims such as: (1) informing them where to receive medical care and counseling; (2) arranging protection from an offender; and (3) keeping the victim informed of developments during the investigation and prosecution of the crime and after the trial such as the arrest of a suspected offender or an escape of a convicted offender. ^[2]

The state prosecutes criminal offenses in the name of society, which is why cases are *Smith v. Colorado*, so victims and families were often not included in the process since they were not a necessary part of the court system. Today we have introduced various rights and include **victim-impact statements**. Victim-impact statements given an account by the victim, the victim's family, or others affected by the offense that expressed the effects of the offense. ^[3]

Victim Impact Statements Video: Listen and Learn

You will watch victim impact statements that were created to help educate people on the impact of various crimes. Warning: It is hard to watch at times and may cause you to feel upset, sad, angry, or more.

- First, watch the youtube video https://www.youtube.com/watch?v=_ghpl4vDZ3s
- Second, write a 500-word response about the benefits of victim-impact statements, the impact the film had on you, and any other general thoughts you had while watching.

Victim Rights

Today, all states and the federal government have passed laws to establish a set of victims' rights. The main goal of these laws is to provide victims with certain information and protections. It is important to note that victims' rights, just like criminal offenses, will depend on the jurisdiction where the crime is investigated and prosecuted. The rights may vary state, federal or tribal government, or military installation. ^[4]

Overview of Victim's Rights

Below is a list of basic victims' rights from the *National Center for Victims of Crime* that are provided by law in most jurisdictions. Again, it is important to remember these rights vary, depending on federal, state, or tribal law.

1. Right to be Treated with Dignity, Respect, and Sensitivity

1. Victims generally have the right to be treated with courtesy, fairness, and care by law enforcement and other officials throughout the entire criminal justice process. This right is included in the constitutions of most states that have victims' rights amendments and in the statutes of more than half the states.
2. Victim impact statements allow crime victims, during the decision-making process on sentencing or parole, to describe to the court or parole board the impact of the crime on their lives. The victim impact statement may include a description of psychological, financial, physical, or emotional harm the victim experienced as a result of the crime. A judge may use information from these statements to help determine an offender's sentence; a parole board may use such information to help decide whether to grant parole and what conditions to impose in releasing an offender. Many victims have reported that making victim impact statements improved their satisfaction with the criminal justice process and helped them recover from the crime. In

some states, the prosecutor is required to confer with the victim before making important decisions. In all states, however, the prosecutor (and not the victim) makes decisions about the case.

2. Right to Be Informed

1. The purpose of this right is to make sure that victims have the information they need to exercise their rights and to seek services and resources that are available to them. Victims generally have the right to receive information about victims' rights, victim compensation (see "Right to Apply for Compensation," below), available services and resources, how to contact criminal justice officials, and what to expect in the criminal justice system. Victims also usually have the right to receive notification of important events in their cases. Although state laws vary, most states require that victims receive notice of the following events:

- the arrest and arraignment of the offender
- bail proceedings
- pretrial proceedings
- dismissal of charges
- plea negotiations
- trial
- sentencing
- appeals
- probation or parole hearings
- release or escape of the offender

States have different ways of providing such information to victims. Usually, information about court proceedings is mailed to the victim. Some states have an automated victim notification system that automatically calls or e-mails the victim with updates on the status of the offender, while others require the victim to telephone the authorities to receive such updates.

3. Right to Protection

1. In many states, victims have the right to protection from threats, intimidation, or retaliation during criminal proceedings. Depending on the jurisdiction, victims may receive the following types of protection:

- police escorts
- witness protection programs
- relocation
- restraining orders

Some states also have laws to protect the employment of victims who are attending criminal proceedings (see "Right to Attend Criminal Proceedings," above).

4. Right to Apply for Compensation

1. All states provide crime victim compensation to reimburse victims of violent crime for some of the out-of-pocket expenses that resulted from the crime. The purpose of compensation is to recognize victims' financial losses and to help them recover some of these costs. All states have a cap on the total compensation award for each crime, and not all crime-related expenses are covered. To be eligible for compensation, victims must submit an application, usually within a certain period of time, and show that the losses they are claiming occurred through no fault of their own. Some types of losses that are usually covered include:

- medical and counseling expenses
- lost wages
- funeral expenses

Compensation programs seldom cover property loss or pain and suffering. Also, victim compensation is a payer of last resort; compensation programs will not cover expenses that can be paid by some other program, such as health insurance or workman's compensation.

5. Right to Restitution from the Offender

1. In many states, victims of crime have the right to restitution, which means the offender must pay to repair some of the damage that resulted from the crime. The purpose of this right is to hold offenders directly responsible to victims for the financial harm they caused. The court orders the offender to pay a specific amount of restitution either in a lump sum or

a series of payments. Some types of losses covered by restitution include:

2. lost wages
3. property loss
4. insurance deductibles

6. Right to Prompt Return of Personal Property

1. Crime investigators must often seize some of the victim's property as evidence for a criminal case. In most states, authorities must return such property to the victim when it is no longer needed. To speed up the return of property, some states allow law enforcement to use photographs of the item, rather than the item itself, as evidence. The prompt return of personal property reduces inconvenience to victims and helps restore their sense of security.

7. Right to a Speedy Trial

8. Right to Enforcement of Victim's Rights

1. To be meaningful, legal rights must be enforced. States are beginning to pass laws to enforce victims' rights, and several states have created offices to receive and investigate reports of violations of victims' rights. Other states have laws that permit victims to assert their rights in court.

[5]

1. The National Center for Victims of Crime. (2012). *Victim's rights*. victimsofcrime.org/help-for-crime-victims/get-help-bulletins-for-crime-victims/victims%27-rights↵
2. <https://www.congress.gov/bill/101st-congress/house-bill/5368> H.R.5368 - Victims' Rights and Restitution Act of 1990 101st Congress (1989-1990) ↵
3. victimsofcrime.org/help-for-crime-victims/get-help-bulletins-for-crime-victims/victims%27-rights ↵
4. The National Center for Victims of Crime. (2012). *Victim's rights*. victimsofcrime.org/help-for-crime-victims/get-help-bulletins-for-crime-victims/victims%27-rights↵
5. National Center for Victims of Crime. (2012). victimsofcrime.org/help-for-crime-victims/get-help-bulletins-for-crime-victims/victims%27-rights↵

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