


# FLORIDA HIGHWAY PATROL POLICY MANUAL

	<b>SUBJECT</b> VICTIM/WITNESS ASSISTANCE	<b>POLICY NUMBER</b> 22.02
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## 22.02.01 PURPOSE

To establish guidelines for all personnel who provide assistance to the victims and witnesses of criminal acts.

## 22.02.02 AUTHORITY

Authority and guidelines for providing assistance to victims and witnesses of crimes are contained in Chapter 119, Chapter 914, and Chapter 960, Florida Statutes.

## 22.02.03 POLICY

It is the policy of the Florida Highway Patrol that victims and witnesses of crimes be treated with dignity and compassion. Specific provisions of this policy are established to enact the requirements of Chapter 960, Florida Statutes. Nothing in this policy prevents or prohibits employees from providing assistance to victims or witnesses who would not otherwise be eligible for assistance as provided in Chapter 960, Florida Statutes. Reasonable assistance in coping with the crime and any related criminal proceeding shall be given.

## 22.02.04 DEFINITIONS

- A. **CRIME** - For the purpose of this policy, "crime" is the commission by any person, including a juvenile offender, of a misdemeanor or felony offense punishable under the laws of this state, which results in physical injury or death to another. It includes any violation of Section 316.193, Section 316.027(1) (a), or Section 782.071(2), Florida Statutes, which results in physical injury or death; however, no other act involving the operation of a motor vehicle, boat, or aircraft which results in injury or death shall constitute a crime for the purpose of this chapter unless the injury or death was intentionally inflicted. "Crime" also includes any such criminal act committed outside of this state against a resident of this state that would have been compensable if it had occurred in this state and that occurred in a state that does not have an eligible crime victim compensation program.
  
- B. **VICTIM** - Any person, other than a perpetrator or accomplice, who suffers personal injury or death as a result of a crime. The term "victim" shall include the next-of-kin of a homicide victim.

- C. **WITNESS** - Any person, other than a victim, perpetrator, or accomplice, who has information or evidence relevant to the investigation of a crime.

#### **22.02.05 RESPONSIBILITIES**

- A. Section 960.001(1)(a), Florida Statutes, requires that the witness coordination offices of each judicial circuit gather information regarding victim's rights and services available to victims within their circuit. This information is to be made available to all law enforcement agencies with jurisdiction in that circuit.
- B. The District Lieutenant will ensure that current information on victim/witness assistance is maintained and available to all employees.
- C. All employees will provide assistance to victims/witnesses as may be reasonably necessary, which may include referrals to other agencies.
- D. Members will maintain an adequate supply of victim/witness information and available services and distribute such information to victims/witnesses with whom they have contact.
- E. It will be the responsibility of victims/witnesses to request assistance, if desired, after the available services are made known to them.

#### **22.02.06 PROCEDURES**

##### **A. VICTIMS' RIGHTS AND SERVICES INFORMATION**

1. Cards or brochures listing victims' rights and available services will be maintained at each district headquarters. Those districts which operate in more than one judicial circuit shall maintain victim assistance information from each circuit.
2. When an arrest is made for homicide (including DUI manslaughter or vehicular homicide), a sexual offense, stalking, or domestic violence, the victim or next of kin of the victim shall be offered the opportunity to complete a Victim Notification Card (Addendum 22.02-1, form is available on the SafetyNet page or one supplied by the local Sheriff's Office). Victims or next of kin may decline to complete the form. Completed forms are to be attached to the arrest affidavit and delivered to the county jail.
3. Members shall maintain a supply of the informational cards or brochures in their patrol vehicle.
  - a. Informational cards and brochures will be delivered to victims at the earliest possible time during an investigation and will
    - (1) Inform the victim of the purpose of submitting evidence for testing in sexual offense investigations.
    - (2) Inform the victim of the right to request testing by a law enforcement agency that collects other DNA evidence associated with the sexual offense if a kit is not collected.

- b. The name of the investigating member, agency case number, and headquarters phone number will also be provided to victims with the informational cards or brochures.
  - c. The date and time that the informational cards/brochures are delivered to the victim(s) shall be noted in the arrest affidavit or other appropriate report.
4. In order to provide assistance 24 hours a day, informational cards/brochures will be made available to any employee that has contact with the public (i.e.; duty officers and clerks). Victims inquiring into available services should receive assistance from the person of first contact.
5. Informational cards/brochures will be placed in the lobby of each district headquarters and satellite office. The cards/brochures should be readily available to the public.
6. The District Lieutenant will contact the witness coordinator's office annually and review the listing of available victim services to ensure that information being distributed is current and contains, at a minimum, the information required by Section 960.001(1)(a), Florida Statutes.

#### B. PROTECTION OF VICTIMS OR WITNESSES

Sections 914.22 and 914.23, Florida Statutes, prohibits tampering with, or retaliation against, any victim or witness in a criminal case.

1. When an employee is made aware of any attempt to tamper with or retaliate against a victim or witness, the victim or witness will be referred to the State Attorney's Office for assistance in obtaining a temporary restraining order or protective order as provided in Section 914.24, Florida Statutes.
2. Any time that such tampering or retaliation is actually occurring at the time an employee is contacted by a victim/witness, the employee will immediately forward the information to the regional communications center. The regional communications center will dispatch a member to the scene, or notify a local law enforcement agency if no member is available to respond, and contact a supervisor. Once the security of the victim/witness is assured, the member will contact the State Attorney and complete an appropriate report detailing the incident.
3. Section 119.071, Florida Statutes, provides for confidentiality of certain information relative to this policy to include:
  - a. Any information revealing the identity of a confidential informant or a confidential source.
  - b. Any criminal intelligence information or criminal investigative information or other criminal record which may reveal the identity of a person who is the victim of any sexual offense, including a sexual offense proscribed in Chapter 794, Chapter 796, Chapter 800,

Chapter 827, or Chapter 847, Florida Statutes.

- c. Any criminal intelligence information or criminal investigative information which reveals the personal assets of the victim of a crime, other than property stolen or destroyed during the commission of the crime.
  - d. Any questions regarding maintaining the confidentiality of a victim/witness should be referred to the local public affairs officer and then, if necessary, to the Office of General Counsel for resolution.
4. Section 960.001, Florida Statutes gives victims of sexual offenses other specific rights. Members shall treat any victims of crime with care and compassion. This is especially true with victims of any type of sexual offense.
- a. The victim of a sexual offense has the right 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.
  - b. No law enforcement officer or government official shall ask or require the victim of a sexual offense to submit to a polygraph examination or other truth-testing device as a condition of the investigation.

C. RETURN OF PROPERTY TO VICTIMS

The property of victims shall be retained only when necessary for successful investigation and prosecution.

- 1. The evidentiary significance of property owned by the victim shall be discussed with the State Attorney. Normally, this will be done by the investigating member.
- 2. Upon release of the property by the State Attorney, the property will be returned to the victim as soon as possible.
- 3. When directed by the State Attorney, photographs will be taken of the property for use in criminal proceedings.

D. OTHER SERVICES PROVIDED

Other services required by Section 960.001, Florida Statutes, may be performed by the local State Attorney's office or the local witness coordinator. When those services are not provided by local agencies, employees will make reasonable effort to provide the services to victims and witnesses. Other services may include:

- 1. Informing the victim/witness' employer that his/her cooperation in the prosecution of the criminal case may necessitate the absence of that victim or witness from work.

2. Explaining to creditors that the victim/witness has suffered serious financial strain as a direct result of the crime or his/her cooperation in the investigation or prosecution of the crime and the reasons for such financial strain.
3. Informing the victim of his/her right to request restitution and the rights of enforcement in the event an offender does not comply with a restitution order.
4. Providing victims/witnesses with other assistance such as transportation, parking, separate pretrial waiting areas, and translator services in attending court.
5. Explaining the procedures involved in the prosecution of the case and their role in the prosecution.
6. Assisting in locating a Victim Advocate to provide support to the victim throughout the prosecution of the case.

E. ASSISTANCE PROVIDED DURING FOLLOW-UP INVESTIGATIONS

1. Scheduling of line-ups, interviews, and other required appearances should be done at the convenience of the victim/witness, if possible.
2. When possible, the victim(s) should be notified of the arrest of suspect(s).
3. Victims/witnesses should be contacted periodically during the follow-up investigation to ensure that needed assistance is being received and to be provided an updated report on the status of the investigation.

F. COOPERATION WITH OTHER AGENCIES

1. Employees will assist and cooperate with other agencies providing victim/witness assistance to the extent possible and in keeping with the primary mission of the Division.
2. Services provided by other agencies should not be unnecessarily duplicated by Division personnel.
3. Public affairs officers should cooperate with the State Attorney and other agencies with informing the public and media of services available in their respective areas.



**Florida Highway Patrol**

**Victim Notification Card**

I request that the chief administrator of the jail, juvenile detention facility, or involuntary commitment facility, (or the appointed designee of such administrator), make a reasonable attempt to notify me upon the defendant's release from their facility, as specifically provided for in Chapter 960.001(1)(f), Florida Statutes.

Victim's Name: \_\_\_\_\_ Victim's Address: \_\_\_\_\_  
Contact Number: (day) \_\_\_\_\_ (night) \_\_\_\_\_  
Alternate Contact Person and Number: \_\_\_\_\_  
Victim's Signature: \_\_\_\_\_ Case Number: \_\_\_\_\_  
Date of Report: \_\_\_\_\_ Defendant: \_\_\_\_\_  
D.O.B. \_\_\_\_\_ Charge: \_\_\_\_\_  
Investigating Trooper: \_\_\_\_\_ ID#: \_\_\_\_\_

## RIGHTS OF CRIME VICTIMS

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:

1. 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.
2. 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.
3. 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.
4. 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.
5. 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.**
6. 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.
7. The right, if you are incarcerated, to be informed and submit written statements at all crucial stages of the criminal and juvenile proceedings.
8. 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.
9. 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, relatives of minor victims and relatives of homicide victims, where those persons have provided current addresses and telephone numbers to the Sheriff /Police /SAO shall be notified.
10. 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 other gain to another person. If you are being threatened or intimidated, please contact the appropriate agency or any law enforcement officer.

11. 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 1-800-226-6667. The State Attorney's Office may assist with this paper work if necessary.
12. 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.
13. 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.
14. 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.
15. 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.
  - Plea Agreements.
  - Participation in pretrial diversion programs.
  - Sentencing of the accused.
16. The right to review certain portions of a pre-sentence investigation report for adult and youthful offenders prior to the sentencing of the accused.
17. The right to a prompt return of property unless there is a compelling law enforcement need to retain it.



18. 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.
19. 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.

20. 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.
21. The right to receive reasonable consideration and assistance from employees of the State Attorney's Office, Sheriff's Office, or 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.
22. 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.
23. The right to request that a victim advocate be permitted to attend and be present during your deposition. The victim advocate may be designated by the 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.
24. The right of a 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.
25. 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.

26. The right of the victim who is not incarcerated to not be required to attend discovery depositions in a correctional facility.
27. The statutory obligation of the victim, or next of kin of a homicide victim, that any information gained pursuant to F.S. 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.
28. 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.
29. 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.
30. The right of a victim of a sexual offense 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.
31. 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.
32. Requires that a sexual offense evidence kit collected in a sexual offense investigation be submitted to the statewide criminal analysis laboratory system for forensic testing within 30 days after the evidence is received by a law enforcement agency if a report of the sexual offense is made to the agency, or when you or your representative requests that the evidence be tested.
33. Requires the testing of a sexual offense evidence kit be completed no later than 120 days after submission to a member of the statewide criminal analysis laboratory system.
34. Requires a collected sexual offense evidence kit be retained in a secure, environmentally safe manner until the prosecuting agency approves the kit's destruction.
35. You or your representative shall be informed of the purpose of testing and of your right to demand testing. You shall be informed by either the medical provider conducting the physical forensic examination for purposes of evidence collection for a sexual offense evidence kit or, if no kit is collected a law enforcement agency that collects other DNA evidence associated with the offense.

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

36. To receive due process from the courts and to be treated with fairness and respect for your dignity.
37. To be free from intimidation, harassment and abuse.
38. Within the judicial process, to be reasonably protected from the accused.
39. 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.
40. To be heard in any public proceeding involving bail or pretrial release.
41. 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.
42. To prompt return of your property when no longer needed as evidence.
43. 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.
44. 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.)
45. To be informed of these rights and to seek an attorney's advice regarding these rights.
46. 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.
47. 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 maybe implicated.
48. To confer with the prosecutor concerning any plea agreements, restitution issues, participating in pretrial diversion or release programs by the defendant and sentencing or any other disposition of the case.
49. 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.

50. 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.
51. 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.
52. 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.