



# Florida Highway Patrol Policy Manual

|                           |                      |                      |
|---------------------------|----------------------|----------------------|
| <b>SUBJECT</b>            | <b>POLICY NUMBER</b> | <b>ISSUE DATE</b>    |
| VICTIM/WITNESS ASSISTANCE | 22.02                | 02/01/1996           |
|                           | <b>TOTAL PAGES</b>   | <b>REVISION DATE</b> |
|                           | 8                    | 09/22/2023           |

## 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, as well as Article I, Section 16, Florida Constitution.

## 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 and Article I, Section 16, Florida Constitution. 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 direct or threatened physical, psychological, or financial harm as a result of the commission or attempted commission of a crime or delinquent act or against whom the crime or delinquent act is committed. The term "victim" shall include the victim's lawful representative, the parent or guardian of a minor, or the next-of-kin of a homicide victim, except upon a showing that the interest of such individual would be in actual or potential conflict with the interests of the victim. The term "victim" does not include the accused.
- 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.
- F. It is the responsibility of the individuals entitled to assert rights under Marsy's Law to request enforcement of their enumerated rights if desired.
- G. Individuals entitled to assert rights under Marsy's Law should email their request to the Office of General Counsel at [marsyslaw@flhsmv.gov](mailto:marsyslaw@flhsmv.gov). Additionally, any employee receiving a Marsy's Law request by email or in writing shall forward such request to the Office of General Counsel at [marsyslaw@flhsmv.gov](mailto:marsyslaw@flhsmv.gov).

## 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](#). 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.

Informational cards and brochures will be delivered to victims at the earliest possible time during an investigation and will

- a. Inform the victim of the purpose of submitting evidence for testing in sexual offense investigations.
  - b. 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.
  - c. 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.
  - d. 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 (e.g.; 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.
7. In all crimes, members shall provide to all victims the [Florida Highway Patrol Victim's Right Brochure \(HSMV 60044\)](#). This brochure advises the victim of their Marsy's Law Rights and how to assert and seek enforcement of those rights.

## 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's office 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. Active criminal intelligence information and active criminal investigative information.

- b. Any information revealing surveillance techniques or procedures or personnel.
- c. Any information revealing the substance of a confession of a person arrested, until such time as the criminal case is finally determined by adjudication, dismissal, or other final disposition.
- d. Any information revealing the identity of a confidential informant or a confidential source.
- e. Any information that reveals the identity of the victim of the crime of child abuse or that reveals the identity of a person under the age of 18 who is the victim of the crime of human trafficking and any information in a videotaped statement of a minor who is alleged to be or who is a victim of sexual battery, lewd acts, or other sexual misconduct.
- f. Any information that may reveal the identity of a person who is a victim of any sexual offense, including any photograph, videotape, or image of any part of the body of the victim of a sexual offense.
- g. Any criminal intelligence information or criminal investigative information that reveals the personal assets of the victim of a crime, other than property stolen or destroyed during the commission of the crime.
- h. Any document that reveals the identity, home or employment telephone number, home or employment address, or personal assets of the victim of a crime and identifies that person as the victim of a crime.
- i. A body camera recording, or a portion thereof that:
  - 1) Is taken within the interior of a private residence;
  - 2) Is taken within the interior of a facility that offers health care, mental health care, or social services; or
  - 3) Is taken in a place that a reasonable person would expect to be private.

- j. Criminal intelligence information or criminal investigative information that reveals the personal identifying information of a witness to a murder.
  - k. A photograph or video or audio recording that depicts or records the killing of a law enforcement officer who was acting in accordance with his or her official duties or the killing of a victim of mass violence.
  - l. Any questions regarding maintaining the confidentiality of a victim/witness or any information listed above 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. At the request of the victim or the victim's parent, guardian or lawful representative, a victim 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, the local witness coordinator, and FHP. Other services may include:

1. At the request of the victim/witness, informing the victim/witness' employer that their cooperation in the prosecution of the criminal case may necessitate the absence of that victim or witness from work.
2. At the request of the victim/witness, explaining to creditors that the victim/witness has suffered serious financial strain as a direct result of the crime or their cooperation in the investigation or prosecution of the crime and the reasons for such financial strain.
3. Informing the victim of their 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) by FHP.
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, while ensuring any request made under Marsy's Law is followed, should cooperate with the state attorney and other agencies with informing the public and media of services available in their respective areas.