



Addressing the Unauthorized Release of Victim Information

Crime victims all too frequently face violations of their privacy rights associated with their status as victims and with their participation in the investigation and prosecution of their offenders. One such privacy violation results from the disclosure of a crime victim's identity without his or her consent. As NCVLI has described in one of its publications,

Compelling disclosure of a victim's identity as part of a criminal case subjects victims to the risk of revictimization at the hands of the justice system—often referred to as “secondary trauma” or “secondary victimization”—and may also weaken confidence in the criminal justice system as a means to protect and serve the public. With the advent of electronic filing and online access to court documents, a simple Google search of a victim's name can reveal highly personal details of victimization described in court opinions, pleadings, and other court documents thereby exponentially increasing the potential harm to the victim. Thus, it should be standard practice for courts, prosecutors, and other system participants to ask crime victims for their preference regarding anonymity; and if the victims so choose, their privacy should be protected through the use of pseudonyms in the place of their names and redaction of identifying information in all records associated with the criminal proceedings.¹

Even when opinions or other court documents contain the victim's name or other identifying information, there are remedies that victims may pursue to reclaim their privacy and minimize or prevent harm associated with ongoing disclosure. Among these remedies are:

- (1) A prompt request made to the court to substitute the pleading, record, or court opinion with a redacted version omitting the victim's name and other identifying information;
- (2) If the document has made it online, substitution and redaction should be accompanied by a letter request—known as an Internet take-down letter—to public and private online

¹ *Protecting Victims' Privacy Rights: Addressing the Unauthorized Release of Victim Information in Federal Criminal Cases*, Victim Law Article (Nat'l Crime Victim Law Inst., Portland, Or.), Dec. 2013, at 1, <https://law.lclark.edu/live/files/20679-protecting-victims-privacy-rightsaddressing-the>.



databases and other service providers to remove links to the document or to substitute a link to a redacted version;

- (3) If the criminal proceedings are ongoing—whether by initial prosecution, appellate review, or post-conviction processes—a request to the court to issue a protective order requiring parties and other system participants to refer to the victim only by pseudonym and omit other identifying information from court documents; and
- (4) Victims may seek to seal pleadings, records, and other court documents.

Together, these remedies can be effective, albeit imperfect, tools in addressing unauthorized releases of victim information as part of criminal proceedings. The following resources, authored and/or collected by NCVLI and designed to assist in protecting victims' privacy, are included in this appendix:

1. *Outline of Facts and Arguments that May Be Included in Requests to the Court to Order Redaction and Substitution of Its Opinion* (with Wisconsin-specific cites).
2. *Outline of Facts and Arguments that May Be Included in Requests to the Court to Withdraw and Reissue Its Opinion* (with Texas-specific cites).
3. *Sample Internet Take-Down Letter* addressed to Yahoo, Inc., seeking the removal or revision of the cache to the webpage revealing victim information (not authored by NCVLI, shared with permission).
4. *Use of Pseudonyms to Protect the Victim: Correcting Records Online After Securing a Court Order for Redaction and Substitution* (flowchart).
5. *Protecting Victims' Privacy Rights: Addressing the Unauthorized Release of Victim Information in Federal Criminal Cases*, Victim Law Article (Nat'l Crime Victim Law Inst., Portland, Or.), Dec. 2013, <https://law.lclark.edu/live/files/20679-protecting-victims-privacy-rightsaddressing-the>.