



NATIONAL CRIME VICTIM LAW INSTITUTE

CRIME VICTIMS' RIGHTS AND INTERESTS REQUIRE THEIR TIMELY RECEIPT OF COPIES OF POLICE REPORTS¹

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Victims of crime have many rights and interests that require their timely receipt of copies of the police reports² related to their victimization. For example, a victim may need a copy of a police report to: pursue an insurance or crime victim compensation claim; provide to an employer to meet eligibility requirements for time off under state laws or employment policies; use in civil, family, immigration, protective order or other legal proceedings related to the victimization; request a change of locks or lease cancellation from their landlord; pursue credit restoration after identity theft; verify that police accurately documented the victim's statements or underlying facts; meaningfully assert and seek enforcement of their other rights in the criminal justice process; or simply review as part of the healing process. Because of the critical nature of the victims' rights and interests at stake, many states recognize the right of at least some crime victims to receive a copy of the police report.³

In fact, a majority of states have laws that explicitly recognize the right of some or all crime victims to receive copies of at least some police reports related to their case.⁴ Although the scope of these laws vary greatly, they can generally be grouped into one of the following broad categories: (1) laws mandating that copies of the police report or portions thereof be provided to some or all crime victims at a specific time or upon request of the victim;⁵ or (2) laws recognizing a victim's right to receive a copy of the police report as limited by or subject to an exercise of discretion by law enforcement, courts, custodians of public records or others.⁶

Even in jurisdictions that do not explicitly recognize the right of victims to receive copies of police reports, meaningful exercise of victims' other rights requires it.⁷ Crime victims have personally held and enforceable rights in all jurisdictions, including rights to due process and fairness,⁸ to be heard at release, plea, sentencing, and other proceedings, and to confer with the prosecution.⁹ Because victims' rights—as is true of all rights—must be interpreted through the lens of due process, these rights must be afforded in a way that is meaningful.¹⁰

For victims to meaningfully analyze whether, how and when to exercise their rights and pursue their interests in the context of criminal justice, they must have access to case information, including the police report.¹¹ Notably, this means that even in jurisdictions that afford victims a right to receive copies of only some information in police reports, where victims have broad constitutional rights those will likely require that they receive copies of all information in the investigative case file that is necessary to make exercise of those rights meaningful.

The importance of the information in police reports as it relates to legal proceedings arising from the crime is demonstrated by the fact that defendants in criminal cases are generally entitled to such materials, and denying access to these reports has been recognized by some courts as a violation of their due process rights.¹² In fact, police reports play such a key role in criminal proceedings that it is difficult to imagine any prosecutor, defense attorney or court agreeing that it is possible to adequately discharge their duties in the criminal justice process without access to them. Similarly, victims' rights to due process and to be treated with fairness, dignity and respect, and to meaningfully exercise their other rights, requires that they receive copies of police reports in a timely fashion.¹³

Understood through the due process lens, victims' rights require that victims be provided with a full and timely copy of the police report as well as other key sources of case information. Access to this information is integral to victims' meaningful exercise of their rights.

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² For purposes of this resource, the terms "police report" and "police reports" are used interchangeably and even when described in the singular form are intended to refer expansively to any and all reports generated by the police as part of their investigation of the crime, including initial as well as any supplemental reports and related witness statements. Depending on the circumstances, victims' meaningful exercise of their other rights may entitle them to copies of additional documents in the case file, such as property lists, criminal history records, autopsy results, photos and search warrants.

³ It is important to distinguish between a crime victims' right to access the police report based on their legal status as a crime victim and the access that they may have to such records via a public records' request. Although dependent on the specific circumstances of any given request to access records, access to law enforcement records, including police reports, by the public and the press is generally governed by federal or state constitutional guarantees, such as those related to freedom of the press and open courts, a jurisdiction's open records laws, and other laws (such as victims' rights laws) that protect the privacy of individually identifying or other private information within the records. Every jurisdiction has some type of open records laws—also commonly referred to as freedom of information acts, public records laws, sunshine laws or right to know acts—that are designed to allow persons to request government documents and, if the government agency holding the records refuses to turn them over, to file a lawsuit to compel disclosure. Because of the sensitive information contained in certain governmental records, such as police reports and other law enforcement records, public records laws often place limits on the timing and breadth of public access to some or all information in these records. An in-depth analysis of the

intersection of victims' rights and public records laws is outside the scope of this resource; however, this resource references some public records laws that specifically provide for the right of crime victims to access different or other records than the general public. Even under circumstances where a jurisdiction's public records laws exempt police reports and other law enforcement records from disclosure and provide no exception for crime victims, the jurisdiction's laws may provide an avenue to argue that victims' access to their own police reports is in the public interest and therefore permitted or even required. *See In re Quinn*, 517 N.W.2d 895, 899-90 (Minn. 1994) (holding that the victim was entitled to access information in police files regarding a closed investigation into the reported rape and finding that the government data law recognizes a crime victim "has a greater right of access than the public/press"). For more information about victim' rights and public records laws generally, *see Protecting Victims' Rights and Interests in the Context of Open Records Laws*, Victim Law Bull. (Nat'l Crime Victim Law Inst., Portland, Or.), Feb. 2020, <https://law.lclark.edu/live/files/30173-protecting-victims-rights-and-interests-in-the>.

⁴ While this resource focuses on the right of a crime victim to personally receive a copy of police reports, some jurisdictions require or permit law enforcement agencies to provide copies of police reports to victim advocates as needed to assist them in providing services to victims. *See, e.g.*, Conn. Gen. Stat. Ann. § 54-220(b) (requiring that law enforcement agencies provide victim advocates with copies of police reports upon request as needed by the advocate to perform their responsibilities and duties); Ind. Code Ann. § 5-14-3-4(b)(1) (permitting law enforcement agencies or private university police departments to share investigatory records with victim advocates or other victim service providers "for the purposes of providing services to a victim or describing services that may be available to a victim").

⁵ *See, e.g.*, Alaska Stat. Ann § 47.12.310(b)(2)(F) (prohibiting disclosure of information in cases involving a juvenile offender except under certain circumstances that include release of information and reports to "a victim or to the victim's insurance company as may be necessary to inform the victim or the insurance company about the arrest of the minor, including . . . copies of reports"); Alaska Stat. Ann. § 45.48.680(a) (requiring local law enforcement agencies to make identity theft reports and provide the victim with a copy); Ariz. Rev. Stat. Ann. § 39-127(A)-(B) (victims of criminal and delinquent acts have "the right to receive one copy of the police report from the investigating law enforcement agency at no charge"); Ariz. Rev. Stat. Ann. § 13-4405(A)(3)(i) (law enforcement must provide notice to victims of their right "to receive one copy of the police report, including any supplements to the report, from the investigating law enforcement agency at no charge pursuant to § 39-127"); Ark. Code Ann. § 5-37-228(b)(2)(A)-(B) (requiring local law enforcement agencies to make identity theft reports and provide the victim with a copy); Cal. Penal Code § 680.2(b) (requiring law enforcement to provide victims of sexual assault who submit a written request "a free copy of the initial crime report related to the sexual assault, regardless of whether the report has been closed by the law enforcement agency"); Cal. Fam. Code § 6228(a)(1)-(5) (requiring state and local law enforcement agencies, upon request, to provide a free copy of all incident report face sheets to victims of domestic violence, sexual assault, stalking, trafficking and elder and dependent person abuse); Conn. Gen. Stat. Ann. § 54-1n (requiring law enforcement agencies to make reports of identity theft and provide the victim with a copy); Conn. Gen. Stat. Ann. § 46b-124a (providing for the right of victims in cases involving juvenile offenders to access certain information about the case without a court order; records such as police reports may be made available to victims by order of the court upon good cause shown); Del. Code Ann. tit. 11, § 9410(3) (mandating that law enforcement "promptly" provide to the victim at time of initial contact a copy of the initial incident report); 725 Ill. Comp. Stat. Ann. 120/4(b-5) (requiring law enforcement agencies to provide to the victim upon request "a free copy of the police report concerning the victim's incident as soon as practicable, but in no event later than 5 business days from the request"); Ind. Code Ann. § 31-33-18-2(7) (reports of child abuse or neglect shall be available to the victim); Ind. Code Ann. § 35-40-14-3(a) (requiring law enforcement agencies to make reports of identity theft and provide the victim with a copy); La. Stat. Ann.

§ 46:1844(X) (recognizing the right of “[a]ll victims of violent crime [] to . . . access and obtain a copy of their initial police report at no cost to them”); La. Stat. Ann. § 14:67.16(H)(1) (requiring “[a]ny law enforcement agency which is requested to conduct an investigation [regarding identity theft] . . . to take a police report of the matter from the victim, provide the complainant with a copy of such report, and begin an investigation of the facts”); Md. Code Ann., Fam. Law § 4-503.1(a) (requiring law enforcement to provide a victim of domestic violence with a copy of the incident report if the victim requests and one is filed); Md. Code Ann., Crim. Law § 8-304(a)-(b) (recognizing the right of a victim of identity theft to report the crime and receive a copy of the report); Mass. Gen. Laws Ann. ch. 209A, § 6 (recognizing the right of a victim of domestic violence to receive “a copy of the full incident report at no cost upon request to the appropriate law enforcement department”); Mass. Gen. Laws Ann. ch. 258E, § 8 (recognizing the right of a victim of abuse or harassment to receive “a copy of the full incident report at no cost upon request to the appropriate law enforcement department”); Mass. Gen. Laws Ann. ch. 41, § 97D (providing that “[a]ll reports of rape and sexual assault or attempts to commit such offenses, all reports of abuse perpetrated by family or household members . . . and all communications between police officers and victims of such offenses or abuse shall not be public reports and shall be maintained by the police departments in a manner that shall assure their confidentiality”; however, “all such reports shall be accessible at all reasonable times, upon written request, to . . . the victim, the victim’s attorney, [and] others specifically authorized by the victim to obtain such information”); Mass. Gen. Laws Ann. ch. 266, § 37E(f) (requiring that law enforcement “accept a police incident report from a victim [of identity theft] and [] provide a copy to such victim, if requested, within 24 hours”); Mont. Code Ann. § 46-24-218(2)(b) (recognizing the right of a victim of identity theft to receive a copy of the police report within 72 hours of making the complaint); N.Y. Exec. Law § 646(1) (recognizing that “[a] victim of crime shall be entitled, regardless of physical injury, without charge to a copy of a police report of the crime”); N.D. Cent. Code Ann. § 12.1-34-02(20) (requiring the prosecuting attorney or law enforcement authority to provide an adult victim of child sexual abuse with a copy of the law enforcement report when requested); N.D. Cent. Code Ann. § 27-20.2-21(1)(j) (recognizing the right of the victim to access some of the juvenile offender’s court records); Okla. Stat. Ann. tit. 21, § 1533.3(A) (recognizing the right of “victims of identity theft . . . to contact the local law enforcement agency where the victim is domiciled[,] [] have an incident report about the identity theft prepared and filed[,] . . . [and] upon request . . . [receive] a copy of the incident report”); Or. Rev. Stat. Ann. § 135.857(1) (providing for the right of victims upon request to access all reports and information disclosed to the defendant “[i]n any criminal prosecution arising from an automobile collision in which the defendant is alleged to have been under the influence of alcohol or drugs”); Tex. Fam. Code Ann. § 261.201(k) (requiring investigating agencies to provide information concerning reported child abuse or neglect to “the parent, managing conservator, or other legal representative of a child who is the subject of reported abuse or neglect, or to the child if the child is at least 18 years of age”); Tex. Code Crim. Proc. Ann. art. 5.05(f) (requiring local law enforcement agencies to provide victims of family violence upon request “at no cost to the victim, [] any information that is . . . contained in the written report . . . and . . . described by Subsection (a)(1) or (2)”); Utah Code Ann. § 77-36-2.2(6)(d) (requiring that law enforcement agencies make available to victims of domestic violence a free copy of the incident report upon request); Wash. Rev. Code Ann. § 70.125.110(1)(g) (recognizing the right of victims of sexual assault to receive a free copy of the police report); *see also* Conn. Gen. Stat. Ann. § 54-220(b) (requiring that law enforcement agencies provide victim advocates with copies of police reports upon request as needed by the advocate to perform their responsibilities and duties).

⁶ Ala. Code § 12-15-134(c) (permitting victim’s access to law enforcement records during the investigation of a crime involving a juvenile offender “at the discretion of the investigating officer”); Cal. Gov’t Code § 7923.605(a)-(b) (requiring law enforcement agencies to “disclose the names and addresses of persons involved in, or witnesses other than confidential informants to, the incident, the description of any property involved, the date, time, and location of the incident, all diagrams, statements of the parties

involved in the incident, the statements of all witnesses, other than confidential informants, to the victims of an incident, or an authorized representative thereof . . . unless the disclosure would endanger” the safety of a witness or other person involved in the investigation or the successful completion of the investigation); Colo. Rev. Stat. Ann. § 24-4.1-302.5(1)(b.9) (detailing the right of victims “to receive a free copy of the initial incident report from the investigating law enforcement agency; except that the release of a document associated with the investigation is at the discretion of the law enforcement agency based on the status of the case or security and safety concerns in a correctional facility, local jail, or private contract prison as defined in section 17-1-102”); La. Stat. Ann. § 44:3(F) (right of family members of a homicide victim to access investigative files “after a period of ten years has lapsed from the date of death . . . and upon approval by the district court having jurisdiction over any criminal prosecution which may result due to the death of such person”); Mont. Code Ann. § 44-5-303(2) (providing that “[i]f the prosecutor determines that dissemination of confidential criminal justice information would not jeopardize a pending investigation or other criminal proceeding, the information may be disseminated to a victim of the offense by the prosecutor or by the investigating law enforcement agency after consultation with the prosecutor”); N.C. Gen. Stat. Ann. § 14-113.21A(a) (explaining that in cases where a victim of identity theft contacts “the local law enforcement agency that has jurisdiction over the person’s actual residence[,] [n]otwithstanding the fact that jurisdiction may lie elsewhere for investigation and prosecution of a crime of identity theft, the local law enforcement agency may take the complaint, issue an incident report, and provide the complainant with a copy of the report and may refer the report to a law enforcement agency in that different jurisdiction”); S.D. Codified Laws § 23A-28C-1(14) (recognizing the right of victims “[t]o be provided a copy of any report of law enforcement that is related to the crime, at the discretion of the state’s attorney, or upon motion and order of the court”).

⁷ A number of jurisdictions explicitly require that victims are to be provided copies of their police reports without charge (emphasis added in all parentheticals for ease of review). *See, e.g.*, Ariz. Rev. Stat. Ann. § 39-127(A)-(B) (victims of criminal and delinquent acts have “the right to receive one copy of the police report from the investigating law enforcement agency *at no charge*”); Ariz. Rev. Stat. Ann. § 13-4405(A)(3)(i) (law enforcement must provide notice to victims of their right “to receive one copy of the police report, including any supplements to the report, from the investigating law enforcement agency *at no charge* pursuant to § 39-127”); Cal. Penal Code § 680.2(b) (requiring law enforcement to provide victims of sexual assault who submit a written request “*a free copy* of the initial crime report related to the sexual assault, regardless of whether the report has been closed by the law enforcement agency”); Cal. Fam. Code § 6228(a)(1)-(5) (requiring state and local law enforcement agencies, upon request, to provide *a free copy* of all incident report face sheets to victims of domestic violence, sexual assault, stalking, trafficking and elder and dependent person abuse); Colo. Rev. Stat. Ann. § 24-4.1-302.5(1)(b.9) (detailing the right of victims “to receive *a free copy* of the initial incident report from the investigating law enforcement agency; except that the release of a document associated with the investigation is at the discretion of the law enforcement agency based on the status of the case or security and safety concerns in a correctional facility, local jail, or private contract prison as defined in section 17-1-102”); 725 Ill. Comp. Stat. Ann. 120/4(b-5) (requiring law enforcement agencies to provide to the victim upon request “*a free copy* of the police report concerning the victim’s incident as soon as practicable, but in no event later than 5 business days from the request”); Mass. Gen. Laws Ann. ch. 209A, § 6 (recognizing the right of a victim of domestic violence to receive “a copy of the full incident report *at no cost* upon request to the appropriate law enforcement department”); Mass. Gen. Laws Ann. ch. 258E, § 8 (recognizing the right of a victim of abuse or harassment to receive “a copy of the full incident report *at no cost* upon request to the appropriate law enforcement department”); N.Y. Exec. Law § 646(1) (recognizing that “[a] victim of crime shall be entitled, regardless of physical injury, *without charge* to a copy of a police report of the crime”). Even where jurisdictions’ laws do not specify either way as to cost, victims’ rights to

access justice, to be treated with fairness and to meaningful exercise of their rights requires that free copies be provided to victims.

⁸ See, e.g., 18 U.S.C. § 3771(a)(8) (affording the right “to be treated with fairness”); 150 Cong. Rec. S4269 (Apr. 22, 2004) (Senator Kyl) (explaining that the right to be treated with “fairness” under the federal Crime Victims’ Rights Act, 18 U.S.C. § 3771, “includes the notion of due process”); Alaska Const. art. I, § 24 (affording the right “to be treated with dignity, respect, and fairness”); Ariz. Const. art. 2, § 2.1(A)(1) (recognizing crime victims have “rights to justice and due process” and guaranteeing the right “[t]o be treated with fairness, respect, and dignity”); Cal. Const. art. I, § 28(b)(1) (recognizing crime victims have “rights to justice and due process” and guaranteeing the right “[t]o be treated with fairness”); Colo. Rev. Stat. § 24-4.1-302.5(1)(a) (recognizing crime victims have “rights to justice and due process” and guaranteeing “[t]he right to be treated with fairness, respect, and dignity”); Conn. Const. art. 1, § 8(b)(1) (affording the right “to be treated with fairness and respect”); D.C. Code § 23-1901(b)(1) (affording the right to “[b]e treated with fairness and with respect”); Ga. Code Ann. § 17-17-1(9) (affording the right “to be treated fairly and with dignity”); Idaho Const. art. I, § 22(1) (affording the right “[t]o be treated with fairness, respect, [and] dignity”); Ill. Const. art. 1, § 8.1(a)(1) (affording the right “to be treated with fairness and respect for their dignity”); Ind. Const. art. 1, § 13(b) (affording the right “to be treated with fairness, dignity, and respect”); La. Const. art. I, § 25 (affording the right to “be treated with fairness, dignity, and respect”); Mich. Const. art. I, § 24(1) (affording the right “to be treated with fairness and respect”); Miss. Const. art. 3, § 26A(1) (affording the right “to be treated with fairness, dignity and respect”); N.H. Rev. Stat. Ann. § 21-M:8-k(II)(a) (affording “[t]he right to be treated with fairness and respect”); N.J. Const. art. I, ¶ 22 (affording the right to “be treated with fairness”); N.M. Const. art. II, § 24(A)(1) (affording the right “to be treated with fairness and respect”); Ohio Const. art. I, § 10a (affording the right to “be accorded fairness, dignity, and respect”); Okla. Const. art. II, § 34 (recognizing crime victims have “rights . . . to justice and due process” and affording rights to “ensure that victims are treated with fairness, respect and dignity”); Or. Const. art. I, § 42(1) (recognizing victims have the “right . . . to justice,” to be accorded “due dignity and respect,” and to have proceedings conducted “to ensure that a fair balance is struck between the rights of crime victims and the rights of criminal defendants”); S.C. Const. art. I, § 24(A)(1) (recognizing victims have “rights to justice and due process” and affording the right to “be treated with fairness, respect, and dignity”); Tenn. Const. art. I, § 35 (recognizing victims have the “rights . . . to justice and due process”); Tex. Const. art. I, § 30(a)(1) (affording the right “to be treated with fairness”); Utah Const. art. I, § 28(1)(a) (recognizing victims have “rights to justice and due process” and guaranteeing the right “[t]o be treated with fairness, respect, and dignity”); Va. Const. art. I, § 8-A(2) (affording the right “to be treated with respect, dignity and fairness”); Wis. Const. art. I, § 9m (affording the right to be treated “with fairness [and] dignity”).

⁹ See, e.g., Alaska Const. art 1, § 24 (affording victims the rights to “confer with the prosecution” and “to be heard, upon request, at sentencing, before or after conviction or juvenile adjudication, and at any proceedings where the accused’s release from custody is considered”); Cal. Const. art. I, § 28(b)(6), (8) (affording victims the rights to “reasonable notice of and to reasonably confer with the prosecuting agency” regarding, *inter alia*, the charges filed and any pretrial disposition of the case, and “[t]o be heard, upon request, at any proceeding . . . involving a postarrest release decision, plea, sentencing, post-conviction release decision, or any proceedings in which a right of the victim is at issue”); Colo. Const. art. II, § 16a (affording victims “the right to be heard when relevant, informed, and present at all critical stages of the criminal justice process”); Ill. Const. art. I, § 8.1(a)(4), (5) (affording victims the rights “to communicate with the prosecution” and “to be heard at any post-arraignment court proceeding in which a right of the victim is at issue and any court proceeding involving a post-arraignment release decision, plea, or sentencing”); Tex. Const. art I, § 30(b)(3) (affording crime victims “the right to confer with a representative of the prosecutor’s office”); Tex. Code Crim. Proc. Ann. art. 56.02 (affording right to submit victim impact statement and have it considered).

¹⁰ See *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976) (quoting *Armstrong v. Manzo*, 380 U.S. 123, 168 (1965)) (explaining that “[t]he fundamental requirement of due process is the opportunity to be heard ‘at a meaningful time and in a meaningful manner’”); accord *Hamdi v. Rumsfeld*, 542 US 507, 533 (2004) (“For more than a century the central meaning of procedural due process has been clear: ‘Parties whose rights are to be affected are entitled to be heard; and in order that they may enjoy that right they must first be notified.’ It is equally fundamental that the right to notice and an opportunity to be heard ‘must be granted at a meaningful time and in a meaningful manner.’ These essential constitutional promises may not be eroded.”).

¹¹ See *United States v. BP Prod. N. Am. Inc.*, No. CRIM. H-07-434, 2008 WL 501321, at *14 (S.D. Tex. Feb. 21, 2008) (describing cases in which federal courts have concluded that the victim’s right to be heard and to confer with the prosecutor encompass a right to obtain information from the prosecutor that enables victims to “to form and communicate the victims’ views to the court”). See also *Meaningful Crime Victims’ Rights Require Discovery of Case Information and Records*, (Nat’l Crime Victim Law Inst., Portland, Or.), 2016, at 2, <https://law.lclark.edu/live/files/25180-ncvli-newsletter---right-to-discover-case> (explaining that “[v]ictims . . . have myriad rights, including to due process and fair treatment by the government; rights that are routinely ignored in cases where the victims are denied access to case information and records relevant to the meaningful exercise of their rights. The information and records may include police reports, autopsy reports, the information or indictment, written communication between defense counsel and the prosecutor, and the presentence report.”)

¹² See, e.g., *Slutzker v. Johnson*, 393 F.3d 373, 386-88 (3d Cir. 2004) (affirming the federal district court’s order granting habeas relief and finding that the state’s failure to disclose 21 police reports to defendant at trial amounted to a due process violation under *Brady*); *People v. Johnson*, 48 Cal. Rptr. 3d 439, 446 (Cal. Ct. App. 2006) (reversing defendant’s conviction and ordering a new trial because the prosecutor’s failure to disclose a police report that contained information material to the defense violated defendant’s due process rights); *People v. Lumpkins*, 533 N.Y.S.2d 792 (N.Y. Sup. Ct. 1988) (granting defendant’s motion to vacate the judgment of conviction and ordering a new trial as the state’s failure to disclose the police report containing potentially exculpatory evidence violated defendant’s due process rights).

¹³ Cf. *Snyder v. Com. of Mass.*, 291 U.S. 97, 122, 54 S. Ct. 330, 338, 78 L. Ed. 674 (1934) (“The law, as we have seen, is sedulous in maintaining for a defendant charged with crime whatever forms of procedure are of the essence of an opportunity to defend. Privileges so fundamental as to be inherent in every concept of a fair trial that could be acceptable to the thought of reasonable men will be kept inviolate and inviolable, however crushing may be the pressure of incriminating proof. But justice, though due to the accused, is due to the accuser also. The concept of fairness must not be strained till it is narrowed to a filament. We are to keep the balance true.”); see also Nat’l Crime Victim Law Inst., *supra* note 11, at 4 (“But just as with defendants’ rights, all victims’ rights must be viewed through the lens of due process and interpreted in a way that provides for victims’ meaningful exercise of these rights. Victims, no less than defendants, must be given access to important investigative and other case information in the possession of the government when such access is necessary for meaningful exercise of their rights.”).