



NATIONAL CRIME VICTIM LAW INSTITUTE

VICTIMS' RIGHTS GUIDE: INTEGRATING VICTIMS' RIGHTS INTO LAW ENFORCEMENT-BASED VICTIM SERVICES IN COLORADO

USING THIS RESOURCE

This resource is designed to improve victim services personnel's knowledge and understanding of crime victims' rights in Colorado. It provides an overview of key concepts and laws that can help victims make meaningful choices about their rights. Because laws change and can be complex, this *Guide* does not include all victims' rights-related laws. It is not legal advice, and does not substitute for legal advice. This resource is best used with its companion resource: *Law Enforcement-based Victim Services in Colorado: Privacy, Privilege and Confidentiality*.

The following icons are used throughout this resource to highlight key moments for the user.



= Promising Practices: As used in this *Guide*, the “promising practices” indicator highlights procedures, methods or techniques, grounded in victim-centered and trauma-informed research and experience, that afford victims meaningful rights in the justice system.



= Take Note: As used in this *Guide*, the “take note” indicator provides jurisdiction-specific citations to law cited or discussed.

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MEANING & SCOPE OF VICTIMS' RIGHTS

Benefits of Victims' Rights to Criminal Justice

In 2022, 23.5 out of every 1,000 people aged 12 and up were victims of violent crime, and about 42% of those crimes were reported.¹ The numbers are even higher for some groups. For example, between one in two and one in four women will experience stalking, sexual violence, or some other form of intimate partner violence at some point in their lives.² It is well known that victims' reporting rates and system involvement are low, even though these rates are high. This is especially true for survivors of domestic and sexual violence, people whose legal status for immigration purposes is uncertain, people with disabilities, and other vulnerable groups.³

Some victims will feel stronger and be able to heal after dealing with the criminal justice system, while others will feel like they have been victimized again. One way in which the system can harm victims is by telling them they have rights but in reality the rights are not respected.⁴ This kind of harm imposed on victims by the system is sometimes called "secondary victimization" or "secondary trauma," and can have major long-term effects on victims' bodies, minds, and other impacts.⁵ Victims who experience secondary victimization because of their interactions with the criminal justice system, and other people who see this happen, are less likely to report crimes and get involved in the justice system.⁶ When this happens it hurts our justice systems.⁷

Research shows that re-victimization and its negative effects are less likely to happen when victims can choose if, how, when, and how much they want to be involved in the justice system, and when the processes and procedures are clear and treat them with respect.⁸ Making sure victims get up-to-date information on their rights and referrals to victims' rights attorneys to help them assert and enforce their rights are important ways to reduce re-victimization and to get them involved.



It is important to support victim empowerment and agency, which can help prevent secondary victimization and improve system engagement. One way to do this is to set up policies and procedures to help victims quickly learn about their rights and to provide referrals to victims' rights attorneys who can help them ask for (also known as "assert") and seek enforcement of those rights.

Role of Law Enforcement-Based Advocates in Affording Victims' Rights

Best practice in victim services makes it easier for victims to have meaningful choices. To do this, victims' services personnel must know about and support victims' rights, which can be found in constitutions, laws, rules, and policies. It is not enough for victims to have rights; those rights must also be respected and enforced. Compliance is when people who have legal duties to

victims follow them and try to avoid failing to do so on purpose, by accident, or because they were careless. Enforcement is when a court or administrative order requires people to follow victims' rights laws or offers remedies for violations of those laws. Enforcement can be sought by victims themselves or by someone speaking for them, like a victim's attorney or the prosecution.

Law enforcement-based advocates are in a special position to help victims exercise their rights. As part of their job to make sure rights are respected, advocates must make sure that victims get timely information about their rights, including how to assert and enforce those rights if they choose to do so.

Who Can Exercise Victims' Rights?

According to the law, someone who meets the criteria for being a legal "victim" has a number of rights.

It might seem like it would be simple to tell if someone is a crime victim. For example, a person whose laptop was stolen might look like a clear victim of theft. But there may be differences between how people normally use words and how the law uses them.

Legal meanings are very specific, so someone may be a "crime victim" in one state but not in another, even



In Colorado, key legal definitions of "victim" include:

- For purposes of victims' rights generally, "Victim" means any natural person against whom any crime has been perpetrated or attempted, unless the person is accountable for the crime or a crime arising from the same conduct or plan as crime is defined under the laws of this state or of the United States, or, if such person is deceased or incapacitated, the person's spouse, parent, legal guardian, child, sibling, grandparent, grandchild, significant other, or other lawful representative. For purposes of notification under this part 3, any person under the age of eighteen years is considered incapacitated, unless that person is legally emancipated. It is the intent of the general assembly that this definition of the term 'victim' shall apply only to this part 3 and shall not be applied to any other provision of the laws of the state of Colorado that refer to the term 'victim'." Colo. Rev. Stat. Ann. § 24-4.1-302(5).
- For purposes of Colorado's Crime Victim Compensation Program, "Victim" means any of the following persons who suffer property damage, economic loss, injury, or death as a result of a compensable crime perpetrated or attempted in whole or in part in this state: (I) Any person against whom a compensable crime is perpetrated or attempted. Such a person is a 'primary victim'." Colo. Rev. Stat. Ann. § 24-4.1-102(10)(a). See also Colo. Rev. Stat. Ann. § 24-4.1-102(10)(b)-(d) (defining additional categories of victims who are eligible for crime victim compensation funds).



A promising practice to help victims have meaningful rights is to maintain a list of attorneys and legal agencies to refer victims for individual representation. One resource to help in creating this list for victims in your community is NCVLI's Victim Resources Database, <https://ncvli.org/victim-resources-database/>, which offers a "legal services" dropdown to view "Attorneys for Victims in Criminal Cases" or "Attorneys for Victims in Civil Cases", depending on the victims' legal needs. The database is searchable by state as well as crime and victim population.

Another possible resource to help victims find attorneys is the Colorado Law Help website, which provides information about how to find a lawyer, including pro bono and low-cost lawyers, <https://lawhelp.colorado.gov/>.

For more information about why advocate and attorney roles complement one another, see NCVLI's video *Attorneys and Advocates Working Together* at <https://www.youtube.com/watch?v=fSRojrk9YqM>.

their rights, or they can go through the prosecutor. Prosecutors can and do at times support the rights of victims, however, they are not the victims' attorney. In a criminal case, prosecutors represent the government's interests. A victims' rights attorney, on the other hand, represents the victim-client's interests only. Any conversations that happen between the victim-client and the victims' rights attorney have special privacy protections called privilege, which means they cannot be shared with anyone else without the victim's



A promising practice is to notify victims that they can ask for their rights in court and that they may do so personally, with the assistance of an attorney, and sometimes through the prosecution. This notice should include an explanation of the different roles of a prosecuting attorney and an attorney hired by the victim.

if the facts are the same. Similarly, the term "crime victim" can mean different things in different parts of the legal code. For example, someone who meets the legal definition of "crime victim" when they are seeking restitution may not necessarily meet the legal definition of "crime victim" for other purposes. To know if someone is a "crime victim" in a specific jurisdiction who can assert and enforce victims' rights, it is necessary to carefully read the victims' rights laws where the crime occurred or where it is being investigated or prosecuted.

If a person meets the legal definition of "victim" they have "standing" to use their rights. A person's standing means that they can go to court on their own and ask for their rights. The federal government and many states make it clear that victims have standing in trial and/or appeals courts.⁹ When there are no clear rules about who has standing, courts will use a jurisdiction-specific standing analysis, which means they will apply certain legal standards to the facts of the case.¹⁰

Victims can use their own attorney or another personal representative to ask for

permission except under very limited circumstances. A victims' rights attorney can give legal advice and file papers with the court that assert or ask for the enforcement of victims' rights. A victims' rights attorney can also help the victim understand the different legal ways to address the harm they have suffered right from the start and can help the victim navigate the system and take legal action if needed to protect the victim's rights. Because of these things, hiring a victims' rights attorney is often the best way for a victim to make sure their rights are protected.

Common Victims' Rights



Modern crime victims' rights statutes and constitutional amendments give crime victims rights that are recognized by the law. These rights make crime victims legal participants in the criminal justice system, not just witnesses.¹¹ Different jurisdictions have different victims' rights laws, and every jurisdiction has rights in addition to the ones listed below. However, some of the most common victims' rights are outlined below. For more information about the first ten rights described below, see Nat'l Crime Victim Law Inst., *Common Victims' Rights*, 2023, at 2-8, [https://ncvli.org/wp-](https://ncvli.org/wp-content/uploads/2023/11/Common-Victims-Rights.pdf)


[content/uploads/2023/11/Common-Victims-Rights.pdf](https://ncvli.org/wp-content/uploads/2023/11/Common-Victims-Rights.pdf). More information is provided in the endnotes for rights 11-14.


1. Rights to Be Treated with Fairness, Dignity, and Respect

In many jurisdictions, victims have rights to be treated with fairness, dignity, and respect. These rights can be asserted on their own and can also help inform how other rights are interpreted. A victim's right to be treated fairly in the criminal justice process includes the right to receive adequate notice of hearings and other events where their rights are involved and the right to be heard in these situations. Sometimes the law will describe the right to adequate notice and to be

heard when rights are at issue as “due process.” Some examples of meaningful ways victims can be treated with fairness, dignity, and respect include:

- ✓ Polygraphs of victims cannot be used to decide if an investigation should happen or if charges should be filed.¹²
- ✓ Law enforcement agencies provide victims with a copy of the criminal incident report free of charge.¹³
- ✓ If a victim’s rights are at issue in a court proceeding, the victim’s attorney should be able to sit near the front of the courtroom with the prosecutors and defense attorneys.¹⁴
- ✓ Prosecutors must talk with victims before dismissing a case, and they must tell the court what the victim thinks about the possible dismissal.¹⁵


 Colorado law affords victims “[t]he right to be treated with fairness, respect, and dignity[.]” Colo. Rev. Stat. Ann. § 24-4.1-302.5(1)(a).

 A promising practice is for law enforcement-based victim services to have clear policies and procedures in place that spell out what it means to treat victims fairly, with respect, and with dignity.

2. Right to Privacy

A victim’s right to privacy includes the right to protective measures that prevent or limit access to a victim’s personal information. A victim’s privacy is at issue when the parties in a criminal case (like the prosecution and the defense) or others (like media outlets) seek information about or from the victim such as the police report; the victim’s mental health, medical, and other records; prior sexual history; social media accounts and posts; and telephone or computer files. Any disclosure of the victim’s identifying or locating information in official records, court filings, or proceedings also implicates a victim’s privacy rights. Some jurisdictions clearly recognize a right to privacy in their victims’ rights laws; such rights are typically expressed either as a general right to privacy or as a right to be treated with respect for the victim’s privacy. Some states explicitly provide all individuals—not just crime victims—with a constitutional right to privacy. In addition, the United States Constitution affords individuals, including victims, with privacy protections, including the right to be free from unreasonable government intrusions into their person, home, papers, and effects, and the right to keep personal information private.

Additional laws protecting victim privacy exist in many jurisdictions, including: address confidentiality protections; rape shield laws (laws that are designed to protect victims of sexual violence by limiting the ability of defendants or the prosecution to introduce evidence about their past sexual activity or cross-examine them about it during a trial); confidentiality and privilege protections; exclusions of certain victim information from public records disclosures (for example victims' identifying and locating information, requests for assistance submitted to state compensation programs, and information associated with participation in address confidentiality programs); laws requiring that certain identifying information be filed only under seal; laws allowing the use of pseudonyms or initials in place of a victim's full name; and more. For in-depth information about privacy and related rights and privileges held by victims, as well as related duties of law enforcement-based victim advocates, see the companion resource: *Law Enforcement-based Victim Services in Colorado: Privacy, Privilege and Confidentiality*.

 Colorado laws recognizing and protecting victims' privacy include:

- “[E]ach victim of a crime has the . . . right to prevent any party at any court proceeding from compelling testimony regarding the current address, telephone number, place of employment, or other locating information of the victim unless the victim consents or the court orders disclosure upon a finding that a reasonable and articulable need for the information exists.” Colo. Rev. Stat. Ann. § 24-4.1-302.5(1)(v).
- “[E]ach victim of a crime has the . . . right to have [various identified state actors] make all reasonable efforts to exclude or redact a victim’s social security number or a witness’ social security number from a criminal justice document or record created or compiled as a result of a criminal investigation when the document or record is released to anyone other than the victim, the defense attorney of record, the defense attorney’s agent, or a criminal justice agency that has duties under this article[.]” Colo. Rev. Stat. Ann. § 24-4.1-302.5(1)(w).
- “[E]ach victim of a crime has the . . . right to be notified of how to request protection of their address pursuant to the Colorado rules of criminal procedure[.]” Colo. Rev. Stat. Ann. § 24-4.1-302.5(1)(x).
- “All correctional officials shall keep confidential the address, telephone number, place of employment, or other personal information of such victim or members of such victim’s immediate family.” Colo. Rev. Stat. Ann. § 24-4.1-303(2).
- Providing that, subject to limited exceptions, “[a]ny materials received, made, or kept by a board or a district attorney to process a [crime victim compensation claim] on behalf of a crime victim . . . are confidential.” Colo. Rev. Stat. Ann. § 24-4.1-107.5(2).

3. Right to Notice

A victim’s right to notice is the right to be advised, in a reasonable, accurate, and timely manner of any proceedings, as well as other specific events in the justice process, that put the victim’s rights or interests at issue, such as: a defendant’s arrest, arraignment, release, escape, or other

change in custodial or offender status; any change in the status of DNA or rape kit tests; a plea agreement; and if defendant has made a request for the return of property. The right to notice overlaps with—but is different from—the right to information, which generally refers to a crime victim's right to be informed about their rights, how the criminal justice system works, and available resources.



Colorado has a number of laws requiring that victims receive notice, including:

- “Any person who is a victim of a criminal act . . . shall have the right to be . . . informed[.]” Colo. Const. art. II, § 16a.
- “[E]ach victim of a crime has the . . . right to be informed of . . . all critical stages of the criminal justice process as specified in section 24-4.1-302(2)[.]” Colo. Rev. Stat. Ann. § 24-4.1-302.5(1)(b).
- “[E]ach victim . . . who has had forensic medical evidence collected pursuant to section 12-240-139(1)(b) that has not resulted in a conviction or plea of guilty [has] the right to be notified by the law enforcement agency with jurisdiction for the case, upon request, of the status and location of the victim’s forensic medical evidence[.]” Colo. Rev. Stat. Ann. § 24-4.1-302.5(1)(b.8).
- With specified exceptions, “each victim of a crime has the . . . right to be informed when a person who is accused or convicted of a crime against the victim is released or discharged from county jail; and . . . [t]he right to be informed when a person who is accused or convicted of a crime against the victim is released or discharged from custody other than county jail, is paroled, escapes from a secure or nonsecure correctional facility or program, absconds from probation or parole, or commits an unauthorized absence as described in section 18-8-208.2(1).” Colo. Rev. Stat. Ann. § 24-4.1-302.5(1)(c)(I).
- “[E]ach victim of a crime has the . . . right to be informed of the final disposition of the case.” Colo. Rev. Stat. Ann. § 24-4.1-302.5(1)(e).
- “[E]ach victim of a crime has the . . . right to be informed by local law enforcement agencies, prior to the filing of charges with the court, or by the district attorney, after the filing of charges with the court, of the status of any case concerning a crime against the victim, and any scheduling changes or cancellations, if such changes or cancellations are known in advance[.]” Colo. Rev. Stat. Ann. § 24-4.1-302.5(1)(f).
- “[E]ach victim of a crime has the . . . right to be informed of any proceeding at which any postconviction release from confinement in a secure state correctional facility is being considered for any person convicted of a crime against the victim[.]” Colo. Rev. Stat. Ann. § 24-4.1-302.5(1)(j).

4. Right to Confer

Victims have the right to confer with the prosecution about things like their rights or interests, important steps in the criminal justice process, and how the case will be resolved (often called the disposition of the case). This means that victims get to provide information to the prosecution and that the prosecution must provide information to them. Laws in many states and the federal government say that victims get to talk to the prosecution about whether the person will be charged and how the case will be resolved. Because so many criminal cases end quickly with a plea deal, the timing of the conferral can be very important. For the right to confer to be meaningful, it must happen before charges are filed that could limit the victims' rights and before the government and defendant reach a binding plea deal.



Colorado law recognizes the right to confer, which is phrased as a right to “consult,” in a number of provisions, including:

- “[E]ach victim of a crime has the . . . right to consult with the prosecution after any crime against the victim has been charged, prior to any prefile or post filing diversion offer, prior to any disposition of the case, or prior to any trial of the case The right to consult with the prosecution must include an explanation to the victim of the possibility that the defendant may not serve the defendant’s entire sentence in the department of corrections because the defendant may receive good time credits or earned time while incarcerated[.]” Colo. Rev. Stat. Ann. § 24-4.1-302.5(1)(e).
- After a crime has been charged, or as part of a pre-filing or post filing diversion offer, unless inconsistent with the requirements of investigative activities, the district attorney shall consult, if practicable, with the victim concerning the reduction of charges, negotiated pleas, diversion, dismissal, seeking of death penalty, or other disposition.” Colo. Rev. Stat. Ann. § 24-4.1-303(4).

5. Right to Be Present

A victim’s right to be present means that they can choose whether and, in many jurisdictions, also how to attend criminal justice hearings. These proceedings can be about the investigation, prosecution, or custody status of the defendant. They can also be about the victim’s rights and interests. The federal government and all 50 states give crime victims some kind of right to be present at trial and/or other criminal proceedings.

Courts have concluded that a defendant’s federal constitutional rights are not violated just because a victim is present in the courtroom. Still, a victim may have the absolute right to be present, or they may have to meet certain conditions, based on the laws and decisions of the courts in their jurisdiction. For example, the court may decide that the victim’s presence would violate the defendant’s state constitutional rights or significantly impact the victim’s testimony. It is important to note that in most places, constitutional and statutory rights to be present should prevent courts from using sequestration rules that were in place before these rights were passed to keep crime victims from attending criminal proceedings.



Colorado law recognizes victims’ right to be present in a number of provisions, including:

- “Any person who is a victim of a criminal act . . . shall have the right to be . . . present at all critical stages of the criminal justice process[.]” Colo. Const. art. II, § 16a.
- “[E]ach victim of a crime has the . . . right to be . . . present by appearing in person, by phone, virtually by audio or video, or similar technology for all critical stages of the criminal justice process,” with specified exceptions noted where presence at critical stages is not guaranteed. Colo. Rev. Stat. Ann. § 24-4.1-302.5(1)(b).
- “[E]ach victim of a crime has the . . . right to present at the sentencing hearing, including any hearing conducted pursuant to section 18-1.3-1201 or 18-1.4-102, C.R.S., for cases involving class 1 felonies[.]” Colo. Rev. Stat. Ann. § 24-4.1-302.5(1)(g).
- “[E]ach victim of a crime has the . . . right to be present by appearing in person, by phone, or virtually by video or audio, or similar technology” at proceedings at which any postconviction release from confinement in a secure state correction facility is being considered. Colo. Rev. Stat. Ann. § 24-4.1-302.5(1)(j).
- “[E]ach victim of a crime has the . . . right to . . . be present by appearing in person, by phone, or virtually by video or audio, or similar technology, and heard at any hearing during which a court considers [any request for progression from the state mental health hospital on behalf of a person in its custody as a result of a criminal case involving the victim].” Colo. Rev. Stat. Ann. § 24-4.1-302.5(1)(j.2).
- “The victim of any crime or a relative of the victim, if the victim has died, has the right to attend all sentencing proceedings resulting from a conviction of said crime under any laws of this state.” Colo. Rev. Stat. Ann. § 16-11-601.



It is a promising practice to know about the victim’s right to be present in your jurisdiction. In some jurisdictions, a victim’s right to be present applies at all criminal hearings or at all proceedings where the defendant has the right to be present. In other jurisdictions, the victims have the right to be present at certain types of hearings, which are sometimes called “critical stage proceedings.” Some jurisdictions may not explicitly include certain proceedings in the victims’ right to be present, like when the accused or convicted person’s release is being considered. However, other victims’ rights, like the rights to protection, to be heard, and to be treated fairly, with respect and dignity, should still allow the victim to be present when their rights or interests are at stake.

6. Right to Be Heard

A victim’s right to be heard is the right to express views to the court and other entities that make decisions in criminal cases and about the accused/convicted person. Depending on the jurisdiction, the explicit right to be heard may apply to all proceedings where victims’ rights are at issue or only to certain proceedings, such as proceedings related to: defendant’s pretrial release; the disposition of the case (for example, plea hearings, change of plea hearings, sentencing); an offender’s release from supervision (for example, parole or probation hearings); or requests for disclosure of



Colorado law recognizes victims’ right to be heard in a number of provisions, including:

- “Any person who is a victim of a criminal act . . . shall have the right to be heard when relevant[.]” Colo. Const. art. II, § 16a.
- “[E]ach victim of a crime has the . . . right to be heard at any court proceeding: (I) Involving the defendant’s bond as specified in section 24-4.1-302(2)(c). . . (I.5) Involving a hearing for the disclosure of the name and identifying information of a child victim or child witness pursuant to section 24-72-304(4.5)(a.5). (II) At which the court accepts a plea of nolo contendere; (III) At which the court accepts a negotiated plea agreement; (IV) At which a person accused or convicted of a crime against the victim is sentenced or resentenced; (V) At which the sentence of a person accused or convicted of a crime against the victim is modified; (VI) At which the defendant requests a modification of the no contact provision of the mandatory criminal protection order pursuant to section 18-1-1001 or 19-2.5-607; (VII) Involving any application to the court for the issuance of a subpoena for records concerning the victim’s medical history, mental health, education, or victim compensation, or any other records that are privileged pursuant to section 13-90-107; (VIII) Involving a petition for expungement as described in section 19-1-306; (IX) Involving a hearing as described in section 24-31-902(2)(c); (X) Involving a hearing held pursuant to section 24-72-706, 24-72-709, or 24-72-710; or (XI) Involving a hearing held pursuant to section 18-1.3-103.7 or 19-2.5-1118.5.” Colo. Rev. Stat. Ann. § 24-4.1-302.5(d).

the victim's information and records (for example, hearings involving subpoenas for the victim's records). Even when not explicit, the right to be heard is at issue whenever a victim's rights or interests are at stake.


Some jurisdictions explicitly provide information about the ways in which a victim may exercise their right to be heard. For example, some laws specify that victims may exercise their right to be heard through written and/or oral statements; other laws may explicitly provide victims with the option of choosing the method they would like to use when exercising their right to be heard. Unless the exercise of this right is specifically limited by constitution, statute, or rule, the victim may choose the method by which they wish to be heard.



No matter what stage of the criminal justice system or what victims' rights or interests are at stake, the victim has the right to be heard. This includes before trial and after conviction. There should be policies and procedures in place to help make sure that victims are informed of their right to be heard as soon as they interact with the criminal justice system and are kept up to date on when the court might consider releasing the defendant. This is because defendant's release could be considered as early in the case as arraignment or charging. It might also be helpful to share with victims the different kinds of information that they could give to the court as part of their right to be heard. For release proceedings, this information could include telling the court about any safety or other worries about the defendant's possible release and requesting conditions the court should impose on the defendant if they are released.

7. Right to Reasonable Protection

A victim's right to reasonable protection is the right to efforts to prevent further harm from the accused and those acting on behalf of the accused during and after the victim's involvement with the criminal justice system. This right is generally reflected in constitutional and statutory provisions that address the victim's physical safety, as well as their mental and emotional health. A number of states and the federal government provide victims with a broad constitutional right to reasonable protection. Many states similarly protect victims through constitutional and statutory provisions guaranteeing the right to be free from intimidation, harassment, and abuse. Some states' victims' rights laws include requirements that courts take victim safety into account when considering a defendant's release from custody, when imposing release conditions, and/or when setting bond.

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- Colorado law recognizes victims' right to protection in a number of provisions, including:
- “[E]ach victim of a crime has the . . . right . . . to be free from intimidation, harassment, or abuse, throughout the criminal justice process[.]” Colo. Rev. Stat. Ann. § 24-4.1-302.5(1)(a).
 - With specified exceptions, “each victim of a crime has the . . . right to be informed when a person who is accused or convicted of a crime against the victim is released or discharged from county jail; and . . . [t]he right to be informed when a person who is accused or convicted of a crime against the victim is released or discharged from custody other than county jail, is paroled, escapes from a secure or nonsecure correctional facility or program, absconds from probation or parole, or commits an unauthorized absence as described in section 18-8-208.2(1).” Colo. Rev. Stat. Ann. § 24-4.1-302.5(1)(c)(I).
 - “[E]ach victim of a crime has the . . . right to be informed about what steps can be taken by a victim or a witness, including information regarding protection services, in case there is any intimidation or harassment by a person accused or convicted of a crime against the victim, or any other person acting on behalf of the accused or convicted person[.]” Colo. Rev. Stat. Ann. § 24-4.1-302.5(1)(m); *see also* Colo. Rev. Stat. Ann. § 24-4.1-303(5) (mandating that “[a]ll reasonable attempts shall be made to protect any victim . . . from harm, harassment, intimidation, or retaliation”).
 - “[E]ach victim of a crime has the . . . right to be provided, whenever practicable, with a secure waiting area during court proceedings that does not require a victim or a witness to be seen or to be in close proximity to the person accused or convicted of a crime against the victim or such person’s family or friends[.]” Colo. Rev. Stat. Ann. § 24-4.1-302.5(1)(p).
 - “[E]ach victim of a crime has the . . . right to be informed of the existence of a criminal protection order pursuant to section 18-1-1001 or 19-2.5-607 and, upon request of the victim, information about provisions that may be added or modified, and the process for requesting such an addition or modification.” Colo. Rev. Stat. Ann. § 24-4.1-302.5(1.6).

In addition to these clear protection rights, many places also require that victims be given the information and/or notice they need to take steps to protect themselves. For example, they should be told when a defendant or convicted criminal is released or escapes custody, or when they apply for and are granted clemency. There are many other laws that help protect victims, such as the right of victims to refuse interviews or any other requests from the accused or anyone acting on behalf of the accused; laws that make no contact orders a condition of release; laws that govern civil orders of protection; the right to be heard at bail and other release proceedings about how dangerous the offender is; and the right to a separate waiting area in the courthouse. There are also laws that address victims’ privacy and protection. Examples include address confidentiality laws; laws allowing victims to proceed by a fake name/pseudonym; laws that say victims cannot be forced to share certain contact information while testifying; and other similar laws that give victims the right to keep their identifying and locating information from getting out.

8. Right to Information

The right to information for a victim means that they have the right to know about their rights and services, how the criminal justice system works, and the specifics of their case. Victims may have the right to specific types of information, depending on the law in their jurisdiction. This information could include: the justice process and the victim’s role in it; the status of the criminal case; the final outcome of the case; and the victims’ constitutional and statutory rights. Some jurisdictions also have a clear right of victims to review information in a presentence report, court transcripts, and copies of police reports that are connected to their case.



Colorado has a number of laws requiring that victims be provided with information, including:

- “[E]ach victim of a crime has the . . . right to be informed of any rights which the victim has pursuant to the constitution of the United States or the state of Colorado[.]” Colo. Rev. Stat. Ann. § 24-4.1-302.5(1)(s).
- “[E]ach victim of a crime has the . . . right to be informed of the victim’s right to pursue a civil judgment against any person convicted of a crime against the victim for any damages incurred by the victim as a result of the commission of the crime regardless of whether the court has ordered such person to make restitution to the victim[.]” Colo. Rev. Stat. Ann. § 24-4.1-302.5(1)(i).
- Requiring that the district attorney “inform a victim” of certain information relating to the criminal proceedings. Colo. Rev. Stat. Ann. §§ 24-4.1-303(11)–(12).
- “If a person convicted of a crime against the victim seeks appellate review or attacks the conviction or sentence, the district attorney or the office of the attorney general, whichever is appropriate, shall inform the victim of the status of the case and of the decision of the court.” Colo. Rev. Stat. Ann. § 24-4.1-303(13).
- “Unless specifically stated otherwise, the requirements of this section to provide information to the victim may be satisfied by either written, electronic, or oral communication with the victim or the victim’s designee. The person responsible for providing the information shall do so in a timely manner and advise the victim or the victim’s designee of any significant changes in the information.” Colo. Rev. Stat. Ann. § 24-4.1-303(15)(a).

Victims need information to navigate the criminal justice system and to understand their other rights and decide if, how, and when to use them. These reasons mean that even in places where there is not a clear right to information, other rights—like the right to confer with the prosecutor or the right to be treated fairly, with dignity, and with respect—require victims be provided information to make these rights meaningful. In a lot of places, law enforcement and prosecutors are required by law to tell victims about their rights and the resources that are available to them, like medical services, social services, crisis or emergency services, and compensation benefits.



Colorado has a number of laws requiring that victims be provided with information by law enforcement specifically, including:

- “[E]ach victim of a crime has the . . . right 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. The initial incident report must contain, at a minimum, the victim’s name, the offender’s name, the date of the crime, the charges, and a summary of the incident so the victim has sufficient detail to help the victim with, including but not limited to, insurance claims, employer intercession, protection orders, and landlord-tenant notification.” Colo. Rev. Stat. Ann. § 24-4.1-302.5(1)(b.9).
- “[E]ach victim of a crime has the . . . right to be informed by local law enforcement agencies, prior to the filing of charges with the court, or by the district attorney, after the filing of charges with the court, of the status of any case concerning a crime against the victim, and any scheduling changes or cancellations, if such changes or cancellations are known in advance[.]” Colo. Rev. Stat. Ann. § 24-4.1-302.5(1)(f).
- “The district attorney and any law enforcement agency shall inform each victim as to the availability of the following services: (a) Follow-up support for the victim and the victim’s immediate family in order to ensure that the necessary assistance is received by such persons; (b) Services for child victims and elderly victims, and services for victims who are persons with disabilities, which are directed to the special needs of such victims; (c) Referral to special counseling facilities and community service agencies by providing the names and telephone numbers of such facilities or agencies, whether public or private, which provide such services as crisis intervention services, victim compensation funds, victim assistance resources, legal resources, mental health services, social services, medical resources, rehabilitative services, financial assistance, and other support services; (d) Transportation and household assistance to promote the participation of any victim or the victim’s immediate family in the criminal proceedings; (e) Assistance in dealing with creditors and credit reporting agencies to deal with any financial setbacks caused by the commission of a crime; (f) Interpretation services and information printed in languages other than the English language; (g) Child care services to enable a victim or the victim’s immediate family to give testimony or otherwise participate in the prosecution of a criminal proceeding; and (h) The existence of a criminal protection order pursuant to section 18-1-1001 or 19-2.5-607 and, upon request of the victim, information about provisions that may be added or modified and the process for requesting such an addition or modification.” Colo. Rev. Stat. Ann. § 24-4.1-303(9); *see also* Colo. Rev. Stat. Ann. § 24-4.1-303(10) (mandating that law enforcement agencies share specific information with the victim in writing).

9. Right to Timely Disposition

A victim's right to a prompt or timely disposition means that the case involving their victimization should be resolved as soon as possible, without any unreasonable delays in the justice system. This includes before charges are brought, before and during trial, and after conviction. The facts of a particular case decide if a delay in the process is reasonable. According to federal and most state laws, crime victims have a constitutional and/or statutory right to have their criminal case completed quickly. Different places use different words to describe this right. Some call it the right to a "prompt," "speedy," or "timely" disposition, while others say it is the right to procedures "free from unreasonable delay."

There are federal laws and laws in at least 18 states that speed up or otherwise give priority to some cases involving child-victims. Some places also have laws that provide similar rights for other vulnerable victim groups, like elder-victims (usually defined as people aged 65 or 70 or older), or dependent adults.



Colorado law recognizes victims' "right to be assured that in any criminal proceeding the court, the prosecutor, and other law enforcement officials will take appropriate action to achieve a swift and fair resolution of the proceedings[.]" Colo. Rev. Stat. Ann. § 24-4.1-302.5(1)(o). *See also* Colo. Rev. Stat. Ann. § 24-4.1-303(3) ("The district attorney's office, if practicable, shall inform the victim of any pending motion that may substantially delay the prosecution. The district attorney shall inform the court of the victim's position on the motion, if any. If the victim has objected, the court shall state in writing or on the record prior to granting any delay that the objection was considered.").

10. Right to Restitution

When someone is convicted of a crime, the court can order the person to pay the victim back for any money they lost because of the crime. This is called “restitution.” Federal and state laws give victims the right to restitution.

Restitution laws vary throughout the country; they can be either mandatory or optional, or they can be a mix of the two. Federal law and the laws of many states have mandatory restitution. Depending on the jurisdiction, the right to mandatory restitution can apply to all crimes where victims have losses, or it can be restricted to certain crimes, defendants, victims, or situations. In some cases, like when someone is being prosecuted for certain federal crimes or in a few states, courts can choose whether to order restitution in an amount less than the full amount of the victim’s financial losses. In states where the victims’ rights amendment in the state’s constitution says that victims have an unqualified right to be compensated, that right should take precedence over any other legal language that says victims only have a limited or optional right.



Colorado law recognizes victims’ right to restitution.

- “[E]ach victim of a crime has the . . . right to have the court determine the amount, if any, of restitution to be paid to a victim pursuant to part 6 of article 1.3 of title 18, C.R.S., by any person convicted of a crime against such victim for the actual pecuniary damages that resulted from the commission of the crime[.]” Colo. Rev. Stat. Ann. § 24-4.1-302.5(1)(h).
- “Every order of conviction of a felony, misdemeanor, petty offense, or traffic misdemeanor offense, except any order of conviction for a state traffic misdemeanor offense issued by a municipal or county court in which the prosecuting attorney is acting as a special deputy district attorney pursuant to an agreement with the district attorney’s office, shall include consideration of restitution.” Colo. Rev. Stat. Ann. § 18-1.3-603(1).
- “Any victim in whose name a restitution order has been entered shall have a right to pursue collection of the among of restitution owed to such person in such person’s own name.” Colo. Rev. Stat. Ann. § 16-18.5-107(1).



A promising practice is to inform victims of their right to restitution. From the start of the case, consider helping victims keep track of their losses, including what they expect to spend in the future. Tools like a restitution binder and log can help victims keep track of their losses. You can view and download a sample restitution binder and log [here](#).

11. Right to Return of Property

Victims have the right to get back property that the government holds in an investigation or prosecution when it is no longer needed as evidence.¹⁶ In many jurisdictions, the law says that the victim has the right to either the “prompt” or “expeditious” return of their property, and the government is required to give the property back to the victim as soon as it is no longer needed as proof. In some jurisdictions, the victim’s right to get their property back is written in a way that requires them to make a request to have their property returned rather than their property being automatically returned.



Colorado law provides for the prompt return of victims’ property.

- “[E]ach victim of a crime has the . . . right to promptly receive any property that belongs to a victim and that is being held by a prosecutorial or law enforcement agency unless there are evidentiary reasons for the retention of such property[.]” Colo. Rev. Stat. Ann. § 24-4.1-302.5(1)(k).
- “When a victim’s property is no longer needed for evidentiary reasons, the district attorney or any law enforcement agency shall, upon request of the victim, return such property to the victim within five working days unless the property is contraband or subject to forfeiture proceedings.” Colo. Rev. Stat. Ann. § 24-4.1-303(7).



Having a policy and process in place to make sure that victims’ property is returned to them quickly when it is no longer needed as evidence is a promising practice. Victims should be given clear instructions on how they can get their property back, along with the name of someone they can call to find out the status of the return.

12. Right to Apply for State Compensation

Crime victim compensation programs (CVCs) are created to reimburse victims for out-of-pocket costs related to being a victim.¹⁷ Being able to get victim compensation benefits can be very helpful for victims who do not have



Colorado's Crime Victim Compensation Act includes a number of laws describing, among other things, what types of expenses are compensable and how and when a victim may apply.

- Legislative declaration. Colo. Rev. Stat. Ann. § 24-4.1-101.
- Victims' right to apply for crime victim compensation funds. Colo. Rev. Stat. Ann. § 24-4.1-105.
- Defining compensable crimes. Colo. Rev. Stat. Ann. § 24-4.1-102(4).
- Defining compensable losses. Colo. Rev. Stat. Ann. § 24-4.1-109.
- Confidentiality of materials. Colo. Rev. Stat. Ann. § 24-4.1-107.5.
- Availability of emergency compensation. Colo. Rev. Stat. Ann. § 24-4.1-112.

health insurance or employment-related benefits, or whose offenders are not being prosecuted. Every state has a CVCP. Even though each program is different, they generally have similar goals, processes, and types of costs that are reimbursed.

Even though CVCPs do not cover every victimization or expense victims may have because of the crime, they do cover some common ones, like medical and mental health care, lost wages, funeral costs, and attorney fees for services related to the victim compensation process. There are, however, two general limits. First, CVCPs do not pay for costs that are covered by another source or could be covered by another source. When a victim gets money from a compensation program for a certain expense and then gets money from another source for the same expense, the victim may have to pay back the CVCP for that amount. This is because CVCPs are known as "payors of last resort." Second, each CVCP has a limit on the amount

of compensation a victim can receive. In some states, different types of expenses are also limited individually.



To provide holistic victim services, you need to know about your jurisdiction's CVCP to make sure that qualified victims can use this important source of help and get the biggest awards possible. Some good ways to help victims with their state compensation claims are (1) offering victims guidance on how to fill out their application and gather supporting documents like police reports, records of expenses, and receipts; (2) telling victims about your CVCP's privacy policies, such as when the program will share a victim's information and records; (3) telling victims about CVCP funds that can be made available in an emergency; and (4) putting victims in touch with attorneys who can help them challenge unfair award decisions.

13. Right to Support Person Presence

Many state laws explicitly recognize a victim's right to have a victim advocate and/or someone else chosen by the victim, such as a victim's attorney, present with them during police interviews, court proceedings, and other times in the criminal justice system where their rights or interests are at stake.¹⁸ This is often described as the victim's right to have a support person accompany or be present with them. In some places, the law also says that certain crime victims, usually children, have the right to have a facility dog with them during criminal proceedings.¹⁹

Some laws say that all crime victims have these rights, while others make it clear that only certain victims (like child-victims) or victims of certain crimes (like sexual assault victims) have them. In places where victims are not explicitly given these rights, other rights, like the right to protection, to due process, and to be treated with fairness, dignity, and respect, may still require that they be given these rights.

14. Right to Receive Timely Copies of Police Reports

Most states' laws make it clear that crime victims have the right to get copies of at least some police reports that are connected to their case.²⁰ These laws vary but most fit in one of the following groups: (1) laws that say some or all crime victims must get copies of the police report or parts of it at a certain time or when they ask for them; or (2) laws that say a crime victim has



Colorado law explicitly provides for the right of victims to receive a copy of the police report under certain circumstances.

- “[E]ach victim of a crime has the . . . right 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. The initial incident report must contain, at a minimum, the victim's name, the offender's name, the date of the crime, the charges, and a summary of the incident so the victim has sufficient detail to help the victim with, including but not limited to, insurance claims, employer intercession, protection orders, and landlord-tenant notification.” Colo. Rev. Stat. Ann. § 24-4.1-302.5(1)(b.9).
- Referencing law enforcement's obligation to provide victims, in writing, with information relating to their right “to request a copy of the law enforcement report and other documents related to the case, including the right to receive a free copy of the initial incident report. The release of any documents associated with the investigation is at the discretion of the law enforcement agency based on the status of the case.” Colo. Rev. Stat. Ann. § 24-4.1-303(10)(a)(V).

the right to get a copy of the police report, but that law enforcement, courts, people who keep public records, or others may decline to provide the information for various reasons. Even in places that do not have laws clearly saying that victims have the right to get copies of police records, victims may need to be able to do so to fully exercise their other rights.



It is a promising practice to have a policy and procedure in place to help make sure that victims who want a copy of their police report can get one without charge. Instructions explaining how they may promptly obtain copies of their police reports should be available.

Other Victims' Rights

All jurisdictions have victims' rights in addition to the common rights described above. Examples of other rights include:

- ✓ the right to refuse defense requests for interviews, depositions, and other discovery;
- ✓ the right to access the presentence investigation report;
- ✓ the right of all victims or victims of certain crimes (most often domestic or sexual violence, or stalking) to have an employer make reasonable changes to support their safety, including providing leave and schedule changes;
- ✓ the right of all victims or victims of certain crimes (most often domestic or sexual violence, or stalking) to be free from housing discrimination because of the crimes, including requiring that landlords give options for breaking or splitting leases; and
- ✓ the right of victims to receive any profits earned by convicted criminals from publicity relating to their crimes (also known as Son of Sam or notoriety-for-profit laws).



Colorado law recognizes many victims' rights in addition to the 14 common rights described above, including:

- The right of victims of sexual offenses not to be asked or required “to submit to a polygraph examination or any form of a mechanical or electrical lie detector examination as a condition for proceeding with any criminal investigation or prosecution of an offense.” Colo. Rev. Stat. Ann. § 18-3-407.5(2).
- The right of victims to receive profits earned by convicted persons relating to the crime. Colo. Rev. Stat. Ann. § 24-4.1-201.
- The right of a victim to “be provided with appropriate employer intercession services to encourage the victim’s employer to cooperate with the criminal justice system in order to minimize the loss of employment, pay, or other benefits resulting from a victim’s court appearances or other required meetings with criminal justice officials[.]” Colo. Rev. Stat. Ann. § 24-4.1-302.5(1)(n).
- The right, “upon request, to obtain any [body-worn- or dash-camera] incident recording[.]” Colo. Rev. Stat. Ann. § 24-4.1-302.5(1)(j.8).
- The right to “full and unambiguous disclosure” by “any person attempting defense-initiated victim outreach contacts with any victim of crime” of the person’s “legal name” and the “fact that the person is acting as an agent for the person accused of the crime or for the defense team of such person.” Colo. Rev. Stat. Ann. § 24-4.1-305(1).
- Rights and services specific to child-victims. Colo. Rev. Stat. Ann. § 24-4.1-304.

Where to Find Rights in Your Jurisdiction’s Laws

Victims’ rights laws are commonly found in constitutions or victims’ rights statutes. They are also woven into other specific laws and rulings. For instance, laws about a victim’s right to restitution are often in laws about how offenders are sentenced. They may also be found in laws about probation/supervised release. Laws about restitution collection and distribution may be found in criminal procedure laws, court rules, administrative codes, and local court orders. Sometimes, there are specific restitution laws just for certain crimes, like human trafficking or child abuse.



A promising practice is to know about victims’ rights in your jurisdiction, including where in the law they are written. It is also important to have policies and processes in place to give victims timely information about their rights and how and when they can use them.

Other examples of rights found outside of a jurisdiction’s constitutional amendments or victims’ rights statutes include:

- ✓ Rights about protective orders, which are usually in laws about family/domestic relations matters.
- ✓ Legal privileges (such as privilege between victims and their attorneys, some victim advocates, and doctors), which are often in evidence laws.
- ✓ Rights to keep victims’ personal and other case information private, which are usually in criminal and appellate procedures, court rules, and laws about public records and address confidentiality programs.

HOW TO READ LAW & UNDERSTAND RIGHTS

Legal Definitions & Their Impact

A lot of victims’ rights laws have definitions for important words that are used in the laws. These legal definitions help make it clear what the victims’ rights laws are supposed to do and what they cover. One example has to do with the word “victim,” which was described in the *Who Can Exercise Victims’ Rights?* part of this resource. To find out if someone is a legal crime victim with rights who can assert and seek enforcement of those rights, it is necessary to read all the definitions of “victim” and know which one applies to which right(s).


Some additional examples of terms commonly defined in victims’ rights laws include:

- ✓ For victims’ rights laws connected with legal proceedings—for example, the rights to notice of, be present at, and heard during these proceedings—what are “critical stage proceedings” or “hearings”;
- ✓ For state compensation act laws, who is a “victim” or “claimant” who can apply for compensation funds, as well as the types of “criminal conduct” and “injury” that result in compensable “loss”;
- ✓ For evidentiary privileges, who is a “doctor” and “patient”, or an “attorney” and “client”, or a “victim advocate” and “victim” who can claim the respective privileges;
- ✓ For public records’ laws, what is a “law enforcement agency” or “investigatory record”, and what is an “unwarranted invasion of personal privacy”;



A promising practice when reading victims’ rights laws is to look for and read definitions.

- ✓ For victim accompaniment laws, what/who qualifies as a “support person” or a “facility dog”; and
- ✓ For restitution laws, who is a legal “victim” who can assert this right, what types of “losses” are compensable, and what “value” means.

 Examples of where to find definitions for certain Colorado victims’ rights include:

- Definition of “victim” applicable to victims’ rights generally (Colo. Rev. Stat. Ann. § 24-4.1-302(5));
- Right to apply for a state compensation award (Colo. Rev. Stat. Ann. § 24-4.1-102(10)); and
- Right of a victim of domestic violence or sexual assault to assert the victim advocate-victim privilege (Colo. Rev. Stat. Ann. § 18-6-800.3(1); Colo. Rev. Stat. Ann. §§ 18-3-401 to 18-3-405.5, 18-6-301, 18-6-302).

Rights with Ambiguous or Vague Terms

While many victims’ rights laws contain definitions of key terms that help inform the meaning and scope of those rights, there are some that do not. Common examples include:

- ✓ laws that say system actors like the prosecution, law enforcement, and courts must make “best” or “reasonable” efforts to meet certain victims’ rights obligations, such as giving notice, without explaining what “best” or “reasonable” efforts or “reasonable” notice mean in this context; and
- ✓ laws that say victims have the right to “expeditious” or “prompt” return of their property by law enforcement, without explaining what “expeditious” or “prompt” mean in this context.



A promising practice is to have clear policies and procedures that explain what “best” or “reasonable” efforts and “expeditious” or “prompt” return of property mean.

Automatic vs. Requested Rights



A promising practice is to have a policy and procedure in place to let victims know right away that they need to make a “request” to exercise certain rights. When a victim asks to exercise their rights, agencies should carefully keep track of the request.

Most laws that protect victims either make rights “automatic,” which means that the victim has these rights without having to do anything, or they make rights “request-based,” which means that the victim has to make a request for the right to be used. If a right is activated “upon request”, victims must be told how, when, and to whom they can be requested.



Examples of Colorado victims’ rights laws that must be requested by victims include:

Right to obtain a body-worn-camera or dash-camera recording of the incident:

- “[E]ach victim of a crime has the . . . right, upon request, to obtain any incident recording as described in section 24-31-902[.]” Colo. Rev. Stat. Ann. § 24-4.1-302.5(1)(j.8).

Right to be provided with information about provisions in criminal protection orders that may be added or modified, along with the process for requesting an addition or modification:

- “[E]ach victim of a crime has the . . . right to . . .[,] upon request of the victim, information about provisions [of a criminal protection order] that may be added or modified, and the process for requesting such an addition or modification.” Colo. Rev. Stat. Ann. § 24-4.1-302.5(1.6).

Right to status and location information relating to the victim’s forensic medical evidence:

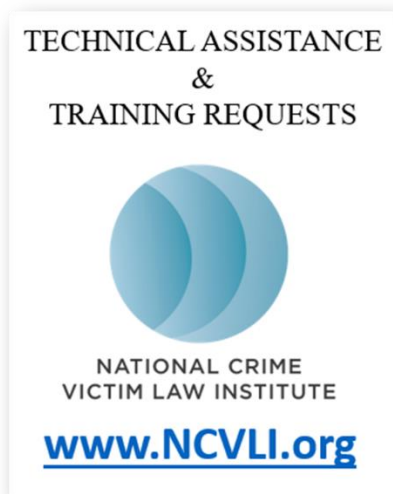
- “[E]ach victim of a crime has the . . . right to be notified by the law enforcement agency with jurisdiction for the case, upon request, of the status and location of the victim’s forensic medical evidence[.]” Colo. Rev. Stat. Ann. § 24-4.1-302.5(1)(b.8).

Mandatory vs. Permissive Rights

In general, victims’ rights laws can be written in either mandatory or permissive language. Mandatory rights must be accorded to victims. With permissive rights (also known as discretionary rights), the decision of whether and how much those rights will be accorded is up to an agency or person. But even with permissive rights, they still have limits on how the agency

or person can legally use their discretion. For example, they cannot use their discretion in a way that is discriminatory or unlawful in another way. When rights are mandatory, they usually use the words “shall” or “must” or are stated without any conditions. When rights are permissive, they often use the word “may” or are written in a way that makes it clear that the rights are subject to agency or individual discretion. As a general rule, if there is no discretionary wording, it means that the right is a mandatory right.

VICTIMS' RIGHTS RESOURCES & TECHNICAL ASSISTANCE



This resource has introductory information about victims' rights to assist law enforcement-based victim services personnel with making sure these rights are included in your work with crime victims. But it can be hard to understand victims' rights and figure out how to make policies and procedures that best protect those rights. NCVLI can help! You can request victims' rights-related technical assistance through NCVLI's website [here](#); victim-rights-related trainings can be requested [here](#). NCVLI's website also has a lot of information about victims' rights for attorneys, advocates, and other people who work with victims. There are also tools for victims to help them understand their rights.

- ✓ Resources for victim attorneys, advocates, and other people who work with victims include [written publications](#) and a [Victims' Rights Enforcement Toolkit](#).
- ✓ Resources for victims include [Know Your Rights QuickTool videos](#) and a [national Victim Resources Database](#).

To learn more about these and other resources as well as about the work of NCVLI, visit www.ncvli.org.

¹ Alexandra Thompson & Susannah N. Tapp, Bureau of Just. Stat., *Criminal Victimization, 2022*, 1 (Sept. 2023), <https://bjs.ojp.gov/document/cv22.pdf>.

² See, e.g., Sharon G. Smith, Kathleen C. Basile & Marcie-jo Kresnow, Nat'l Ctr. for Inj. Prevention and Control, Ctrs. for Disease Control, *The National Intimate Partner and Sexual Violence Survey: 2016/2017 Report on Stalking — Updated Release*, 3 (Apr. 2022), <https://www.cdc.gov/violenceprevention/pdf/nisvs/nisvsStalkingReport.pdf> (prevalence of about one in three, or 31 percent, of women reporting staking victimization during lifetime); Kathleen C. Basile et al., Nat'l Ctr. for Inj. Prevention and Control, Ctrs. for Disease Control and Prevention, *The National Intimate Partner and Sexual Violence Survey: 2016/2017 Report on Sexual Violence*, 3 (June 2022),

<https://www.cdc.gov/violenceprevention/pdf/nisvs/nisvsReportonSexualViolence.pdf> (prevalence of about one in four, or 26 percent, of women reporting sexual violence during lifetime); Ruth W. Leemis et al., Nat'l Ctr. for Inj. Prevention and Control, Ctrs. for Disease Control and Prevention, *The National Intimate Partner and Sexual Violence Survey: 2016/2017 Report on Intimate Partner Violence*, 4 (Oct. 2022),

https://www.cdc.gov/violenceprevention/pdf/nisvs/NISVSReportonIPV_2022.pdf (prevalence of almost one in two, or 47.3%, of women reporting any contact sexual violence, physical violence and/or stalking victimization by an intimate partner during lifetime).

³ According to data from the Bureau of Justice Statistics National Crime Victimization Survey in 2022, less than half (42%) of all violent crimes were reported to the police; the reporting rates are significantly lower for certain crimes and populations. See Thompson & Tap, *supra* note 1, at 1, 6 (21.4 percent reporting rate for crimes of sexual violence for 2021-22); Erika Harrell, Bureau of Just. Stat., *Crime Against Persons with Disabilities, 2009–2019 – Statistical Tables*, at 7 (Nov. 2021) (noting findings that “[v]iolent crime against persons with disabilities (38%) was less likely to be reported to police than violence against persons without disabilities (45%)”).

⁴ Judith Lewis Herman, *The Mental Health of Crime Victims: Impact of Legal Intervention*, 16 J. of Traumatic Stress 159, 163 (2003) (observing that “dissatisfaction appears to be highest among victims who are denied a chance to participate in the legal system, in spite of their expressed wish to do so”); Dean G. Kilpatrick & Randy K. Otto, *Constitutionally Guaranteed Participation in Criminal Proceedings for Victims: Potential Effects on Psychological Functioning*, 34 Wayne L. Rev. 7, 19 (1987) (predicting that “victim perceptions of helplessness and lack of control are maximized by raising the expectation that a right of participation exists, the victim electing to exercise that right, and then being denied that right”).

⁵ See, e.g., Ulrich Orth, *Secondary Victimization of Crime Victims by Criminal Proceedings*, 15 Soc. Just. Rsch. 4, 313–325 (2002) (describing findings of study that criminal proceedings frequently result in secondary victimization for crime victims); Dean G. Kilpatrick & Ron Acierno, *Mental Health Needs of Crime Victims: Epidemiology and Outcomes*, 16 J. of Traumatic Stress 2, 119–32 (2003) (describing rates of PTSD, substance abuse, major depressive disorder, anxiety and other mental health impacts of crime); Mary Graw Leary, *Third Dimension of Victimization*, 13 Ohio St. J. Crim. L. 139, 155 (2015) (observing that the harms experienced by victims of stalking include fear, hypervigilance, disrupted sleep, helplessness, anxiety and post-traumatic stress disorder); see also Malini Laxminarayan, *Procedural Justice and Psychological Effects of Criminal Proceedings: The Moderating Effect of Offense Type*, 25 Soc. Just. Research 390, 392 (2012) (describing “secondary victimization” as “negative experiences” caused by criminal proceedings or societal reactions in response to a primary victimization).

⁶ See Yesenia Esmeralda Solorzano, *The Significance of the Dark Figure of Crime: Analyzing, Unreported Violent Crime Statistics*, Cal. State Univ. Stanislaus, (July 2021), at 1, https://www.csustan.edu/sites/default/files/groups/University%20Honors%20Program/Journals_two/solorzano_yesenia.pdf (explaining that “victims weigh the costs and benefits of reporting crime before they make the decision of whether or not to report” and that one of the reasons for not reporting is “the fear of secondary victimization by the justice system”).

⁷ See, e.g., Meg Garvin, *Victims and the Supreme Court’s Eighth Amendment Jurisprudence in Miller v. Alabama: A Tale of a Constitutive Paradox for Victims*, 39 New England J. on Crim. & Civ. Confinement 303 (2013) (noting that without victim participation systems cannot fulfill constitutive functions); Stephanos Bibas, *Transparency and Participation in Criminal Procedure*, 81 N.Y.U. L. Rev. 911, 951 (2006) (noting that “[v]ictims in states with weak victims’ rights laws are much less likely to receive notice or participate meaningfully in various stages of the criminal process” and are therefore “more likely to come away dissatisfied and doubt the criminal justice system’s fairness and thoroughness” and that “criminal procedure’s failings may undermine the criminal justice system’s legitimacy and efficacy”).

⁸ See, e.g., Lauren Bennett Cattaneo & Lisa A. Goodman, *Through the Lens of Therapeutic Jurisprudence: The Relationship Between Empowerment in the Court System and Well-Being for Intimate Partner Violence Victims*, 25 J. of Interpersonal Violence 3, 481, 485 (2010) (noting that studies demonstrate “that the empowering or disempowering nature of a victim’s experience in the court system has a connection to her feelings about the system

and the likelihood she will use it again”); Margaret E. Bell, et al., *Battered Women’s Perceptions of Civil and Criminal Court Helpfulness: The Role of Court Outcomes and Process*, 17 *Violence Against Women* 72, 78 (2011) (describing results of study of court-related experiences of victims of intimate partner violence, including that “a much greater proportion of their responses involved comments about court process” rather than outcomes); Bibas, *supra* note 7, at 953-54 (explaining that victims “gain important substantive as well as procedural benefits from transparency and participation” and that “criminal justice can make victims better off by better informing and including them”).

⁹ For more information about standing, including citations to examples of laws explicitly recognizing victim standing, see Nat’l Crime Victim Law Inst., *Common Victims’ Rights*, 2023, <https://ncvli.org/wp-content/uploads/2023/11/Common-Victims-Rights.pdf>.

¹⁰ *Id.*

¹¹ See Douglas E. Beloof, *Constitutional Implications of Crime Victims as Participants*, 88 *Cornell L. Rev.* 282, 283-287 (2003).

¹² See, e.g., 34 U.S.C. § 10451 (to be eligible to receive federal grants under the Violence Against Women Act, government officials may not ask or require any victim of a sex offense to submit to a polygraph examination as a condition to proceeding with the investigation of the offense and a victim’s refusal to submit to such an examination may not be used to determine whether to investigate, charge or prosecute the offense).

¹³ See Nat’l Crime Victim Law Inst., *Crime Victims’ Rights and Interests Require Their Timely Receipt of Copies of Police Reports*, 2023, https://ncvli.org/wp-content/uploads/2023/07/NCVLI_Victims-Right-to-Receive-Copies-of-Police-Reports-1.pdf.

¹⁴ See, e.g., *E.H. v. Slayton in & for Cnty. of Coconino*, 468 P.3d 1209, 1217 (Ariz. 2020) (“[A] victim’s counsel should presumptively be permitted to sit before the bar when a victim’s constitutional or statutory rights are directly at issue in a court proceeding. . . . This presumption may be overcome by physical limitations within the courtroom, or, for instance, to allow for physical distancing during a pandemic, or for other concerns about seating arrangements affecting the conduct of a fair hearing. At all times, however, a trial court’s discretion to address seating arrangements must honor a victim’s constitutional right to be present and heard at criminal proceedings and to be treated with fairness, dignity, and respect.”).

¹⁵ See, e.g., *United States v. Heaton*, 458 F. Supp. 2d 1271, 1272 (D. Utah 2006) (finding that the right to be treated with fairness and dignity applies to a court’s decision whether to grant the government’s motion to dismiss and holding that “in passing on any government motion under Rule 48(a) [regarding dismissal] in any victim-related case, the court will expect to see the prosecutor recount that the victim has been consulted on the dismissal and what the victim’s views were on the matter”).

¹⁶ For a national survey listing state and federal laws providing for the victims’ right to return of property, see Nat’l Crime Victim Law Inst., *Surv. of Select State and Fed. Laws Providing for the Return of Victims’ Prop.*, 2018, <https://law.lclark.edu/live/files/26754-return-of-victim-property-survey-qr-codepdf>.

¹⁷ To learn more about CVCP’s—including general information about victim eligibility, types of covered expenses and required proof, and review of unfavorable decisions—and to review citations to select jurisdictions’ laws, see Nat’l Crime Victim Law Inst., *Crime Victim Compensation: A Valuable Res. for Victim Recovery*, 2016, <https://law.lclark.edu/live/files/25182-ncvli-newsletter---victim-compensation-process.pdf>.

¹⁸ For more information about victims’ right to the presence of a support person of their choosing, including citations to select laws, see Nat’l Crime Victim Law Inst., *Crime Victims Have the Right to Retained Counsel’s Presence During Investigative Interviews*, 2014, <https://law.lclark.edu/live/files/17836-victim-law-position-paper-right-to-counsel-in>; Nat’l Crime Victim Law Inst., *Survey of Select State and Fed. Laws Providing Victims’ Rights and Protections that are Specific to Children*, 2016, <https://law.lclark.edu/live/files/22778-ncvli50-state-surveykey-child-victim-specific>.

¹⁹ For a discussion of victims' right to be accompanied by a facility dog, including citations to laws, see Nat'l Crime Victim Law Inst., *Facility Dogs: Helping Victims Access Just. and Exercise Their Rights*, 2013, <https://law.lclark.edu/live/files/21750-facility-dogshelping-victims-access-justice-and>.

²⁰ For a discussion of victims' right to receive copies of police reports, with citations to laws, see Nat'l Crime Victim Law Inst., *Crime Victims' Rights and Interests Require Their Timely Receipt of Copies of Police Repts*, 2023, https://ncvli.org/wp-content/uploads/2023/07/NCVLI_Victims-Right-to-Receive-Copies-of-Police-Reports-1.pdf.

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