



Florida Fish and Wildlife Conservation Commission
Division of Law Enforcement

VICTIM AND WITNESS ASSISTANCE

GENERAL ORDER	EFFECTIVE DATE	RESCINDS/AMENDS	APPLICABILITY
36	June 09, 2020	January 11, 2017	All Members

References

S. 119.071, s. 914.22 and 914.23, Ch. 943, F.S., Ch. 960, F.S.;
CFA 14.04, 15.09

1 POLICY

- A** In an effort to comply with the laws of the State of Florida governing victims and witnesses of crime, it shall be the policy of the Florida Fish and Wildlife Conservation Commission's Division of Law Enforcement to inform all victims and witnesses of their rights as enumerated in Florida Statute. Victims and witnesses will be made aware of their rights through the Division of Law Enforcement's Victim and Witness Rights Information Brochure.
- B** It is the policy of the FWC Division of Law Enforcement that victims and witnesses of crimes be treated fairly and with dignity and compassion. Specific provisions of this policy are established to enact the requirements of chapters 960 and 943, Florida Statutes. Nothing in this policy prevents or prohibits members from providing assistance to victims or witnesses who would not otherwise be eligible for assistance as provided in chapters 960 and 943, Florida Statutes. Reasonable assistance in coping with the crime and any related criminal proceeding shall be given.
- C** This General Order establishes guidelines and procedures for all members in assisting victims and witnesses of crime.
- D Definitions**
- (1) **Crime** – Any felony or misdemeanor as defined by the laws of the State of Florida.
 - (2) **Victim** – A person who suffers physical, financial, or emotional harm as the direct result of a specified crime committed upon his/her person or property. Also referred to as a "victim" is a victim's parent or guardian if victim is a minor, the lawful representative of the victim or the victim's parent or guardian if the victim is a minor, and the next of kin of a homicide victim.
 - (3) **Witness** – A person, as determined by law enforcement, who has information or evidence relevant to a specific crime.
 - (4) **Victim and Witness Rights Information Brochure** – Information brochure created by the Division to provide essential information regarding the rights of victims and witnesses and the services available to them as required by law. The Division issues the brochure in English and Spanish.

2 RESPONSIBILITIES

A Division of Law Enforcement

- (1) The Division's Operational Support Section will provide Victim and Witness Rights Information Brochures to all sworn members for distribution as needed via the Division's Law Enforcement Information Page.
- (2) The Division will also provide the Victim and Witness Rights Information Brochure on its internet site at www.myfwc.com/law.
- (3) The Division will ensure the confidentiality of records and files pertaining to victims and witnesses and their role in case development to the extent consistent with applicable laws.
- (4) The Division will ensure that all members are familiar with the policies and procedures in this General Order. In addition, members shall have access to additional information on victim and witness assistance posted on the Division's Law Enforcement Information Page, including region-specific information where available. Any additional information on victim and witness assistance provided by the Division should address:
 - (a) Necessity for sensitivity when dealing with victims of crime(s).
 - (b) Familiarization with the latest information pertaining to victims' rights and the services available to them.
 - (c) Familiarization with those crimes that require the Division to offer the victim an opportunity to complete a victim notification form indicating whether or not they desire advisement of the offender's release from confinement.

B Regional Commanders

- (1) The Regional Commanders or their designees will ensure that regional information on victim and witness assistance is up-to-date and available to all members.

C Members

- (1) All members will be responsible for providing information concerning victims' rights, the role of victims and witnesses in the criminal justice system, available support services, and crime victim compensation to victims and witnesses as required by law. This will be accomplished by distributing the Division's Victim and Witness Rights Information Brochure.
- (2) Sworn members will maintain an adequate supply of the Division's Victim and Witness Rights Information Brochure and other locally available services and distribute information to victims and witnesses with whom they have contact.
- (3) All members will provide assistance to victims and witnesses as may be reasonably necessary, which may include referrals to other agencies.
- (4) All sworn members must be familiar with the guidelines for the fair treatment of victims and witnesses as identified in s. 960.001 (1) F.S. and reproduced in section 3 (Procedures), subsection H (1) through H (32) of this General Order.

3 PROCEDURES

A Victims' Rights and Services Information

- (1) Cards, brochures and Division brochures explaining victims' rights and available services will be maintained at each regional field office. Those regional field offices which operate in more than one judicial circuit should maintain local victim assistance information from each circuit.

- (2) The Division's Victim and Witness Rights Information Brochure will be delivered to victims at the earliest practical time during an investigation. Local victim and witness information cards and brochures may also be delivered if available.
- (3) The name of the investigating sworn member, incident summary number, and regional field office phone number will also be provided to victims on the Division's Victim and Witness Rights Information Brochure.
- (4) The date and time victim and witness informational materials are delivered to the victim(s) shall be noted in the arrest affidavit and in the Incident Summary Report.
- (5) In order to provide assistance 24 hours a day, victim and witness informational cards, brochures or the Division's Victim and Witness Rights Information Brochure will be made available to any member that has contact with the public, including duty officers and clerks. Victims inquiring into available services should receive assistance from the member with whom they first have contact.

B Victim Notification Card (FWC/DLE-282)

- (1) This form must be completed when one of the following crime(s) has been committed:
 - (a) Domestic Violence (s. 741.28, F.S.)
 - (b) Homicide (782, F.S.)
 - (c) Sexual Offense (794, F.S.)
 - (d) Stalking (s. 784.048, F.S.)
 - (e) Attempted Murder or Attempted Sexual Offense (777, F.S.)
- (2) Completed forms will be attached to the arrest affidavit or Incident Summary Report and delivered to the appropriate Sheriff's office.

C Protection of Victims or Witnesses

- (1) Sections 914.22 and 914.23, Florida Statutes, prohibit tampering with, or retaliation against, any victim or witness in a criminal case.
- (2) When a member is made aware of any attempts to tamper with or retaliate against a victim or witness, the victim or witness will be referred to the State Attorney's Office for assistance.
- (3) Any time that such tampering or retaliation is actually occurring at the time a member is contacted by a victim or witness, the member will immediately forward the information to the regional communications center.
- (4) The regional communications center will notify a sworn supervisor and either dispatch a sworn member to the scene or notify the local law enforcement agency having jurisdiction.
- (5) Once the security of the victim and witness is assured, the sworn member will contact the State Attorney's Office and complete an incident summary report detailing the incident.

D Confidentiality of Certain Information

- (1) Section 119.071, Florida Statutes, provides for confidentiality of certain information relative to this policy to include:
 - (a) Any information revealing the identity of a confidential informant or a confidential source.
 - (b) Any criminal intelligence information or criminal investigative information or other criminal record which may reveal the identity of a person who is the victim of any sexual battery, lewd and lascivious act committed in the presence of a person under the age of 16, or child abuse.

- (c) Any criminal intelligence information or criminal investigative information which reveals the personal assets of the victim of a crime, other than property stolen or destroyed during the commission of the crime.
- (2) Upon written request of a person who has been a victim of sexual battery, aggravated child abuse, aggravated stalking, harassment, aggravated battery, or domestic violence, the following information will be held exempt (from disclosure) that would not otherwise be held confidential:
 - (a) Home or employment telephone number,
 - (b) Home or employment address, and
 - (c) Personal assets.

E Property of Victims

- (1) The property of victims shall be retained only when there is a compelling law enforcement reason such as when necessary for successful investigation, testing or prosecution.
- (2) The evidentiary significance of property owned by the victim shall be reviewed with the State Attorney.
- (3) Upon approval by the State Attorney, the property will be returned to the victim as soon as reasonable.
- (4) Photographs will be taken of the property for use in criminal proceedings.

F Member-Provided Assistance During Follow-Up Investigations

- (1) Scheduling of line-ups, interviews, and other appearances should be done at the convenience of the victim or witness, when possible.
- (2) Victims and witnesses should be contacted periodically during the follow-up investigation to ensure that needed assistance is being received and to be provided an update on the status of the investigation.

G Cooperation with other Agencies

- (1) Members will assist and cooperate with other agencies providing victim and witness assistance to the fullest extent possible and in keeping with the primary mission of the Division.

H Section 960.001, Florida Statutes requires sworn members to ensure through distribution of a victims' rights information card or brochure at the crime scene, during criminal investigation, or in any other appropriate manner, that victims are given, as a matter of course, at the earliest possible time, information about the following guidelines and rights of victims and witnesses of crimes as enumerated in the Division's Victim and Witness Rights Information Brochure:

- (1) The right of the victim to receive information regarding the availability of crimes compensation, when applicable for victims or crimes or their relatives where the victim is deceased. Telephone numbers of these services are included in the Division's Victim and Witness Rights Information Brochure.
- (2) The right of the victim to receive information on local community services to include counseling, shelter, legal assistance, or other types of help, depending on the particular circumstances. Telephone numbers of these services will be provided to the victims and witnesses as applicable.
- (3) The right of the victim or witness to receive information regarding the victim's role within the criminal justice or juvenile justice system to include what the victim may expect from the system and what the system may expect from the victim.

- (4)** The right of the victim or witness to receive information regarding the stages of the criminal and juvenile justice process which are significant to the victim or witness and the manner in which information about such stages may be obtained.
- (5)** The right of the victim, who is not incarcerated, including the next of kin of a homicide victim, to be informed, present, and heard when relevant, at all crucial stages of a criminal or juvenile proceeding, to the extent that the right does not interfere with the constitutional rights of the accused.
- (6)** The right that incarcerated victims shall be informed of the crucial stages of the criminal and juvenile proceedings and be afforded the opportunity to submit written statements at all crucial stages of the proceedings.
- (7)** The right of a victim to a prompt and timely disposition of the case as long as it does not interfere with the constitutional rights of the accused.
- (8)** The right to be free from intimidation. It is against the law to cause a victim/witness to be placed in fear by force or threats, to make an assault on, or harm any victim/witness. It is a felony to tamper with or threaten a witness. If you are being threatened or intimidated, please contact the Florida Fish and Wildlife Conservation Commission's Division of Law Enforcement or any law enforcement officer.
- (9)** The right that each victim who has been scheduled to attend a criminal or juvenile justice proceeding shall be notified as soon as possible by the agency or person scheduling his appearance of any change in scheduling which will affect his appearance.
- (10)** The right to receive advance notification of judicial proceedings relating to the arrest and/or release (to include community control and work release) of the accused as well as the proceedings in the prosecution.
- (11)** The victim has the right to be notified by the appropriate agency of the arrest and release of the offender (including work release and community control).
- (12)** The victim of a felony involving physical or emotional injury or trauma, or in a case in which the victim is a minor child or in a homicide, the guardian or family of the victim shall be consulted by the state attorney in order to obtain the views of the victim or family about the disposition of any criminal or juvenile case brought about as a result of such crime.
- (13)** The right of the victim to a prompt return of property unless there is a compelling law enforcement need to retain it.
- (14)** The right of the victim to receive the assistance of the State Attorney and law enforcement in notifying the victim's employer and creditors in order to explain his circumstances.
- (15)** The right of the victim to request and receive restitution and the victim's rights of enforcement in the event an offender does not comply with the restitution order. The victim shall also have the right to be notified when restitution is ordered.
- (16)** The right of the victim to submit an oral or written impact statement pursuant to FS 921.143 and the right to receive assistance from the State Attorney in the preparation of such statement.
- (17)** The right of the victim to receive reasonable consideration and assistance from members of the FWC Division of Law Enforcement. When requested, the victim will be assisted in locating accessible transportation and parking, and shall direct those persons to separate pretrial waiting areas when such facilities are available. When so requested, the Division shall also assist the Court in attempting to locate translators.
- (18)** The right of the victim, material witness, parents or legal guardian of a minor who is a victim or witness, or immediate relative of a homicide victim to be notified of the escape of a criminal defendant. The State Attorney and law enforcement shall make every effort to ensure prompt notification.

- (19) The right of the victim to have a victim advocate present during discovery deposition.
- (20) The right of the victim to review certain portions of a pre-sentence investigation report for adult and youthful offenders prior to the sentencing of the accused.
- (21) The victim and the State Attorney's Office with the consent of the victim, have standing to assert any legal rights of a crime victim as provided by law or The Florida Constitution.
- (22) The right of the victim of a sexual offense to have the courtroom cleared, with certain exceptions, during his or her testimony, regardless of the victim's age or mental capacity.
- (23) The right of the victim of domestic violence to be informed of the address confidentiality program administered through the Attorney General's Office.
- (24) The right of a victim to know in certain cases and at the earliest possible opportunity, if the person charged with an offense has tested positive for human immunodeficiency virus (HIV) infection. In such cases, upon request of the victim or the victim's legal guardian, or of the parent or legal guardian of the victim if the victim is a minor, the court shall order such person to undergo HIV testing. In addition, in certain cases, and if requested by the victim, the right of the victim to receive information on the results of the testing within two weeks of the court's receipt of such results.
- (25) The right that a victim, or the next of kin of a victim may not be excluded from any portion of any hearing, trial or proceeding pertaining to the offense based solely on the fact that such person is subpoenaed to testify, unless, upon motion, the court determines such person's presence to be prejudicial.
- (26) The right that victims and witnesses who are not incarcerated shall not be required to attend discovery depositions in any correctional facility.
- (27) The statutory obligation to advise the victim or the next of kin of a homicide victim that any information gained pursuant to FS Chapter 960, regarding any case handled in juvenile court must not be revealed to any outside party, except as reasonably necessary in pursuit of legal remedies.
- (28) The right of a victim to request, for specific crimes, an exemption prohibiting the disclosure of information to the public which reveals the victim's home and work telephone numbers, home and work addresses, and personal assets not otherwise held confidential under the public records law.
- (29) The right to request, in certain circumstances that the offender be required to attend a different school than the victim or siblings.
- (30) The right of a victim of a sexual offense to request the presence of a victim advocate during the forensic medical examination. An advocate from a certified rape crisis center shall be permitted to attend any forensic medical examination.
 - (a) Pursuant to FS 943.326, the victim of a sexual battery has the right to have DNA evidence collected and tested and the victim or their representative must be informed of this right and of the purpose of submitting evidence for testing.
- (31) No law enforcement officer, prosecuting attorney, or government official shall ask or require a victim of a sexual offense to submit to a polygraph examination or other truth-telling device as a condition of the investigation.
- (32) The right of a victim or the victim's legal guardian, or the parent or legal guardian of a victim, if the victim is a minor, to request that a person who is charged with any offense enumerated in section 775.0877(1)(a)-(n), Florida Statutes, that involves the transmission of body fluids from one person to another, undergo hepatitis and HIV testing.

4 FORMS

FORM NUMBER	FORM TITLE
	Incident Summary Report
FWC/DLE-282	Victim Notification Card
FWC/DLE-513	FWC Victim and Witness Rights Information Brochure (English)
FWC/DLE-513A	FWC Victim and Witness Rights Information Brochure (Spanish)