

ST. PETERSBURG POLICE DEPARTMENT

DATE OF
ISSUE

EFFECTIVE DATE

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INSTRUCTIONAL ORDER

August 2017

Immediately

V.5:17

Distribution: All Employees

Subject: **VICTIM'S RIGHTS / VICTIM ASSISTANCE UNIT**

Index as: Victim
Victim Assistance Unit
Victim Information and Notification Everyday (VINE) System
Victim's Rights

Victims of Society
VINE
Witness(es)

Accreditation Standards: 55.1.1, 55.1.2, 55.2.1, 55.2.2, 55.2.3, 55.2.4, 55.2.5, CFA 14.04, 15.09

Cross Reference: [G.O. III-19, Death and Serious Injury Special Procedures](#)
[I.O. V.5:07, Social Service Referral System](#)

Chapter 960 and §943.326, F.S.S.
Article 1, Section 16, Florida Constitution

Replaces: I.O. V.5:17, Victim's Rights/Victim Assistance Unit (August 28, 2017)

This Order consists of the following sections:

- I. Policy
- II. Definitions
- III. Informational Services to Victims
- IV. Procedures
- V. Victim Notification Form
- VI. Services Provided by the Victims Assistance Unit
- VII. Training and Education Programs
- VIII. Requesting Services of a Victim Assistant

I. POLICY

A. This policy informs and directs compliance by all employees with:

1. Chapter 960 of the Florida State Statutes and **Article 1, Section 16 of the Florida Constitution** provide guidelines for the fair treatment of victims and witnesses in the criminal and juvenile justice system, including notification requirements; and

2. Informs employees of the objectives and services provided by the Department's Victim Assistance Unit in compliance with Florida State Statute, Chapter 960, Victims of Crime Act (VOCA) and **Article 1, Section 16 of the Florida Constitution**.

B. Recognizing the sensitivity of effecting the immediate arrest of crime victims on outstanding warrants, if an investigation determines a warrant to be active:

1. The Officer/Detective will, through their Chain of Command, notify the Watch Commander or their respective Investigative Services Bureau (ISB) Division Major.

2. The Watch Commander, or the respective Major, Investigative Services Bureau (ISB), will determine if serving the arrest warrant is appropriate. Consideration will be given to the offense(s) cited in the arrest warrant, present trauma of the victim, etc. If a determination is made to not serve the arrest warrant, the on-call Assistant State attorney will be notified of the decision.

3. The resolution of the enquiry will be fully recorded in the *Incident Report*.

C. The Officer conducting interviews of victims/witnesses should, without compromising the investigation, make every effort to ensure privacy when personal or sensitive issues are being discussed.

II. DEFINITIONS

A. Victim – For this order, any victim of a crime regardless of the severity, whether the crime is a misdemeanor or felony, or whether the crime is against a person or against property. The term herein also includes the family member(s) of homicide victims.

B. Victims of Society – Homeless persons, the mentally challenged, the elderly, and children.

C. Witness – A person, as determined by a law enforcement officer, who has information or evidence relevant to a specific crime.

III. RIGHTS OF VICTIMS AND WITNESSES

A. Statutory Duty – Florida law provides that victims and witnesses will be provided specific information about their rights.

B. All law enforcement personnel will ensure that victims and witnesses are routinely given information about these enumerated rights during the course of preliminary and follow-up investigations. These rights include:

1. The right to receive information regarding:

a. 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;

b. The availability of crimes' compensation, when applicable, for victims of crimes or their relatives where the victim is deceased. Telephone numbers of these services are included in the *Victim's Rights* brochure;

c. Their 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; and

d. 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.

2. 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.

3. The right that victims and witnesses who are not incarcerated will not be required to attend discovery depositions in any correctional facility.

4. 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.

5. The right that incarcerated victims will 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.

6. The right of a victim to a prompt and timely disposition of the case in order to minimize the period during which the victim must endure the responsibilities and stress involved, to the extent that this right does not interfere with the constitutional rights of the accused.

7. The right to be free from intimidation
 - a. 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.
 - b. It is a felony to tamper with or threaten a witness. If the victim/witness is being threatened or intimidated, they should be directed to contact the St. Petersburg Police Department or any law enforcement officer.

8. Each victim has the right:
 - a. When scheduled to attend a criminal or juvenile justice proceeding, to be notified as soon as possible by the agency or person scheduling their appearance of any change in scheduling which will affect such appearance; and
 - b. 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.

9. In addition to the provisions of §921.143, F.S.S., 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 has the right to 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 as a result of such crime, including the views of the victim or family about:
 - a. The release of the accused pending judicial proceedings;
 - b. Plea agreements;
 - c. Participation in pretrial diversion programs; and
 - d. Sentencing of the accused.

10. Each victim has the right:
 - a. To the prompt return of property, unless there is a compelling law enforcement reason for not returning it;
 - b. To receive the assistance of law enforcement and the State Attorney in notifying the victim's employer and creditors in order to explain his circumstances;
 - c. To request and receive restitution pursuant to §775.089, F.S.S., and the victim's rights of enforcement in the event an offender does not comply with the restitution order, and to be notified when restitution is ordered;
 - d. To submit an oral or written impact statement, pursuant to §921.143, F.S.S., and to receive assistance from the State Attorney in the preparation of such statement;
 - e. To be notified of the escape of a criminal defendant. This right extends to a material witness, the parents or legal guardian of a minor who is a victim or witness, or the immediate relative of a homicide victim.
 - 1) The State Attorney will make every effort to ensure prompt notification.
 - 2) The victim also has the right to be notified by the appropriate agency of the arrest and release of the offender;
 - f. To have a victim advocate (assistant) present during discovery deposition; and
 - g. To review certain portions of a pre-sentence investigation report for adult and youthful offenders prior to the sentencing of the accused.

11. 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 Constitution of the State of Florida.

12. Additionally, each victim has the right:
 - a. As a 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;
 - b. To request [per §960.03(2)(b), F.S.S.] in sex offenses, under certain circumstances, if the victim is under the age of eighteen (18) or is a disabled adult or an elderly person, that the Court order the accused to undergo HIV testing, regardless of whether the offense involves the transmission of bodily fluids. If requested by the victim, the results of the testing will be made available to the victim no later than two weeks after the Court receives such results;
 - c. As a victim of domestic violence, to be informed of the *Address Confidentiality Program* administered through the Attorney General's Office;
 - d. To know, in certain cases, 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 will order such person to undergo HIV testing. Additionally, in certain cases, 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;
 - e. To request that a person who is charged with any offense enumerated in section 775.0877 (1) (a)-(n), F.S.S. that involves the transmission of body fluids from one person to another, undergo hepatitis and HIV testing. This right extends to the victim's legal guardian, or the parent or legal guardian of a victim, if the victim is a minor;

f. 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; and

g. To request, in certain circumstances, that the offender be required to attend a different school than the victim or victim's siblings.

13. The statutory obligation to advise the victim, or the next of kin of a homicide victim, that any information gained pursuant to Florida Statutes 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.

14. 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 will be permitted to attend any forensic medical examination.

15. No law enforcement officer, prosecuting attorney, or government official will 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.

C. Responsibilities for Distribution

1. All Officers, Investigating Detectives, Civilian Investigators and Victim Assistants will provide a copy of the Department's *Victim's Rights* brochure and the incident number to each and every identified victim and witness at the earliest possible point in the criminal investigation.

2. All Officers and Detectives will, after making an arrest where a victim has been identified, provide a *Victim Information and Notification Everyday (VINE) System* information card, provided by the Florida Department of Corrections, to the victim. The victim will be advised that the last four digits of their telephone number will become their Personal Identification Number (P.I.N.) for the *VINE System*.

3. Verification that the brochure and/or card were given to each identified victim and/or witness will be included in the *Incident Report*, either in the space designated on the form or in the narrative.

4. *The Victim's Rights* brochures and *VINE System* Information Cards will be available in both English and Spanish from the Uniform Services Bureau Equipment Room.

IV. PROCEDURES

A. The Officer will provide to the victims and/or witness information on steps available to law enforcement to protect the victim and/or witness from intimidation. The information will be provided in the same manner as that relating to other services for victims.

B. The arresting Officer will advise the victim that an offender has/has not been arrested and, if necessary, complete a *Victim Notification Form*. This form will remain at the Pinellas County Jail so they may promptly notify the victim upon the release of the accused, as required by law. The Department will assist with the required notification if requested to do so by the Sheriff's Office.

C. Property of crime victims will be promptly returned, unless there is a compelling law enforcement reason for not returning it. The evidence custodian will promptly comply with Court Orders allowing photographs of the victim's property to be used as evidence at the trial and/or requiring the return of the victim's property. Officers/Investigators should consult with the State Attorney's Office before releasing any property.

D. When so requested, the Department will assist victims and witnesses of crime in notifying employers and creditors of court appearances and financial hardship.

E. Department personnel are always ready to assist victims whenever possible. When so requested, employees will assist victims and witnesses in locating accessible parking and transportation and will direct those persons to separate pretrial waiting areas where available. When necessary, employees will attempt to locate translators in appropriate cases.

F. In the event of an escape, the correctional facility will notify the State Attorney's Office of the escape and the State Attorney will make every effort to notify the victim or the victim's next-of-kin, as well as the Sheriff and/or Chief of the affected jurisdiction(s). The Department will render such assistance as requested by the State Attorney.

V. VICTIM NOTIFICATION FORM

A. All Officers who transport an arrested subject for booking at the Pinellas County Jail will secure the necessary victim information.

B. Transporting Officers will complete all the victim information in VIPAR when completing the electronic Complaint/Arrest Affidavit. If a handwritten affidavit is being completed, ensure all of the victim information is completed on the reverse side of the State Attorney's copy of the Complaint/Arrest Advisory.

C. Prior to transport, the victim information should be secured by the Transporting Officer, if they are not the Investigating Officer.

D. At no time should victim information be exchanged over the radio. In instances where the Transporting Officer must secure the information after arriving at the jail, telephone communication should be utilized.

E. Booking will not be considered complete until the victim's information is provided to Pinellas County Jail personnel.

F. For cases involving victims in which a *Notice to Appear* is issued to the defendant, the victim's information should be clearly affixed to the reverse side of the State Attorney's copy of the *Complaint Advisory* prior to submission for procedural booking.

VI. SERVICES PROVIDED BY THE VICTIM ASSISTANCE UNIT

A. Short term/crisis intervention counseling for victims and significant others of victims (e.g., spouses, boy/girlfriends, family members, etc.) may be provided at crime scenes, hospitals, homes, or the Police Department, as necessary. If the need for such counseling is not critical, contact will be made as soon as possible by telephone, letter or personal visit, based upon requests made in officers' reports.

B. A Victim Assistant Specialist may be assigned to provide services during the follow-up investigation and will, as appropriate, re-contact the victim to assist when possible.

C. Referrals to other agencies.

D. Assistance with scheduling and transportation for the victim to doctor's appointments, other social service agencies, and/or court proceedings may be provided if it is related to the original case, is absolutely necessary, and the current Victim Assistance Unit case load permits.

E. Explanation of the procedures involved in the prosecution of their case and their role in those procedures, provided this does not endanger the successful prosecution of the case. Information provided may relate to the State Attorney's investigation, depositions, preliminary hearings, trials, and sentencing. In some cases, the Victim Assistants may accompany the victim and act as a liaison between the victim and the criminal justice system.

F. Writing letters, making telephone calls or, if necessary and the case permits, accompanying the victim to the appropriate agencies.

G. Assistance may be provided in the completion of victim services-related applications, crimes' compensation, and insurance claim forms, when there is injury related to a specific crime.

H. Assistance and referral on a limited basis may be provided for "Victims of Society."

VII. TRAINING AND EDUCATIONAL PROGRAMS

A. So that all victims may be treated fairly, victim assistance education and training will be offered to all employees taking courses at law enforcement training facilities or on an in-service basis.

B. All Officers and other employees, as necessary, will be provided with the latest information pertaining to victims' rights and services available to them through regularly scheduled in-service training regarding Human Diversity and Domestic Violence Awareness.

C. The Community Awareness Division will assist in publicizing the victim/witness services available from the Department via the news media, the Internet, etc.

VIII. REQUESTING SERVICES OF A VICTIM-ASSISTANT SPECIALIST

A. A Victim Assistant Specialists may be called upon to provide support services for a victim and/or a witness of a violent crime or incidents, for example:

1. Death/Suicide/Homicide.
2. Domestic Violence.
3. Missing Persons/Missing Children.
4. Mental Health Crises.
5. Sex Offenses.
6. Critical Incidents.
7. Robberies.
8. Child and Elderly Abuse.
9. DUI and other crashes resulting in fatalities.
10. "Victims of Society."

B. A Victim Assistant Specialists and/or the Department's Employee Assistance Coordinator, may also be called upon to assist Department employees who have been involved in traumatic incidents or who otherwise might benefit from their services.

C. The Victim Assistance Unit services can be requested at any time through the Emergency Communications Center or through the on-call Investigative Services Bureau Sergeant.

Anthony Holloway
Chief of Police