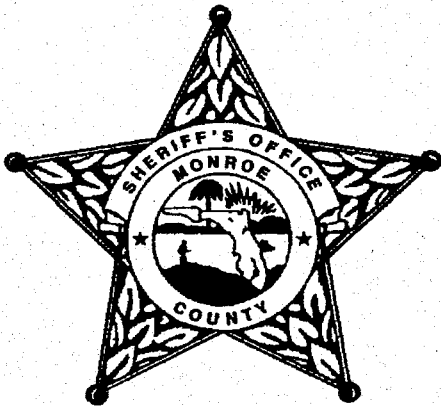


VICTIM'S
RIGHTS
BROCHURE



SIXTEENTH JUDICIAL
CIRCUIT
MONROE COUNTY
FLORIDA

MONROE COUNTY SHERIFF'S
OFFICE

VICTIM'S RIGHTS

AS A VICTIM OF CRIME YOU ARE ENTITLED TO:

- Crime Compensation, when applicable.
- Crisis Intervention services . . .
- Understanding your role in the criminal or juvenile justice system.
- The victim has the right to be notified of scheduling changes in the criminal and juvenile justice system by the scheduling agency or person.
- Notification of significant stages of the criminal or juvenile justice system, and how such information can be obtained.
- The right of the victim, who is not incarcerated, including the next of kin of a homicide victim, to be informed, to be present, and to be heard when relevant at all crucial stages of a criminal or juvenile proceeding to the extent that this right does not interfere with the constitutional rights of the accused. That 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.
- That victims and witnesses who are not incarcerated shall not be required to attend discovery depositions in any correctional facility.
- In the case of incarcerated victims, the right to be informed and to submit written statements at all crucial stages of the criminal proceedings, parole proceedings, or juvenile proceedings.
- The right of a victim to a prompt and timely disposition of the case .
- Information concerning the arrest and release of the accused . . . reasonable attempt will be made to notify the victim or appropriate next of kin . . . unless otherwise waived.
- In addition to the provisions of FS 921.143, the rights of 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's Office 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;
 - d) Sentencing of the accused.
- The right of a victim to review certain portions of a pre-sentence investigation report for adult and youthful offenders prior to the sentencing of the accused.
- The right of the victim and the State Attorney's Office to standing ,

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- with the consent of the victim, to assert the rights of the victim.
- The right of any victim, relative of a minor who is a victim, or relative of a homicide victim to receive advance notification of judicial and post judicial proceedings relating to the case, including all proceedings or hearings relating to:
 - The arrest of the accused.
 - The release of the accused pending judicial proceedings, any modification of release condition to include release to community control or work release.
 - Proceedings in the prosecution or petition for delinquency of the accused, including the filing of the accusatory instrument, the arraignment, disposition of the accusatory instrument, trial or adjudicatory hearing, sentencing or disposition hearing, appeal or review, subsequent modification of sentence, collateral attack of a judgment, and when a term of imprisonment, detention, or involuntary commitment is imposed, the release of the defendant or juvenile offender from such imprisonment, detention or juvenile offender from such imprisonment, detention or commitment by expiration of sentence or parole and any meeting held to consider such release.
- Return of property to the victim held for evidentiary purposes unless there is a compelling law enforcement reason for retaining it.
- Notification to employer and explanation to creditors of victim or witness, when requested by victim . . .
- Notification of right to request restitution and the right to receive information on how to enforce the court's order of restitution.
- Notification of right to submit victim impact statement.
- Presence of victim advocate during discovery deposition at the victim's request.
- 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.
- The right of the victim of domestic violence to be informed of the address confidentiality program administered through the Attorney General's Office.
- The right of the victim of a sex offense, who is under the age of 18 or is a disabled adult or elderly person, to request the court to order the accused to undergo HIV testing regardless of whether the offense involves the transmission of bodily fluids. If requested by the victim the victim has a right to receive information on the results of the testing within two weeks of the court's receipt of such results.
- The right of a victim, in certain circumstances, to request that the offender be required to attend a different school than the victim or siblings.
- The statutory obligation of the victim, or next of kin of a homicide victim that any information gained pursuant to Florida Statute 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.

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INFORMATION CONCERNING ESCAPE

- . . . The state attorney shall thereupon make every effort to notify the victim, material witness, parents or legal guardian of a minor who is a victim or witness, or immediate relatives of a homicide victim or legal guardian of a minor who is a victim of the escapee. The state attorney shall also notify the sheriff of the county where the criminal charge or petition for delinquency arose. The sheriff shall offer assistance upon request. When an escaped offender is subsequently captured or is captured and returned to the institution of confinement, the institution of confinement shall again immediately notify the appropriate state attorney and sentencing judge . . .

EXEMPTION FROM PUBLIC INSPECTION

Under the provisions of Florida Statute 119.07 (3)(5)1 any information which reveals the home or employment telephone number, address, or personal assets of a person who has been the victim of a sexual battery, aggravated child abuse, aggravated stalking, harassment, aggravated battery, or domestic violence is exempt from public inspection and examination. You must make a written request for your information to be held confidential.

VICTIM ASSISTANCE INFORMATION

A Victim Advocate is available 24 hours a day to assist victims with the emotional, physical and financial trauma often resulting from a crime. You may contact a Victim advocate the next day for information and support if immediate assistance is not needed. A Victim Advocate can provide:

Crisis Intervention Counseling, personal advocacy, community information and referrals, emotional support, coordination with officers, court accompaniment, follow-up counseling, assistance with property return, assistance with crimes compensation, information on your role in the juvenile justice system, assistance in filing an injunction for protection, locating transportation, and accessible parking, attempt to locate translators as needed.

An outreach victim advocate may be reached 24 hours a day by contacting your local sheriff's department and listening to the menu for the appropriate number to press for dispatch.

*Services are available for L/G/B/T Domestic Violence/
Sexual Assault Victims*

DOMESTIC VIOLENCE LEGAL RIGHTS & REMEDIES

IF YOU ARE A VICTIM OF DOMESTIC VIOLENCE you may ask the state attorney to file a criminal complaint. You also have the right to go to court and file a petition requiring an injunction for protection from domestic violence which may include but not need to be limited to, provisions which restrain the abuser from further physical acts of abuse; direct the abuser to leave your household; prevent the abuser from entering your residence, school, business, or place of employment; award you custody of your minor child or children; and direct the abuser to pay support to you and the minor children if the abuser has a legal obligation to do so.

A person who willfully violates an injunction . . . by

- Refusing to vacate the dwelling that the parties share;
- Going to petitioner's residence, school, place of employment, or a specified place frequented regularly by the petitioner and any named family or household member.
- Committing an act of domestic violence against the petitioner.
- Committing any other violation of the injunction through an intentional unlawful threat, word, or act to do violence to the petitioner, or
- Telephoning, contacting, or otherwise communicating with the petitioner directly or indirectly, unless the injunction specifically allows indirect contact through a third party
- commits a misdemeanor of the first degree.

Emergency Temporary Injunctions for Protection Against Domestic Violence are available 24 hours a day by requesting an Outreach Victim Advocate from your local law enforcement officer. Emergency Temporary Injunctions may also be obtained Monday through Friday from 8:30 a.m. to 5:00 p.m. (excluding holidays) by contacting your local Domestic Abuse Outreach office or the Clerk of the Court.

Emergency Temporary Injunctions for Protection Against REPEAT VIOLENCE and *DATING VIOLENCE may be obtained Monday through Friday from 8:30 a.m. to 5:00 p.m. (excluding holidays) by contacting the Domestic Abuse Outreach Office or the Clerk of the Court. (*effective January 1, 2003)

DOMESTIC ABUSE OUTREACH

Upper Keys	(305) 852-6222
Middle Keys	(305) 743-4440
Lower Keys	(305) 294-0824
Domestic Abuse Hotline	1-800-500-1119

STAGES OF THE CRIMINAL JUSTICE SYSTEM

FIRST APPEARANCE

Within 24 hours of the defendant's arrest, a FIRST APPEARANCE hearing is held. The Judge decides whether a bond should be set and if so, how much. If the defendant is able to post bond, he/she will be released pending trial. The Judge may include special conditions ordering the defendant not to have contact with the victim.

FILING DECISION

An Assistant State Attorney will review the case and when necessary, interview the victims and witnesses. If there is sufficient evidence, criminal charges will be filed. The formal charging document is called an INFORMATION.

NO ACTION

If it is determined that the case cannot be prosecuted, the Assistant State Attorney will attempt to notify the victim before filing NO ACTION document with the Court.

ARRAIGNMENT

At the Court hearing, the Assistant State Attorney files the INFORMATION (formal criminal charges) with the Court. The defendant will enter a plea of guilty or not guilty. While some defendants do plead guilty at the ARRAIGNMENT, most will enter a not guilty plea and a trial date will be set.

SUBPOENA

A SUBPOENA is a court order requiring a victim or witness to appear and give testimony.

YOU MUST CONTACT THE OFFICE THAT HAS SUBPOENAED YOU TO CONFIRM THE DATE AND TIME. PLEASE BE SURE TO CALL ONE BUSINESS DAY BEFORE YOUR SCHEDULED APPEARANCE IN ORDER TO AVOID UNNECESSARY TRAVEL.

DEPOSITIONS

Florida law allows the defense attorney to interview victims and witnesses, under oath, prior to trial. This interview is called a DEPOSITION. You may receive a subpoena from the defendant's attorney requiring you to appear to have your deposition taken.

NOLLE PROSSE

There are times when it may be necessary for the Assistant State

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Attorney to drop the charges prior to the defendant pleading guilty or the case coming to trial. There are a number of reasons why this may happen including a lack of evidence or the defendant's plea of guilty in another case.

The victim will be informed as soon as possible by the Assistant State Attorney to explain the reason(s) and/or to answer any questions.

PLEA NEGOTIATIONS

In many cases the defendant will plead guilty to all or some of the charges prior to the trial date. The plea may be the result of discussion, or negotiations, between the Assistant State Attorney and the defense attorney.

Prior to agreeing to any plea, the Assistant State Attorney will attempt to contact the victim to discuss the plea and answer any questions. It is important to remember that this contact can only be made if the State Attorney's Office is kept advised of your current address and phone number. (home and work)

YOU AS THE VICTIM MAY OFFER YOUR OPINION AS TO THE PLEA OR SENTENCE YOU FEEL SHOULD BE IMPOSED. YOU MAY CONVEY YOUR THOUGHTS BY FILING A VICTIM IMPACT STATEMENT OR BY TELEPHONING THE ASSISTANT STATE ATTORNEY.

PRE-TRIAL MOTIONS

A lawyer for either side of the case may ask the Judge to make a legal decision about the case prior to trial. This is done by the lawyer submitting a MOTION to the Court. In some cases it may be necessary for you to testify at a motion hearing—in which case you will be subpoenaed.

PRE-TRIAL HEARING

The pre-trial hearing is held prior to the trial week. At the hearing, the defense is required to appear in court to advise the Judge whether or not he/she is ready for trial. The defendant may also enter a plea at this time or request a continuance if he/she is not ready for trial.

CONTINUANCES/POSTPONEMENTS

It is not unusual for a case to be Continued one or more times before it goes to trial. While every attempt is made to bring a case to trial as quickly as possible, there are circumstances that we cannot control that may make it necessary to continue a case from one trial date to another.

TRIAL

If the defendant pleads not guilty, a trial may be held. The victim is usually the State's most important witness; and along with other witnesses will be subpoenaed for trial. Your testimony may be necessary even if you have given a previous statement or deposition in the case. The rules of court are such that these statements cannot be substituted for live testimony.

In most cases the Assistant State Attorney will want to meet with you prior to the time you testify to review the questions that he/she may ask you. Please make sure to ask any questions you may have about your testimony at the time.

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SENTENCING

In misdemeanor cases, sentencing of the defendant usually occurs immediately after a guilty plea or a finding of guilt by the jury after a trial. In felony cases, a defendant who has pled guilty or has been found guilty after a trial may be sentenced at a later date. The victim will be advised of the sentencing date.

RESTITUTION

At sentencing, the Court can order the defendant to make Restitution (pay for the victim's losses caused by the crime). If you are seeking restitution, you must itemize and document your losses, damages and injuries on the VICTIM IMPACT STATEMENT provided by the State Attorney's Office. Please attach bills, receipts, and estimates to support your claim. **THESE DOCUMENTS MUST BE GIVEN TO THE STATE ATTORNEY'S OFFICE PRIOR TO SENTENCING.**

FREEDOM FROM INTIMIDATION

Florida Statutes provides "It is unlawful for any person (1) to cause a witness to be placed in fear by force or threats of force; (2) to make an assault upon any witness or informant; or (3) to harm a witness by any unlawful act in retaliation against the said witness for anything lawfully done in the capacity of witness or informant." Violation of this section is a third degree felony, punishable by a term of imprisonment not exceeding five (5) years and by a fine not exceeding \$5,000. If you believe a possible violation of the statute has occurred, promptly contact the Police Department.

STATE ATTORNEY'S OFFICE

Upper Keys	(305) 852-7170
Middle Keys	(305) 289-2593
Lower Keys	(305) 292-3400

FLORIDA CRIME COMPENSATION

WHO IS ELIGIBLE?

Any victim who received personal injury, or survivors of someone who was killed as a result of a felony or misdemeanor crime punishable under federal or state law, including DUI and hit and run. (All other automobile accidents are excluded by law) Also any elderly or disabled adult who suffered a property loss as a result of crime. In addition, any minor who was a witness to a crime.

IF . . .

- The crime was reported to law enforcement within 72 hours.
- The application was filed within one year after the crime.
- The victim has *fully cooperated* with law enforcement and the state attorney's office.
- The victim was not engaged in an unlawful activity.
- The victim did not contribute to his/her own injuries.

For further information or assistance with a crime compensation application, contact the victim advocate in your area, or 1-800-226-6667.

You are not required to have an attorney in order to fill out this form,, and there is no application fee.

SHERIFF BASED VICTIM ADVOCATES

Upper Keys	(305) 853-3211
Middle Keys	(305) 289-2430
Lower Keys	(305) 296-2424
Key West Police Dept.	(305) 292-8266

COMMUNITY RESOURCE DIRECTORY

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Emergencies	911
Monroe County Sheriff's Department	
Upper Keys	(305) 853-3211
Middle Keys	(305) 289-2410
Lower Keys	(305) 294-0824
Key West Police Department	(305) 294-2514
Key Colony Beach Police Department	(305) 743-5380
Crimes against Women & Children	(305) 289-2410
Child/Elder Abuse Hotline	1-800-96-ABUSE
Clerk of the Court	
Upper Keys	(305) 852-7145
Middle Keys	(305) 289-6027
Lower Keys	(305) 294-4641 (305) 294-3545
Economic Self Sufficiency	
Upper Keys	(305) 853-3243
Middle Keys	(305) 289-2397
Florida Keys Employment & Training	
Upper Keys	(305) 853-3540
Middle Keys	(305) 289-2470
Lower Keys	(305) 292-6762
Greyhound Bus Systems	1-800-410-5397
Guidance Clinic	
Upper Keys	(305) 853-3284
Middle Keys	(305) 289-6150
Care Center	(305) 292-6843
Legal Services	(305) 292-3566
Lifelines (medical clinics)	
Medi Vans	(305) 797-4104
Ruth Ivins (Marathon)	(305) 289-3748

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Pre-trial Services	
Upper Keys	(305) 853-7356
Middle Keys	(305) 289-2899
Lower Keys	(305) 294-7288
Salvation Army	
Upper Keys	1-800-447-8075
Social Services	
Upper Keys	(305) 852-7125
Middle Keys	(305) 289-6016
Lower Keys	(305) 292-4408
Transportation (Monroe County)	
<i>By appointment only</i>	
Upper Keys	(305) 852-7148
Middle Keys	(305) 289-6052
Lower Keys	(305) 292-4424
WIC (Health Department)	
Upper Keys	(305) 853-3240
Middle Keys	(305) 289-2450
Lower Keys	(305) 289-2450
Plantation Key Jail	(305) 853-3266
Marathon Jail	(305) 289-2420
Key West Jail	(305) 293-7300

*Phone numbers are subject to change. Please contact your local victim advocate for further assistance.

NOTES:

1) _____
NAME OF OFFENDER

2) _____
LAW ENFORCEMENT OFFENSE NUMBER

3) _____
OFFICER'S NAME AND AGENCY