

Virginia's Crime Victim and Witness Rights Act

Required OVC Service Objectives for Victims

Service Category

Information and Referral

1. CRIMINAL JUSTICE PROCESS®

Explain to victims their options with respect to the criminal justice process. This information may include their rights in proceeding with criminal charges, civil avenues for redress, college judicial system, etc.

2. VICTIMS' RIGHTS EXPLANATION®

As appropriate to a victim's individual needs, program staff should provide explanations of the services available to a victim. These explanations can be made in person or by telephone. The service can only be counted once regardless of delivery type.

A. Protection: provide information on levels of protection available to victims of crime when harm or threats of harm are present. This may include an explanation of the availability of orders of protection, "no contact" restrictions on bonds, police patrol ride-bys, etc. Inform victims about the availability of protective orders and no contact orders, and the action needed to obtain them. This would include victims of domestic violence, child physical abuse, child sexual abuse, elder abuse, stalking, sexual assault, assault and harassment.

B. Financial Assistance and Social Services: inform victims of financial assistance (beyond crime victims' compensation) and social services available to them on both a state and local level as a result of their victimization and provide appropriate referral information. Additionally, advise victims of their right to restitution.

C. Notices: provide information to victims on their right to receive employer intercession services. Provide information to victims on their right to receive advance notification of judicial proceedings relating to their cases and any changes in court dates from the local Commonwealth's Attorney. Provide information to victims on their right to be notified by the Department of Corrections or the local sheriff or jail superintendent in whose custody an escape, change of name, transfer, release, discharge, or parole of a prisoner occurs. Advise victims that in order to receive notices and offer input, all agencies and persons having such duties must have current victim addresses and telephone numbers given by the victims.

D. Victim Input: advise victims that they may submit to the court a written impact statement or may be given an opportunity to testify about the impact of the crime on the victim and his or her family. Provide explanations to victims about the parole process and victim input for crimes occurring before January 1, 1995. Advise victims that they may remain in the courtroom, during all court proceedings, unless the court finds that their presence would impair the conduct of a fair trial. Advise victims of felonies, that given their written requests, Commonwealth's Attorneys must consult with them, either verbally or in writing, regarding the contents of proposed plea agreements and their views concerning plea negotiations. Additionally, advise victims of felonies, that given their written requests, Commonwealth's Attorneys are to provide victims advance notice of any proceedings in which plea agreements will be

offered to the courts. Finally, advise victims that Commonwealth's Attorneys direct the prosecution and can enter into a plea agreements, whether or not victims agree with such agreements and that the courts can accept plea agreements, about which victims were not consulted, given good cause.

E. Courtroom Assistance: inform victims that they may request that their addresses and telephone numbers not be disclosed. Explain to victims that they have the right to use the services of an interpreter, if needed. Inform minor victims that an adult of their choosing may be present during court proceedings. Advise victims that there may be a closed preliminary hearing for certain sexual offenses, and that closed circuit television may be used in cases involving certain criminal offenses with victims who are fourteen years of age or younger at time of offense or 16 years of age or younger at time of trial.

F. Appeals/ Habeas Corpus Services: provide information to victims of their right to receive notification from the Office of the Attorney General of the filing and disposition of any appeals or habeas corpus proceedings involving the defendant(s) in their case.

3. REFERRAL TO OTHER VICTIM SERVICES PROGRAMS®

Provide victims with referral(s) to services, supports and resources including other Victim Witness Assistance Programs or community based nonprofit victim service programs. This can include legal, medical, faith based organizations, protection programs, address-confidentiality programs, etc. Referrals to the federal witness protection program also fall in this category.

5. VICTIMS' COMPENSATION®

Assist victims in applying for crime victims' compensation. Making victims aware of the availability of crime victim compensation (see the following definition), helping victims complete required forms, and gathering needed documentation. May also include follow up contact with the victim compensation agency on behalf of the victim. Services may include:

- **Explanation:** Explain to victims how the compensation process works and the steps that need to be taken in order to process a claim.
- **Services:** Program staff help victims complete the forms, if requested, answer questions, help victims find notaries, and copy or mail the application, if requested.
- **Follow-up:** These services may include: acting as a liaison between victims once an application has been filed, obtaining information on the status of the claim, contacting medical providers and employers who have failed to respond to requests for information, providing Virginia Victims Fund with the status and disposition of the criminal case, and providing information on appeal procedures. Includes in-person contacts, telephone contacts, and written communications with victims to offer emotional support, provide empathetic listening, and check on a victim's progress.

Personal Advocacy/Accompaniment

9. LAW ENFORCEMENT INTERVIEW, ADVOCACY/ACCOMPANIMENT®

Assist in scheduling and/or accompanying victims to a law enforcement interview. This includes referring victims to law enforcement if they are in need of an escort after court, or if they want increased monitoring of their residence. This can include accompanying victims to law enforcement agencies for photographing Injuries.

10. INDIVIDUAL ADVOCACY®

Include assisting victims in securing rights, remedies, and services from other agencies. This can include assisting victims in retrieving any property being held for evidentiary purposes, unless there is a compelling law enforcement reason for retaining it. Staff can accomplish this through coordination between the Commonwealth's Attorney's Office and law enforcement. If the property is released, advise the victim where and how it may be picked up.

This service does not include: Emergency Medical Care, Medical Forensic Exam Accompaniment, Medical Forensic Performance/Collection, Law Enforcement Interview, Advocacy, Accompaniment, Immigration Assistance, Intercession (Employer/Other), Child Dependent Care, Transportation Services, and interpreter Services.

12. INTERCESSION®

Act on the behalf of victims to minimize their losses and to ensure their full cooperation. Intervention with employer, creditor, landlord, or academic institution.

15. INTERPRETER SERVICES®

Act as a liaison between the victim and criminal justice agencies to obtain the services of a qualified interpreter and to avoid any conflict of interest that may arise through the use of that interpreter. Please see Code Section 19.2-164 regarding interpreters and reimbursement. Note: Pre-court interviews with the Prosecutor qualifies for reimbursement.

Emotional Support or Safety Services

16. CRISIS INTERVENTION®

Crisis is defined as a state of emotional distress (often characterized by crying or being irate). Provide crisis/emergency counseling, emotional support, and guidance when a victim is in crisis. This could occur at the scene of a crime, immediately following a crime, preceding/during/following a court hearing, or on an ongoing basis.

Criminal/Civil Justice System Assistance

26. EVENT NOTIFICATION®

A. Case Status: provide victims with information on any significant developments in the investigation and adjudication of the cases in which they are involved. Significant developments include the arrest of a suspect, a defendant choosing to enter a guilty plea, etc. This information may be relayed through a personal letter specifically about that case or by telephone or email contact.

B. Case Dispositions: provide victims with the final dispositions of their cases within thirty working days of disposition. This includes dispositions of habeas corpus appeals.

C. Advance Notification: provide victims with advance notification of judicial proceedings relating to their cases and inform them of any changes in court dates. This information may be relayed through a personal letter or telephone contact.

27. VICTIM IMPACT STATEMENTS®

Assist victims in the preparation of victim impact statements or coordinate this service with the probation and parole office. Staff may offer dictation service to illiterate victims or translation service to non-English speaking victims. This also includes preparing victims to give oral statements.

28. RESTITUTION®

Assist victims in seeking and securing restitution. As appropriate, victim/witness program staffs are required to assist victims in seeking and securing restitution by providing information about local procedures and referrals to appropriate personnel. These responsibilities are in accordance with §19.2-11.01 A2c which requires that victims "...be advised that restitution is available for damages or loss resulting from an offense and shall be assisted in seeking restitution in accordance with §§ 19.2-305, 19.2-305.1 ..."

Nothing in these statutes places a responsibility on victim/witness program staff to **collect** restitution. To the extent possible, program staff are encouraged to limit restitution services to the provision of information about local procedures and referrals to appropriate personnel. Compliance with the Crime Victim and Witness Rights Act requires that programs address a broad range of service objectives. **Allocation of staff time and resources cannot be unreasonably focused on a few services, such as restitution, to the detriment of other services**

A. Explanation®: help victims determine the specific amounts of restitution owed in their particular cases.

B. Monitoring: monitor the payments of court-ordered restitution. "Monitoring" restitution is the service of checking with third parties or the victims themselves to ensure that restitution payments are being made in a timely fashion.

C. Collection: collect and forward restitution payments.

D. Enforcement: request, or assist the victim in requesting, a show cause summons when defendants are delinquent in their payments.

30. PROTECTION ORDERS®

Provide and assist victims with obtaining protective orders (Emergency, Preliminary, and Permanent). This would include victims of domestic violence, child physical abuse, child sexual abuse, elder abuse, stalking, sexual assault, assault and harassment. Note: Under 16.1-253.2(d) victims have the right to a new protective order not exceeding 2 years upon the conviction of Violation of Protective Order.

Virginia's Crime Victim and Witness Rights Act

Required OVC Service Objectives for Witnesses

1. WITNESS' RIGHTS INFORMATION (PRE-PRINTED)®

Written materials—such as brochures, forms, pamphlets, flyers, and applications—provide information regarding the following: protection, employer services, confidentiality of address and telephone numbers, and interpreter services.

2. WITNESS' RIGHTS EXPLANATION®

As appropriate to a witness' individual needs, provide explanations of each of the services listed below. These explanations can be made in person or by telephone.

3. PROTECTION®

Assist witnesses in obtaining available protection from the appropriate authorities when harm or threats of harm arises from the witnesses' cooperation with law enforcement or prosecution efforts.

Witnesses should be referred to law enforcement if they are in need of a deputy escort after court, or if they want increased monitoring of their residence. Other protection services may include: advising witnesses where they may file a warrant for criminal offenses, escorting witnesses to waiting rooms, etc.

4. INTERCESSION—EMPLOYERS®

Intercede to ensure that employers of witnesses cooperate with the criminal justice process in order to minimize the employee's loss of pay and other benefits due to court appearances. This may include written confirmations or phone contacts. For example, a staff person may provide witnesses with written confirmations of their appearance in court that they can present to their employers to show their compliance with subpoenas.

5. ASSISTANCE WITH INTERPRETER SERVICES®

Act as a liaison between the witness and the criminal justice agencies involved to obtain the services of a qualified interpreter and to avoid any conflict of interest that may arise through the use of that interpreter.