

# **PALM BEACH GARDENS POLICE DEPARTMENT**

## **VICTIM\WITNESS ASSISTANCE**

### **POLICY AND PROCEDURE 4.2.2.13**

<b>Effective Date :</b> 08/15/11	<b>Accreditation Standards:</b> CALEA 55.1.1-55.2.5 CFA 17.06	<b>Review Date:</b> 08/01/2012
-------------------------------------	---	-----------------------------------

## **CONTENTS**

- 1.Rights of Victims and Witnesses**
- 2.General Procedures**
- 3.Victim\Witness Assistance**
- 4.Victim Notification Form**
- 5.Updating Victim\Witness Programs and Information**
- 6.Public Information Activities**
- 7.Training**

**PURPOSE:** To establish guidelines and procedures for providing assistance to victims and witnesses and ensuring that the Department complies with the requirements of Florida law relating to victim and witness rights and services.

**SCOPE:** This policy and procedure applies to all members.

**REVIEW RESPONSIBILITY:** Field Operations and Investigations Bureau Majors

**POLICY:** The Department is committed to providing assistance to victims and witnesses of crime and to informing those persons of their rights as well as the services available to assist them through the criminal justice system. All Department members must ensure that the rights and welfare of victims and witnesses are not overlooked and must comply with the guidelines for fair treatment of victims and witnesses in the criminal and juvenile justice systems as specified in Florida Statute 960.001.

## **PROCEDURES**

### **1.RIGHTS OF VICTIMS AND WITNESSES**

- a. Victims of crime, the parent or guardian of a minor victim and surviving family members of homicide victims have certain rights guaranteed by the Florida Constitution and Florida state law. These rights include, but are not limited to:
  - i. The right to be informed, to be present, and to be heard when relevant, at all crucial stages of any criminal and juvenile justice proceedings, to the extent that these rights do not interfere with the Constitutional rights of the accused. An incarcerated victim has the right to be informed and submit written statements at all stages of the criminal and juvenile justice proceedings. Any victim, parent or guardian of a minor who is a victim or relative of a homicide victim shall receive advance notification whenever possible of all judicial proceedings relating to the arrest and release of the defendant as well as proceedings in the prosecution. Victims shall also receive advance notification of scheduling changes, when possible, by the agency scheduling the proceeding.

- ii. The right to be protected from intimidation and harm and to be free from threats or harassment. It is against the law to place a victim or witness in fear by the use of force or threats or to make an assault on or harm any victim or witness.
- iii. The right to be informed about the criminal and juvenile justice process.
- iv. The right to a prompt and timely disposition of the case so far as it does not interfere with the Constitutional rights of the accused.
- v. The right to have a Victim Advocate accompany them to a deposition. Victims who are not incarcerated shall not be required to attend discovery depositions in any correctional facility.
- vi. The right to submit an oral or written victim impact statement to the court and to receive assistance from the State Attorney's Office in the preparation of such statement if necessary.
- vii. The right to be consulted by the State Attorney's Office in certain felony cases in order to obtain their views about the disposition of the criminal or juvenile case.
- viii. The right to review certain portions of any pre-sentence investigation report prior to the sentencing of the accused.
- ix. The right to have their property returned as quickly as possible unless there is compelling law enforcement need to retain the property.
- x. The right to be informed about the availability of crime compensation and other victim services. In some cases, the victim of a crime, or relatives of a deceased victim, may be eligible for financial compensation from the State of Florida. Those determined to be eligible may receive assistance with medical/dental expenses, burial expenses, lost wages, relocation assistance for victims of domestic violence, and mental health counseling.
- xi. The right to seek restitution for loss of property and income and for medical expenses incurred as a result of the offense and the right to receive information from the court on enforcement of restitution orders and to have restitution orders diligently and fairly enforced.
- xii. The right to be notified when a defendant is arrested released or escapes from a correctional facility, or of any modification of the defendant's release conditions, including community control or work release.
- xiii. A victim or next of kin of a homicide victim may not be excluded from any portion of a 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 presence to be prejudicial.
- xiv. A victim of a sexual offense has the right to have the courtroom cleared, with certain exceptions, during his/her testimony, regardless of the victim's age or mental capacity.
- xv. A victim of domestic violence has the right to be informed of the address confidentiality program administered through the Office of the Attorney General
- xvi. If the crime involved any offense enumerated in section 775.0877(1) (a)-(n), FSS, that involves the transmission of bodily fluids from one person to another, the victim or the parent or legal guardian of a minor victim has the right to know at the earliest possible opportunity if the person charged with the offense has tested positive for hepatitis or human immunodeficiency virus (HIV). At the request of such victim or parent/guardian, the court shall order the person charged to undergo hepatitis and HIV testing. Under certain circumstances, if the victim is under the age of 18 or is a disabled adult or elderly person, the victim or parent/guardian of the victim may request that the court order the accused to undergo hepatitis and HIV testing regardless of whether the offense involved the transmission of bodily fluids. If requested by the victim, the results of the testing shall be made available to the victim no later than two weeks after the court receives such results.
- xvii. Under the provisions of Florida State Statute 119.07(3) (s) 1, any information which reveals the home or business address or telephone number or personal assets of a victim of sexual battery, aggravated child abuse, aggravated stalking, harassment, aggravated battery or domestic violence is exempt from public inspection and examination upon written request by the victim and official verification that a specified crime has occurred.

- xviii. The victim of a crime and the State Attorney, with the consent of the victim, have standing to assert the rights of a crime victim which are provided by law or s. 16(b), Art. 1 of the State Constitution.
- xix. The parent or guardian of a minor victim may request, in certain circumstances, that the offender be required to attend a different school than the victim or the siblings of the victim.
- xx. 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.
- xxi. The right of the victim 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.

## **2.GENERAL PROCEDURES**

- a. All Department members shall be responsible for ensuring that victims and witnesses are made aware of their rights and of services available to assist them.
- b. During the original reporting of a crime or at the earliest possible time, victims and witnesses shall be provided with a Victim's Rights brochure. Such brochure shall include, but not be limited to:
  - i. The rights specified in this policy.
  - ii. Information about services such as counseling, medical attention, victim's compensation, victim advocacy, etc.
  - iii. Information that threatening, assaulting, or intimidating a victim or witness is a crime and that the victim/witness should contact the police if this occurs.
  - iv. Information on the stages of the criminal and juvenile justice system and the role of the victim or witness.
  - v. A notice that any information gained by a victim, including the next of kin of a homicide victim, regarding any case handled in juvenile court must not be revealed to any outside party except as is reasonably necessary in pursuit of legal remedies.
  - vi. The Department issued case number for the incident. This may be written on the Victim's Rights brochure itself or provided on Department business cards.
  - vii. The Department's main phone number that the victim/witness may call 24 hours a day, seven days a week, to obtain more information about the status of the case, to report additional information or to request assistance.
  - viii. Emergency number (9-1-1).
  - ix. The 24-Hour phone number for Palm Beach County Victim Services (See Victim's Rights Brochure for current phone numbers).
  - x. Phone numbers for other victim assistance and community service agencies (See Victim's Rights Brochure for current phone numbers).
  - xi. The victim's right to receive assistance by law enforcement and the state attorney's office in notifying employers and creditors of the victim's situation, if requested by the victim.
  - xii. The victim's rights to receive information regarding general victim services that may be available to the victim, such as transportation, parking, translators, separate waiting rooms, etc.
- c. All officers shall document in their reports that a Victims Rights Brochure was provided to the victim, or, if not, the reason(s) one was not provided.

## **3.VICTIM/WITNESS ASSISTANCE**

- a. The Palm Beach County Victim Services office shall be the central contact point for the provision of victim and witness assistance, victim advocacy, and for referral to additional resources. All members shall ensure victims and witnesses are advised of the existence of this office.

- b. In addition to providing victims or witnesses with Palm Beach County Victim Services information, members will make every effort to provide for any immediate or other assistance needed by a victim or witness. Such assistance may include, but is not limited to:
  - i. Obtaining medical care.
  - ii. Transportation to emergency shelter.
  - iii. Notification to the victim/witness of the arrest of an offender, and, when possible, of the release of the offender from custody.
  - iv. Explaining to the victim\witness the steps involved in investigating and prosecuting the case and explaining the role of the victim in the criminal and juvenile justice system.
  - v. Information on obtaining restraining orders.
  - vi. Explaining to the victim or witness the steps available to protect them from intimidation and retaliation. The victim\witness should be advised that it is against the law to place a victim or witness in fear by the use of force or threats or to harm any victim or witness. The victim or witness should be advised to contact the police immediately if this occurs. When appropriate, officers should coordinate with the State Attorney's Office regarding the local victim\witness protection program.
- c. When appropriate, a victim shall also be provided with information concerning crime victim compensation provided by the Attorney General's Office and with the toll-free phone number for that office (listed in victim's rights brochure).
- d. When appropriate, a victim of domestic violence shall be provided with information on the address confidentiality program provided by the Attorney General's Office and with the toll-free number for that program (listed in victim's rights brochure).
- e. To the extent possible while complying with Florida Statutes and Public Records laws, members shall maintain the confidentiality of any victim or witness information they may obtain.
- f. If requested by the victim\witness, officers shall assist in notifying the victim or witness's employer and creditors of the circumstances and situation, and the victim will be advised of this via the Victim's Rights Brochure.
- g. A copy of the Victim's Rights Brochure shall be kept in the Communications Center so that emergency communications operators may access the information if needed to provide information to a caller.
- h. Upon request of a victim or witness, officers should make every effort to assist victims and witnesses with arrangements such as transportation to court, parking at the courthouse, translation services and related items. Such assistance may be coordinated with the Court and the State Attorney's Office.
- i. During any follow-up investigation, department personnel will continue to render appropriate assistance to victims and witnesses. Such assistance should include, but not be limited to:
  - i. Periodically recontacting the victim\witness to evaluate their assistance needs.
  - ii. Scheduling line-ups, interviews and other required activities at the convenience of the victim\witness whenever possible and providing transportation when needed and appropriate.
  - iii. Ensuring the victim\witness has been made aware of the availability of advocacy services from Palm Beach County Victim Services.
  - iv. Notification to the victim\witness of the arrest of the offender, and, when possible, of the release of the offender from custody.

#### **4. VICTIM NOTIFICATION FORM**

- a. Any victim of attempted murder, a sexual offense, an attempted sexual offense, domestic violence or stalking, and the next of kin of a homicide victim must be notified within four hours of the release of a defendant on bail or, in the case of juvenile offenders, upon the release of the juvenile from residential detention or confinement, unless the victim or next of kin has waived the option to be notified on a victim notification form.

- b. Any officer who investigates one of the listed offenses shall complete a victim notification form and attach the form to the booking paperwork in the case of an arrest or to the filing package in the case of a warrant request.
- c. The booking facility has the primary responsibility for notifying the victim of the release of the offender, but Department members shall provide assistance if requested by other agencies in attempting to notify the victim of the offender's release from custody.

## **5.UPDATING VICTIM\WITNESS PROGRAMS AND INFORMATION**

- a. The Investigative Bureau Major shall be responsible for monitoring the Department's compliance with the Guidelines for Fair Treatment of Victims and Witnesses in the Criminal Justice and Juvenile Justice Systems as specified in Florida Statute 960.001 and for the departments overall victim\witness assistance activities and programs.
- b. This policy and the Victim's Rights Brochure shall be reviewed on a regular basis or as otherwise required by the Office of the Governor, Victim Rights Coordinator, to ensure that it complies with the requirements of F.S.S. 960.001:
  - i. Any changes to this policy or the victim rights brochure must be submitted to the Office of The Governor, Victim Rights Coordinator for approval.
  - ii. Part of that review shall consist of an analysis of Victim\witness assistance needs and available services for victims and witnesses. Such analysis should be conducted at least every three years.
  - iii. In lieu of conducting an analysis, an analysis conducted by a local victim organization such as Palm Beach County Victim services may be used.
  - iv. The review shall also include verification of the phone numbers listed in the Victim's Rights Brochure and that the listed agencies are still providing the services specified.

## **6.PUBLIC INFORMATION ACTIVITIES**

- a. In addition to providing victims and witnesses with information as required elsewhere in this policy, the Department shall provide victim\witness information in the areas of the building accessible to the public. This may consist of providing the Victim's Rights Brochure in a brochure rack in the lobby.
- b. When appropriate, this Department shall cooperate with the State Attorney's Office, Palm Beach County Victim Services, and other organizations in publicizing victim/witness rights and assistance services via the media. Individual cases may be discussed with the media subject to the requirements of Florida statutes, Department policy, and operational needs.

## **7.TRAINING**

- a. Officers will receive training relating to victim\witness assistance:
  - i. Newly hired officers will receive training in this policy as part of orientation.
  - ii. At least once every three years, or as dictated by changes in policy or statutes, the Training Unit will conduct a block of in-service training on victim\witness assistance. Such training may be offered in cooperation with Palm Beach County Victim Services and with the State Attorney's Victim\Witness Coordinator.
- b. Non-sworn members likely to have contact with victims or witnesses, e.g., emergency communications operators and records specialist, shall receive initial training in this policy and receive updated training whenever major changes occur or as otherwise needed.

---

**INDEX AS:**

- VICTIM\WITNESS ASSISTANCE
- VICTIM RIGHTS
- VICTIMS
- WITNESSES

**RESPONSIBILITY INDEX**

- BUREAU MAJORS
- OFFICERS
- TRAINING UNIT
- COMMUNICATIONS
- RECORDS

DRAFTED: SDD / 08-15-11      FILED: 4.2.2.13.pdf

---

**APPROVED:**



\_\_\_\_\_  
**Stephen J. Stepp**  
**Chief of Police**

08/18/11  
**Date**