



St. Cloud Police Department

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Your Rights as Victim or Witness

It is the policy of the St. Cloud Police Department to treat all victims and witnesses with dignity, respect, and compassion. As a victim or witness of a crime, you have certain rights guaranteed by Florida Law. The purpose of this brochure is to help you understand those rights. The legal system may seem confusing and you may feel overwhelmed at times, but our office is here to assist you in any way it can.

AS A CRIME VICTIM OR WITNESS, YOU HAVE THE RIGHT:

To receive a victim's right information card or brochure which explains your rights as a crime victim and the services available to you.

To assert victim's rights as provided by law or the State Constitution. 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.

To information regarding the availability of funds through the Florida Crimes Victim Compensation Program, when applicable.

To information about community-based victim treatment programs, crisis intervention services, counseling, and social programs.

To be informed of your role and of the stages in the criminal or juvenile justice process.

To information about the stages in the criminal or juvenile justice process which are of significance to the victim and how such information can be obtained.

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 right does not interfere with constitutional rights of the accused.

To be informed and to submit written statements at all crucial stages of the criminal, juvenile justice and post-conviction relief proceedings, if the victim is incarcerated.

To the prompt and timely disposition of the case, to the extent that this right does not interfere with the constitutional rights of the accused.

To information concerning the steps available to law enforcement and the state attorney to protect the victim or witness from intimidation.

To be notified as soon as possible, by the agency scheduling your appearance in a criminal or juvenile justice proceeding, of any change in scheduling which will affect your appearance.

To have your property returned to you as soon as possible unless there is compelling reason for retaining it.

To receive advance notification of the arrest, the release or modification of the release conditions, including community work release, community control and the proceedings in the prosecution or prosecution of the delinquency of the accused.

To be consulted by the State Attorney in order to obtain the views of the victim or family about: the release of the accused pending a judicial proceeding, plea agreements, participation in pretrial programs and the sentencing of the accused: in those felony and juvenile cases that involve physical or emotional injury or trauma.

To have your employers, creditors or school informed that your cooperation with a criminal or juvenile prosecution might cause absences or financial hardship.

To request restitution and to be notified if restitution is ordered by the court and to receive information regarding the victim's right to enforce the court's order.

To submit an oral or written Victim Impact Statement describing how the crime affected you and/or your family. The State Attorney shall assist in the preparation of such statement if necessary.

To have any special needs accommodated as is practicable (for instance: physical handicaps, parking or translator services),

To be notified if the offender escapes from a state correctional facility, county jail, juvenile detention facility, or involuntary commitment facility.

To be informed, if not incarcerated, that you shall not be required to attend discovery depositions in any correctional facility.

To request that the State Attorney permit the review of a copy of the pre-sentence investigation report prior to the sentencing hearing, for adults, youthful offenders and juvenile, if one was completed.

To be provided with information regarding the address confidentiality program if the victim of domestic violence.

To have a victim advocate present during any depositions of the victim.

To request that the court shall clear the courtroom of all persons, with certain exceptions, during the victim's testimony regarding a sexual offense, regardless of the victim's age or mental capacity.

To request, for specific crimes, an exemption prohibiting the disclosure of information to the public which reveals the victim's home and work numbers, addresses, and personal assets not otherwise held confidential under the Public Records Law.

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). 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 some cases, you can be notified of the results of the test within two weeks of the court's receipt of the results.

To be advised that information gained by the victim pursuant to Chapter 960, 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.

To be notified that the victim or next of kin of the victim may not be excluded from any portion of any hearing, trial or proceeding based solely on the fact that such person is subpoenaed to testify, unless the court determines that such person's presence to be prejudicial.

To information concerning services available to victims of adult and juvenile crime.

To request that the offender be required to attend a different school than the victim or the siblings of the victim (under certain circumstances).

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.

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,

The right to know in certain cases and at the earliest possible opportunity, if the person charged with an offense as tested positive for hepatitis and human immunodeficiency virus (HIV) infection. In such cases, upon request of the victim or the victim's legal guardian, or the parent or legal guardian of the victim if the victim is a minor, the court shall order such person to undergo hepatitis and HIV testing. In some cases, you can be notified of the results of the test within two weeks of the court's receipt of the results.

The right to receive information regarding the stages of the criminal or juvenile justice process and the manner in which information about such stages may be obtained. Note: You cannot be notified if we cannot locate you. It is your responsibility to keep the State Attorney's Office informed of any changes in your address or telephone number.

The right to be notified of the arrest and release of the offender, including release to community control and/or work release. When an arrest is made in a reported case, the victim, relatives of minor victims and relatives of homicide victims, where those persons have provided current addresses and telephone numbers to the St. Cloud Police Department shall be notified.

The right 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.

- 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 or the accusatory instrument, trial or adjudicatory hearing, sentencing or disposition hearing, appellate 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 commitment by expiration of sentence of parole and any meeting held 10 consider such release.

CRIMINAL JUSTICE PROCESS

The stages of the criminal justice system are as follows:

CRIME COMMITTED: After a crime is reported to law enforcement, an investigation will be conducted. If law enforcement is able to collect enough evidence, they may make an arrest.

ARREST: Suspect(s) taken to jail, fingerprinted and photographed. Some are immediately released or have to post a bond to ensure they will show up in court.

INTAKE: Victim reports a crime to the local State Attorney's Office. If probable cause is found, the State Attorney's Office may choose to file charges and summons the suspect into court.

FIRST APPEARANCE: Occurs within 24 hours of an arrest. Each suspect kept in jail must appear before a Judge who establishes whether charges are reasonable. The Judge will also consider whether a bond should be set and if so, how much. The Judge will also consider conditions of release and appoint a defense attorney if the suspect can't afford one.

FILING OF FORMAL CHARGES: State Attorney's Office may file formal charges after reviewing law enforcement arrest reports. and within 21 days in certain circumstances.

ARRAIGNMENT: The accused is formally charged and enters a plea of guilty, not guilty, or no contest.

TRIAL PREPARATIONS: prosecutor and defense attorney interview witnesses and exchange evidence in preparation for trial.

TRIAL: The prosecutor presents evidence to either the judge or a jury about the case. The defendant may be found guilty or not guilty. The process ends if the defendant is found not guilty.

PLEA: Defendant pleads guilty or no contest without a trial.

SENTENCING: If the defendant is found guilty, the Judge reviews sentencing guidelines, plea agreements, etc., and determines what type of sentence the defendant should receive.

VICTIM COMPENSATION PROGRAM

The Bureau of Crime Compensation was created to provide compensation to Florida residents who are innocent victims of crime. The purpose of the program is to provide compensation to innocent victims of crime, or their families, who suffer physical injury or death, as a direct result of a crime reported to law enforcement officials within 72 hours. To see if you qualify and are eligible for assistance, contact the State Attorney.

SUBPOENA

You may receive a subpoena, from a Deputy Sheriff, requiring you to be present at a certain time and place. If you do not appear, the judge could charge you with contempt of court resulting in a fine or jail sentence. If you have a question please contact the State Attorney's Office as soon as possible. Please bring your subpoena with you.

RESTITUTION

The defendant may be ordered by the court to pay restitution for damages or losses caused by the crime. This is ordered when the offender is sentenced. In most cases, the defendant has the entire probation time to pay the restitution.

INJUNCTION FOR PROTECTION

Restraining orders are issued as a result of domestic or repeat violence. Domestic violence is, generally, violence within the family and repeat violence means that two incidences of violence are committed by the same person within the past six months. An injunction for protection is a civil matter, it may occur at the same time as a criminal prosecution. You can call the Clerk of the Court's Office to see if it's possible to pursue an injunction.

NO CONTACT

The Judge may order that the defendant has no contact with the victim. This means no contact either directly or indirectly, through a third party, by physical contact, by phone, letter or by driving by the victim's home or place of employment.

AVAILABILITY OF PROTECTION

It is a violation of state law to threaten, intimidate or retaliate against a victim or witness in a criminal or juvenile justice proceeding.

If you are a victim or witness to a crime, and believe that you have been unlawfully threatened or intimidated, based on your participation in the criminal or juvenile justice prosecution, you should contact the police or sheriff's department in the jurisdiction where the illegal acts occurred.

The State Attorney's Office may be able to obtain a civil restraining order to protect you against harassing acts which can cause you substantial emotional distress.

Marcy's Law

Rights of accused and of victims.

(a) In all criminal prosecutions the accused shall, upon demand, be informed of the nature and cause of the accusation, and shall be furnished a copy of the charges, and shall have the right to have compulsory process for witnesses, to confront at trial adverse witnesses, to be heard in person, by counsel or both, and to have a speedy and public trial by impartial jury in the county where the crime was committed. If the county is not known, the indictment or information may charge venue in two or more counties conjunctively and proof that the crime was committed in that area shall be sufficient; but before pleading the accused may elect in which of those counties the trial will take place. Venue for prosecution of crimes committed beyond the boundaries of the state shall be fixed by law.

(b) To preserve and protect the right of crime victims to achieve justice, ensure a meaningful role throughout the criminal and juvenile justice systems for crime victims, and ensure that crime victims' rights and interests are respected and protected by law in a manner no less vigorous than protections afforded to criminal defendants and juvenile delinquents, every victim is entitled to the following rights, beginning at the time of his or her victimization:

(1) The right to due process and to be treated with fairness and respect for the victim's dignity.

(2) The right to be free from intimidation, harassment, and abuse.

- (3) The right, within the judicial process, to be reasonably protected from the accused and any person acting on behalf of the accused. However, nothing contained herein is intended to create a special relationship between the crime victim and any law enforcement agency or office absent a special relationship or duty as defined by Florida law.
- (4) The right to have the safety and welfare of the victim and the victim's family considered when setting bail, including setting pretrial release conditions that protect the safety and welfare of the victim and the victim's family.
- (5) The right to prevent the disclosure of information or records that could be used to locate or harass the victim or the victim's family, or which could disclose confidential or privileged information of the victim.
- (6) A victim shall have the following specific rights upon request:
 - a. The right to reasonable, accurate, and timely notice of, and to be present at, all public proceedings involving the criminal conduct, including, but not limited to, trial, plea, sentencing, or adjudication, even if the victim will be a witness at the proceeding, notwithstanding any rule to the contrary. A victim shall also be provided reasonable, accurate, and timely notice of any release or escape of the defendant or delinquent, and any proceeding during which a right of the victim is implicated.
 - b. The right to be heard in any public proceeding involving pretrial or other release from any form of legal constraint, plea, sentencing, adjudication, or parole, and any proceeding during which a right of the victim is implicated.
 - c. The right to confer with the prosecuting attorney concerning any plea agreements, participation in pretrial diversion programs, release, restitution, sentencing, or any other disposition of the case.
 - d. The right to provide information regarding the impact of the offender's conduct on the victim and the victim's family to the individual responsible for conducting any presentence investigation or compiling any presentence investigation report, and to have any such information considered in any sentencing recommendations submitted to the court.

- e. The right to receive a copy of any presentence report, and any other report or record relevant to the exercise of a victim's right, except for such portions made confidential or exempt by law.
 - f. The right to be informed of the conviction, sentence, adjudication, place and time of incarceration, or other disposition of the convicted offender, any scheduled release date of the offender, and the release of or the escape of the offender from custody.
 - g. The right to be informed of all post-conviction processes and procedures, to participate in such processes and procedures, to provide information to the release authority to be considered before any release decision is made, and to be notified of any release decision regarding the offender. The parole or early release authority shall extend the right to be heard to any person harmed by the offender.
 - h. The right to be informed of clemency and expungement procedures, to provide information to the governor, the court, any clemency board, and other authority in these procedures, and to have that information considered before a clemency or expungement decision is made: and to be notified of such decision in advance of any release of the offender.
- (7) The rights of the victim, as provided in subparagraph (6) a., subparagraph (6) b., or subparagraph (6) c. that apply to any first appearance proceeding are satisfied by a reasonable attempt by the appropriate agency to notify the victim and convey the victim's views to the court.
- (8) The right to the prompt return of the victim's property when no longer needed as evidence in the case.
- (9) The right to full and timely restitution in every case and from each convicted offender for all losses suffered, both directly and indirectly, by the victim as a result of the criminal conduct.
- (10) The right to proceedings free from unreasonable delay, and to a prompt and final conclusion of the case and any related post-judgment proceedings.
- a. The state attorney may file a good faith demand for a speedy trial and the trial court shall hold a calendar call, with notice, within fifteen days of the filing demand, to schedule a trial to commence on a date at least five days but no more than sixty days after the date of the calendar call unless the trial judge enters an order with specific findings of fact justifying a trial date more than sixty days after the calendar call.

b. All state-level appeals and collateral attacks on any judgment must be complete within two years from the date of appeal in non-capital cases and within five years from the date of appeal in capital cases, unless a court enters an order with specific findings as to why the court was unable to comply with this subparagraph and the circumstances causing the delay. Each year, the chief judge of any district court of appeal or the chief justice of the supreme court shall report on a case-by-case basis to the speaker of the house of representatives and the president of the senate all cases where the court entered an order regarding inability to comply with this subparagraph. The legislature may enact legislation to implement this subparagraph.

(11) The right to be informed of these rights, and to be informed that victims can seek the advice of an attorney with respect to their rights. This information shall be made available to the general public and provided to all crime victims in the form of a card or by other means intended to effectively advise the victim of their rights under this section.

(c) The victim, the retained attorney of the victim, a lawful representative of the victim, or the office of the state attorney upon request of the victim, may assert and seek enforcement of the rights enumerated in this section and any other right afforded to a victim by law in any trial or appellate court, or before any other authority with jurisdiction over the case, as a matter of right. The court or other authority with jurisdiction shall act promptly on such a request, affording a remedy by due course of law for the violation of any right. The reasons for any decision regarding the disposition of a victim's right shall be clearly stated on the record.

(d) The granting of the rights enumerated in this section to victims may not be construed to deny or impair any other rights possessed by victims. The provisions of this section apply throughout criminal and juvenile justice processes, are self-executing, and do not require implementing legislation. This section may not be construed to create any cause of action for damages against the state or a political subdivision of the state, or any officer, employee, or agent of the state or its political subdivisions.

(e) As used in this section, a "victim" is a person who suffers direct or threatened physical, psychological, or financial harm as a result of the commission or attempted commission of a crime or delinquent act or against whom the crime or delinquent act is committed. The term "victim" includes the victim's lawful representative, the parent or guardian of a minor, or the next of kin of

a homicide victim, except upon a showing that the interest of such individual would be in actual or potential conflict with the interests of the victim. The term "victim" does not include the accused. The terms "crime" and "criminal" include delinquent acts and conduct.

IMPORTANT TELEPHONE NUMBERS

St. Cloud Police Department	407-891-6700
Osceola County Sheriff's Office	407-348-2222
State Attorney's Office	407-742-5200
Dept. of Children & Families	407-846-5125
Help Now	407-847-8562
Osceola County Mental Health	407-846-0023
Victim Compensation Program	800-226-6667

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 1 (a)(n) Florida Statutes, that involves the transmissions of body fluids from one person to another, undergo hepatitis and HIV testing.